

## **Frequently Asked Questions on the Administration's Announcement Regarding a New Process to Further Focus Immigration Enforcement Resources on High Priority Cases**

### **Why did the Administration create this process?**

DHS must ensure its immigration enforcement resources are focused on the removal of those who constitute our highest priorities, specifically individuals who pose a threat to public safety such as criminal aliens and national security threats, as well as repeat immigration law violators and recent border entrants. In fact, the expenditure of resources on cases that fall outside our enforcement priorities hinders our public safety mission by clogging immigration court dockets and diverting resources away from individuals who constitute our highest priorities. Although DHS has been successful in focusing its enforcement resources on criminal aliens, repeat violators, border entrants and other priorities, this process further strengthens these efforts.

### **How does this process enhance border security?**

As part of the Obama Administration's historic approach along the Southwest Border, Immigration and Customs Enforcement (ICE) has partnered with Customs and Border Protection (CBP) to further enhance efforts to prevent illicit trade and travel across our borders. This partnership includes the dedication of ICE officers, agents, and detention facilities to the apprehension and detention of recent border crossers. The historic results achieved along the Southwest Border are attributable, in part, to this unprecedented partnership. This process will allow DHS to further enhance this partnership by freeing up additional ICE resources that will be dedicated to the Southwest Border.

### **How will this process help DHS effectuate its other priorities?**

This process is designed to allow immigration and federal judges to more swiftly adjudicate high priority cases and free up additional resources that DHS and DOJ will dedicate to further enhancing the identification and removal of those individuals who pose a threat to public safety. In part, the process will accomplish this by identifying and accelerating the removal of high priority aliens from the United States. The process will also identify very low priority cases and, on a case-by-case basis, set those cases aside to allow for additional resources to be focused on high priority aliens.

### **Does the process constitute administrative amnesty?**

No. This process is simply smart law enforcement policy that will help DHS and DOJ effectuate their priorities and make effective use of our immigration enforcement resources. This process will not result in a reduction in immigration enforcement. Rather, it will increase the number of criminal aliens and repeat immigration violators removed from the country and further focus our immigration enforcement efforts on the highest priority cases.

### **Does the process represent an abdication of DHS's responsibility to enforce the immigration laws?**

No. For decades, DHS, and previously INS, has exercised prosecutorial discretion in order to prioritize the use of its immigration enforcement resources. This process ensures that DHS and DOJ are using their immigration resources in a smart and effective manner. Over the past two years, DHS has demonstrated that the use of priorities does not limit immigration enforcement, but rather strengthens it.

### **Will the process result in permanent lawful status for beneficiaries?**

No. The exercise of prosecutorial discretion through this process would not provide an individual with permanent lawful status.

**What is the role of DOJ in the process?**

DOJ's role in the removal process is to adjudicate removal cases through the Executive Office for Immigration Review and to litigate removal cases in the federal courts through the Office of Immigration Litigation. DOJ will participate in the interagency working group that will identify high priority removal cases that should be accelerated. DOJ will also participate in the process that will consider very low priority cases for an exercise of prosecutorial discretion on a case-by-case basis at the various stages of enforcement proceedings, including those cases pending before immigration courts and federal courts.

**Will beneficiaries of an exercise of prosecutorial discretion automatically receive work authorization?**

No. Nothing about this process is automatic and nobody who goes through this process is automatically entitled to work authorization. Per longstanding federal law, individuals affected by an exercise of prosecutorial discretion will be able to request work authorization, including paying associated fees, and their requests will be separately considered by USCIS on a case-by-case basis.

**How will the process help DHS and DOJ focus increased resources on high priority cases?**

The process will save resources as a result of exercising prosecutorial discretion. DHS will devote these resources to more expeditiously pursuing the removal of threats to public safety and border security. In addition, by better prioritizing the dockets of immigration and federal courts, the courts will be able to more swiftly adjudicate cases.

**Is the process consistent with the President and Secretary's statements that no population of individuals will receive categorical administrative relief?**

Yes. DHS will not provide categorical relief to any population, including those that would have qualified under the DREAM Act. Instead, each determination will be made on a case-by-case basis. All decisions will be based on the June 17, 2011 Prosecutorial Discretion memorandum as implemented by the working group.

**How much will be saved through this process?**

Closure of these cases will allow for additional resources to be dedicated to enforcement priorities. Outside estimates suggest that the United States spends over \$23,000 to formally remove an alien. By redirecting these expenditures, more resources can be utilized to identify and remove public safety threats or individuals who repeatedly violate our immigration laws.

**Will removal proceedings or removals be halted while the interagency working group completes its review?**

No. DHS will continue to enforce immigration laws. ICE attorneys and agents, however, will be tasked to review each case prior to the expenditure of resources to determine whether it is a priority case as defined in the June 30, 2010 Civil Enforcement Priorities memorandum and the June 17, 2011 Prosecutorial Discretion memorandum. Removals will continue while the working group undertakes its review.

**Can individuals affirmatively apply for an exercise of discretion through this process?**

No. This process does not involve the creation of an affirmative application process, although, consistent with longstanding practice, individuals in removal proceedings and their representatives remain free to submit information relevant to their case to the appropriate ICE field offices or attorneys. Any attorney or representative who purports to be able to secure an individual relief through an affirmative application to ICE or DOJ as part of this process is engaged in a scam and should be reported

to the relevant authorities at DOJ, the Federal Trade Commission (FTC), or DHS. More information on the recently launched DHS-DOJ-FTC effort to combat immigration services scams is available [here](#).

**Does an individual have a right to appeal a determination made pursuant to this process that his or her case is not appropriate for an exercise of discretion?**

No. This process does not create any right, substantive or procedural, enforceable in any administrative, civil, or criminal proceeding for individuals whose cases are reviewed as part of the process. As a result, individuals have no right to appeal a determination made pursuant to this process.

**Does this process apply to cases involving immigration-related criminal offenses that are prosecuted in federal court?**

No. This process does not apply to decisions about whether to initiate or continue prosecutions of individuals charged with immigration-related criminal offenses in federal court, including individuals charged under 8 U.S.C. § 1325 and § 1326.

**Does this process apply to individuals apprehended at the border?**

No. As DHS has long made clear, we will continue to enforce a zero tolerance policy for individuals apprehended at the border. Accordingly, the working group's review will not include recent border crossers.

**When will the working group complete its review?**

Given the volume of cases involved, it will likely take the working group several months to complete its review of cases pending in immigration and federal court.

**Does the implementation of the process mean that only individuals with criminal convictions will be removed?**

No. Many individuals who have violated civil immigration law but lack a criminal conviction are a DHS priority for removal from the United States. This process is designed to free up additional resources to process and remove high priority cases. DHS priorities include threats to public safety and national security, repeat violators of immigration law, recent illegal border entrants, and immigration fugitives.

**Should unlawfully present individuals who do not consider themselves high priority cases voluntarily surrender to ICE to avail themselves of this process?**

No. Any individual who self surrenders due to a belief that they will benefit from an exercise of discretion is very likely to be placed in removal proceedings and runs a serious risk that they will be removed from the United States. Nothing in this process creates a right or an entitlement to any person regardless of their individual circumstances.