

Policy Number: 10072.1
FEA Number: 601-14

Office of the Assistant Secretary

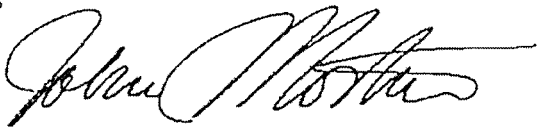
U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536

JUN 3 0 2010



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: All ICE Employees

FROM: John Morton
Assistant Secretary 

SUBJECT: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens

Purpose

This memorandum outlines the civil immigration enforcement priorities of U.S. Immigration and Customs Enforcement (ICE) as they relate to the apprehension, detention, and removal of aliens. These priorities shall apply across all ICE programs and shall inform enforcement activity, detention decisions, budget requests and execution, and strategic planning.

A. Priorities for the apprehension, detention, and removal of aliens

In addition to our important criminal investigative responsibilities, ICE is charged with enforcing the nation's civil immigration laws. This is a critical mission and one with direct significance for our national security, public safety, and the integrity of our border and immigration controls. ICE, however, only has resources to remove approximately 400,000 aliens per year, less than 4 percent of the estimated illegal alien population in the United States. In light of the large number of administrative violations the agency is charged with addressing and the limited enforcement resources the agency has available, ICE must prioritize the use of its enforcement personnel, detention space, and removal resources to ensure that the removals the agency does conduct promote the agency's highest enforcement priorities, namely national security, public safety, and border security.

To that end, the following shall constitute ICE's civil enforcement priorities, with the first being the highest priority and the second and third constituting equal, but lower, priorities.

Priority 1. Aliens who pose a danger to national security or a risk to public safety

The removal of aliens who pose a danger to national security or a risk to public safety shall be ICE's highest immigration enforcement priority. These aliens include, but are not limited to:

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- aliens engaged in or suspected of terrorism or espionage, or who otherwise pose a danger to national security;
- aliens convicted of crimes, with a particular emphasis on violent criminals, felons, and repeat offenders;
- aliens not younger than 16 years of age who participated in organized criminal gangs;
- aliens subject to outstanding criminal warrants; and
- aliens who otherwise pose a serious risk to public safety.¹

For purposes of prioritizing the removal of aliens convicted of crimes, ICE personnel should refer to the following new offense levels defined by the Secure Communities Program, with Level 1 and Level 2 offenders receiving principal attention. These new Secure Communities levels are given in rank order and shall replace the existing Secure Communities levels of offenses.²

- Level 1 offenders: aliens convicted of "aggravated felonies," as defined in § 101(a)(43) of the Immigration and Nationality Act,³ or two or more crimes each punishable by more than one year, commonly referred to as "felonies";
- Level 2 offenders: aliens convicted of any felony or three or more crimes each punishable by less than one year, commonly referred to as "misdemeanors"; and
- Level 3 offenders: aliens convicted of crimes punishable by less than one year.⁴

Priority 2. Recent illegal entrants

In order to maintain control at the border and at ports of entry, and to avoid a return to the prior practice commonly and historically referred to as "catch and release," the removal of aliens who have recently violated immigration controls at the border, at ports of entry, or through the knowing abuse of the visa and visa waiver programs shall be a priority.

Priority 3. Aliens who are fugitives or otherwise obstruct immigration controls

In order to ensure the integrity of the removal and immigration adjudication processes, the removal of aliens who are subject to a final order of removal and abscond, fail to depart, or intentionally obstruct immigration controls, shall be a priority. These aliens include:

¹ This provision is not intended to be read broadly, and officers, agents, and attorneys should rely on this provision only when serious and articulable public safety issues exist.

² The new levels should be used immediately for purposes of enforcement operations. DRO will work with Secure Communities and the Office of the Chief Information Officer to revise the related computer coding by October 1, 2010.

³ As the definition of "aggravated felony" includes serious, violent offenses and less serious, non-violent offenses, agents, officers, and attorneys should focus particular attention on the most serious of the aggravated felonies when prioritizing among level one offenses.

⁴ Some misdemeanors are relatively minor and do not warrant the same degree of focus as others. ICE agents and officers should exercise particular discretion when dealing with minor traffic offenses such as driving without a license.

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- fugitive aliens, in descending priority as follows:⁵
 - fugitive aliens who pose a danger to national security;
 - fugitives aliens convicted of violent crimes or who otherwise pose a threat to the community;
 - fugitive aliens with criminal convictions other than a violent crime;
 - fugitive aliens who have not been convicted of a crime;
- aliens who reenter the country illegally after removal, in descending priority as follows:
 - previously removed aliens who pose a danger to national security;
 - previously removed aliens convicted of violent crimes or who otherwise pose a threat to the community;
 - previously removed aliens with criminal convictions other than a violent crime;
 - previously removed aliens who have not been convicted of a crime; and
- aliens who obtain admission or status by visa, identification, or immigration benefit fraud.⁶

The guidance to the National Fugitive Operations Program: Priorities, Goals and Expectations, issued on December 8, 2009, remains in effect and shall continue to apply for all purposes, including how Fugitive Operation Teams allocate resources among fugitive aliens, previously removed aliens, and criminal aliens.

B. Apprehension, detention, and removal of other aliens unlawfully in the United States

Nothing in this memorandum should be construed to prohibit or discourage the apprehension, detention, or removal of other aliens unlawfully in the United States. ICE special agents, officers, and attorneys may pursue the removal of any alien unlawfully in the United States, although attention to these aliens should not displace or disrupt the resources needed to remove aliens who are a higher priority. Resources should be committed primarily to advancing the priorities set forth above in order to best protect national security and public safety and to secure the border.

C. Detention

As a general rule, ICE detention resources should be used to support the enforcement priorities noted above or for aliens subject to mandatory detention by law. Absent extraordinary circumstances or the requirements of mandatory detention, field office directors should not expend detention resources on aliens who are known to be suffering from serious physical or mental illness, or who are disabled, elderly, pregnant, or nursing, or demonstrate that they are

⁵ Some fugitives may fall into both this priority and priority 1.

⁶ ICE officers and special agents should proceed cautiously when encountering aliens who may have engaged in fraud in an attempt to enter but present themselves without delay to the authorities and indicate a fear of persecution or torture. See Convention relating to the Status of Refugees, art. 31, *opened for signature* July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137. In such instances, officers and agents should contact their local Office of the Chief Counsel.

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primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest. To detain aliens in those categories who are not subject to mandatory detention, ICE officers or special agents must obtain approval from the field office director. If an alien falls within the above categories and is subject to mandatory detention, field office directors are encouraged to contact their local Office of Chief Counsel for guidance.

D. Prosecutorial discretion

The rapidly increasing number of criminal aliens who may come to ICE's attention heightens the need for ICE employees to exercise sound judgment and discretion consistent with these priorities when conducting enforcement operations, making detention decisions, making decisions about release on supervision pursuant to the Alternatives to Detention Program, and litigating cases. Particular care should be given when dealing with lawful permanent residents, juveniles, and the immediate family members of U.S. citizens. Additional guidance on prosecutorial discretion is forthcoming. In the meantime, ICE officers and attorneys should continue to be guided by the November 17, 2000 prosecutorial discretion memorandum from then-INS Commissioner Doris Meissner; the October 24, 2005 Memorandum from Principal Legal Advisor William Howard; and the November 7, 2007 Memorandum from then-Assistant Secretary Julie Myers.

E. Implementation

ICE personnel shall follow the priorities set forth in this memorandum immediately. Further, ICE programs shall develop appropriate measures and methods for recording and evaluating their effectiveness in implementing the priorities. As this may require updates to data tracking systems and methods, ICE will ensure that reporting capabilities for these priorities allow for such reporting as soon as practicable, but not later than October 1, 2010.

**WORKING AGENDA
FIELD LEGAL OPERATIONS MANAGEMENT PLANNING SESSION
DENVER, COLORADO
AUGUST 2 - 3, 2010**

MONDAY, AUGUST 2, 2010

9:30 - 10:30 **WELCOME AND OPENING REMARKS**
Riah Ramlogan, Corina Almeida
OPLA REORGANIZATION
FLO MANAGEMENT STRUCTURE
ROLES AND RESPONSIBILITIES
Riah Ramlogan, Art Adams and Mike Davis

10:30 - 10:45 **BREAK**

10:45 - 12:00 **IMPROVING THE EFFICIENCY OF THE REMOVAL PROCESS**
Written Advocacy before EOIR
Mike Davis

12:00 - 1:30 **LUNCH**

1:30 - 2:00 **SCRs, USC Claims, Veterans, and Other Reporting Requirements**
Matt Downer and Jo Ellen Ardinger

2:00 - 3:00 **NTAs and Conviction Records**

- NTA Standards - Raphael Choi, Nicole Guzman, Alfie Owens, Vivian Reyes
- Conviction Records - Raphael Choi and Pat Vroom

3:00 - 3:15 **BREAK**

3:15 - 6:00 **IMPROVING THE EFFICIENCY OF THE REMOVAL PROCESS**
ICE Enforcement Priorities

- The Assistant Secretary's Memorandum - Riah Ramlogan
- Working with USCIS/CBP - Melody Brukiewa, Corina Almeida, and Jim Stolley *Grable*
- Working with EOIR - Barry Chait, Dorothy Stefan, and Jim Stolley
- Working with ERO - Greg Ball, Karen Lundgren, and Glenda Raborn

HAPPY HOUR - MAGGIANO'S

TUESDAY, AUGUST 3, 2010

9:00 - 11:00 IMPROVING THE EFFICIENCY OF THE REMOVAL PROCESS
Prosecutorial Discretion

- Joint Motions to Reopen - Kent Frederick and Leslie Ungerman
- Appeals - Frederick McGrath, Jane Minichiello, and Jim Stolley
- Remands - Marty Soblick and Aaron Todd

11:00 - 11:15 BREAK

11:15 - 12:15 GEMS IMPROVEMENTS
Kobie Crawl and ~~Carrie Johnson~~

12:15 - 1:45 WORKING LUNCH - REMARKS
Peter S. Vincent, Principal Legal Advisor
Alan Swendiman, Chief of Staff
Carl E. Perry, Director of Enforcement and Litigation

1:45 - 4:00 OPTIMIZING USE OF CURRENT RESOURCES

- Deputy Chiefs and Senior Attorneys - Aaron Todd and Clarence Wagner
- Embedded Attorneys - Bill Gossard
- SAUSAS - Gary Goldman and Guadalupe Gonzalez

4:00 - 4:15 BREAK

4:15 - 5:30 DISCUSSION - BURNING ISSUES FROM THE CHIEF COUNSEL

BASEBALL GAME

(b)(5)



Goldman, Gary L

From: Goldman, Gary L
Sent: Friday, August 06, 2010 4:48 PM
To: Ramlogan, Riah
Subject: RE: Houston

Riah,

Thank you so very much. I will not let you down.

Gary

From: Ramlogan, Riah
Sent: Friday, August 06, 2010 4:46 PM
To: Goldman, Gary L
Subject: Re: Houston

Thank you Gary. I appreciate the note. I am here to support your efforts. Please do not hesitate to reach out if you need assistance with anything. Have a good weekend.

Sent from my BlackBerry Wireless Handheld

From: Goldman, Gary L
To: Ramlogan, Riah
Sent: Fri Aug 06 17:36:46 2010
Subject: Houston

Riah,

I was uncertain whether to write you this short note but I am comfortable in doing so.

In brief, I will push every policy that was disseminated to the Chief Counsels to my staff. It will be done effectively and quickly. I understand the responsibilities of my position and I take great pride in my work. I intend to publish an office policy on prosecutorial discretion, hold team meetings regularly to discuss low and non-priority cases to be terminated, ensure each attorney is fully knowledgeable and compliant with policies regarding courtroom expectations, written work, humanitarian cases, veteran cases, reporting requirements, etc.

I take my responsibility as Chief Counsel very seriously and I will demonstrate to you my commitment to you and to the agency. We will conduct business as expected and as required.

Gary

8/6/2010

Riah,

I'd be happy to discuss this tasking on the next CCCC. And Don, Monica, and I will meet and discuss your suggestion for ways to reduce continuances.

Gary

From: Ramlogan, Riah
Sent: Tuesday, August 10, 2010 12:48 PM
To: Goldman, Gary L; Adams, Arthur E; Davis, Mike P
Subject: RE: Court Efficiencies and Prosecutorial Discretion

Outstanding Gary. I would like you to talk about this on our next Chief Counsel call which will likely not be until August 19.

(b)(5)



I really appreciate your efforts.

Riah

From: Goldman, Gary L
Sent: Tuesday, August 10, 2010 1:29 PM
To: Ramlogan, Riah; Adams, Arthur E
Subject: FW: Court Efficiencies and Prosecutorial Discretion

Riah, Art,

My memorandum to the staff to implement court efficiencies is attached. I want Houston to lead in this tasking, not lag behind.

Gary

From: Goldman, Gary L
Sent: Tuesday, August 10, 2010 12:25 PM
To: 'Armour, Kamie'; Bennett, Richard W; 'Cassidy, Donald W'; 'Donovan, John'; 'Eason, Kimani'; 'Emmons, Dean F'; 'Evans, Mark S'; 'Garrett, Wini L'; 'Goldman, Gary L'; 'Hafeez, Iram'; 'Hamby, William'; Harrison, D'Anna G; Kay, Alice H; 'Kugel, Margaret'; 'Lang, Charlotte K'; 'Lavery, Catherine C'; 'Lear, Kevin M'; 'Lehman, Victor P'; 'Lemon, Vicki'; 'Manning, James E'; 'McGuirk, Erica'; McPhail, John W; 'Menes, Daniel J'; 'Moya, Jennifer C'; Perez, Alex D; Perillo, Pamela; 'Phelps, Ernest L'; 'Potter, Rory H'; Rogers, Susan; 'Sanders, Faye F'; Silva, April A; 'Thompson, Monica'; Veve, Angella D; Wing, Sandra C
Subject: Court Efficiencies and Prosecutorial Discretion

The provisions of this memorandum will be incorporated into our Office Procedural Manual.

Gary

RESCINDED 8/25/2010



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

August 12, 2010

MEMORANDUM FOR: All Attorneys, Houston OCC

FROM: Gary Goldman
Chief Counsel

SUBJECT: Efficiencies in the Removal Process and
Prosecutorial Discretion File Review

Beginning immediately on all duty files and court files, every attorney must determine whether the case may be amenable to the exercise of prosecutorial discretion (PD) pursuant to guidelines outlined in the June 30, 2010 Assistant Secretary John Morton memorandum captioned Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens. Attorneys are to file a Motion to Dismiss Proceedings (attached) in clear PD cases. Attorneys are encouraged to consult with the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney on any case where the exercise of PD is at issue.

In addition to this PD responsibility assigned to every court and duty attorney, a court efficiencies task force consisting of Assistant Chief Counsels (b)(6) has been established to perform a file review of every file in room 2022 which houses all Houston Office of Chief Counsel non-detained files on the immigration court docket. Files warranting further review and discussion regarding the exercise of PD should be brought to the attention of the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney.

During the first two weeks of the file room tasking, from Wednesday, August 11 – Friday, August 20, reviewing and consulting attorneys will be paired as follows:

(b)(6) review of files 000 – 249 will discuss with (b)(6)
(b)(6) review of files 250 – 499 will discuss with (b)(6)
(b)(6) review of files 500 – 749 will discuss with (b)(6)
(b)(6) review of files 750 – 999 will discuss with (b)(6)
(b)(6) will serve as a consulting attorney when (b)(6) are unavailable.

RESCINDED 8/25/2010

PD review of all files is a continuing responsibility. It is anticipated that the completion of the court efficiencies file room tasking will take five to six weeks. The deadline for the file room tasking is Friday, September 24 COB as the results of the tasking must be reported by the Chief Counsel to OPLA by Friday, October 1, 2010.

Whether the initial PD review was conducted by a case attorney, a duty attorney, or a tasking attorney, all subsequent casework, including PD follow-up work, is to be completed by the case attorney and not a tasking attorney.

Any attorney or who brings a PD file for discussion to the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney is to present facts and make a recommendation. After a determination is made, (b)(5) AC

(b)(5) AC

Attorneys paired together on the court efficiencies file room tasking should

(b)(5) AC

Priority 1 cases are aliens who pose a danger to national security or a risk to public safety. This category includes aliens who pose a danger to national security, aliens convicted of crimes, with a particular emphasis on violent criminals, felons, repeat offenders, aliens at least 16 years of age who participated in organized criminal gangs, aliens subject to outstanding criminal warrants, and aliens who pose a serious risk to public safety.

The definitions in Priority 1 include crimes that may or may not render an alien removable or inadmissible. If the crime is remote in time and the alien has a substantial number of equities, all factors will be weighed to determine if an exercise of PD is appropriate. (b)(5) AC

(b)(5) AC

Attorneys should (b)(5) AC

(b)(5) AC

Priority 2 cases are aliens who are "recent illegal entrants." (b)(5) AC

(b)(5) AC

Priority 3 cases are aliens who are fugitives or who obstruct immigration controls. This category includes fugitives, aliens who reenter the US illegally after removal, and fraud cases.

In most instances, a Motion to Dismiss (b)(5) AC

(b)(5) AC

RESCINDED 8/25/2010

(b)(5) AC

Attorneys are to properly notate all Priority 1, 2, or 3 information in GEMS in the event a case determination has to be revisited. Every case on the attorney's docket must contain a notation in GEMS that PD was considered and was or was not exercised. This information is to be recorded using one of the following uniform or local GEMS Phrases:

(b)(5) AC

Attorneys using these local GEMS phrases will enter the code number or scan in the bar code and in the GEMS notes will articulate the reasons for exercising or electing not to exercise PD. Attorneys, using a few short phrases, should indicate their reasons for deciding to exercise or not exercise PD.

For example:

(b)(5) AC

Additionally, after a Motion to Dismiss Proceedings has been granted, the case attorney must complete the "ORDER" column on the "EVENTS" tab in GEMS by selecting the correct description for termination of removal proceedings.

EVENTS - - - ORDER - - - TERMINATED - - -
by Govt.
by Alien
by Joint
by sua sponte

Attorneys will weigh the following factors when determining whether to exercise prosecutorial discretion:

(b)(5) AC

Humanitarian cases may involve beneficiaries of

(b)(5) AC

RESCINDED 8/25/2010

In cases involving (b)(5) AC

(b)(5) AC

Attorneys should make every effort to promote the efficiency of the removal process on any case in which relief is likely to be granted. Some of these cases can be resolved without a hearing on the merits.

The goal of this attorney-wide tasking is to improve the overall efficiency of the removal process by ensuring the only cases we litigate fall within the parameters of the Assistant Secretary's June 30, 2010 memorandum. Attorneys should employ a similar court efficiencies thought process when considering Joint Motions to Reopen, Appeals, and Remands.

In addition to all the considerations outlined in this memorandum, detention setting attorneys must consider detention issues and issues of relief. Detention attorneys should be proactive in ensuring that Forms I-130, I-140, I-360, N-600, etc. are being processed quickly. Efforts made to promote the efficiency of the removal process including efforts to avoid continuances are to be recorded in GEMS.

This tasking may not be possible on a detained court docket where notice of the hearing is not timely received.

Attorneys may assign the drafting of a Motion to Dismiss Proceedings to the appropriate Legal Assistant.

[attorney's name]
Assistant Chief Counsel
Immigration and Customs Enforcement
Office of the Chief Counsel
126 Northpoint Drive, Room 2020
Houston Texas 77060

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HOUSTON, TEXAS

IN THE MATTER OF)
)
)

[name],)
RESPONDENT)

FILE NO. A000 000 000

IN REMOVAL PROCEEDINGS)
_____)

DEPARTMENT OF HOMELAND SECURITY
MOTION TO DISMISS PROCEEDINGS

The Department of Homeland Security ("DHS") moves to dismiss the above-captioned proceedings, without prejudice. See 8 C.F.R. § 1239.2(c).

Respectfully submitted,

[attorney's name]
Assistant Chief Counsel

CERTIFICATE OF SERVICE

I certify that a copy of the attached filing was served on Respondent via First Class mail
on _____, and addressed as follows: _____.

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
HOUSTON, TEXAS**

In the Matter of: [name of alien]

A000-000-000

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of DHS' motion to dismiss, it is HEREBY ORDERED that the motion be **GRANTED** **DENIED** because:

- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per _____.
- Other: _____

Deadlines:

- The application(s) for relief must be filed by _____.

- The respondent must comply with DHS biometrics instructions by _____.

Date _____

Immigration Judge

Certificate of Service This document was served by: [] Mail [] Personal Service

To: [] Alien [] Alien c/o Custodial Officer [] Alien's Atty/Rep [] DHS

Date: _____ By: Court Staff _____

RESCINDED 8/25/2010



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

August 16, 2010

MEMORANDUM FOR: All Attorneys, Houston OCC

FROM: Gary Goldman
Chief Counsel

SUBJECT: Prosecutorial Discretion

On August 12, 2010, I issued a memorandum captioned "Efficiencies in the Removal Process and Prosecutorial Discretion File Review." This August 16, 2010 memorandum supplements my August 12 memorandum and provides additional guidance regarding prosecutorial discretion.

The guidelines outlined in the June 30, 2010 Assistant Secretary John Morton memorandum captioned Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens have altered the way most Office of Chief Counsel field offices had been conducting business. We are now tasked with filing a Motion to Dismiss Proceedings Without Prejudice in a broader class of cases than we had previously considered. We all seek guidance as we strive to ensure consistency in the application of and compliance with prosecutorial discretion policy.

ICE attorneys nationwide litigate hundreds of thousands of cases each year through our approximately 1,000 attorneys. Case preparation time is extremely limited. We must be selective in pursuing cases to ensure our prosecutions focus on cases of national security, public safety, criminal aliens and the other classes of ICE Priority cases.

Our universe of opportunities to exercise prosecutorial discretion is large. It broadly encompasses NTA review, court litigation, not opposing relief, joining in a Joint Motion, not appealing an adverse decision, etc. Further opportunities arise at the appellate level with the extraordinary amount of work reaching the Board of Immigration Appeals and the Circuit Courts of Appeals. We also seek efficiencies in the removal process through continuing dialogue with ERO, HSI, CIS, CBP, and EOIR, through improved written advocacy, remands, etc.

RESCINDED 8/25/2010

As we transition into this new process, case-specific questions are not uncommon:

(b)(5) AC



The answer to these questions and many others may be the same. We have been empowered with independent authority to exercise prosecutorial discretion. We work not in a world of black and white but one of many shades of grey. That is the beauty of prosecutorial discretion. We do strive for consistency in application of process but the agency does not want to stifle our independent authority to exercise sound judgment in matters of prosecutorial discretion. Bring these cases to the attention of a manager for discussion.

ICE Senior Leadership does not want their attorneys to merely fill a seat in immigration court and blindly prosecute every case handed to them. The current administration wants attorneys of greater sophistication, independence, and complexity in decision making. We are tasked with discerning which cases clearly a.) meet agency priorities, b.) fall outside agency priorities, and c.) merit further review prior to any prosecutorial discretion decision making. That having been said, in cases where criminal activity or public safety is at issue, I am more comfortable in withholding decision in uncertain cases in favor of furthering exploring all facts and circumstances during immigration court.

We all should be guided by ideas and process improvements that move matters forward and by identifying strategies that promote the efficiencies of the removal process.

Goldman, Gary L

From: Adams, Arthur E
Sent: Wednesday, August 18, 2010 1:39 PM
To: Goldman, Gary L
Subject: RE: CCCC

Gary,

You give me too much credit. Yes we are having a call, and you are not only one of the participants, but I will also agenda the topic that you impressed Riah with about your efficiency efforts.

There was no division chiefs meeting this morning, so I am still waiting to hear back from the chiefs regarding potential agenda items. I will publish an agenda (though it may be scant) prior to the end of the day.

Art

Arthur E. Adams
Deputy Director, Field Legal Operations
U.S. Immigration and Customs Enforcement
24000 Avila Rd, Rm 6080
Laguna Niguel, CA 92607
(949) (b)(6), (b)(7)(C) BB (949) (b)(6), (b)(7)(C)

From: Goldman, Gary L
Sent: Wednesday, August 18, 2010 11:21 AM
To: Adams, Arthur E
Subject: CCCC

Art,

Although you are probably 7 minutes away from sending an email;

CCCC tomorrow?

Participants?

Agenda?

Usually, you have this information disseminated by now. Just checking.

Gary

8/18/2010

From: Choi, Raphael
Sent: Wednesday, August 18, 2010 8:26 AM
To: Goldman, Gary L; Gossard, William S
Subject: RE: 289

Bill/ Gary, the both of you deserve recognition for pushing the ICE priorities forward. I had lunch with Riah the other day and she mentioned Gary's office as being in front of the ICE priorities. Congrats—she obviously approves of what Gary's doing.

In Arlington, I've done my meetings with staff, components, and been talking to CBP and CIS at the HQ level to get them to start reviewing their pathetic NTAs. But in-house, I'm way behind. We continue to review cases piecemeal. The problem is every time I'm about to wield a blunt instrument to our docket, some case shows up in the press that gives me pause. I think its given Riah pause too.

Raphael Choi
Acting Director
DHS ICE/ EEO
202- (b)(6), (b)(7)(office)
202- (b)(6), (b)(7)(direct)

Goldman, Gary L

From: Goldman, Gary L
Sent: Wednesday, August 18, 2010 7:29 PM
To: Goldman, Gary L
Subject: Fw: Agenda for CCCC #193

From: Adams, Arthur E

To: Aguilar, Jason; Almeida, Corina E; Alvarez, Diana I; Amjad, Shabnaum Q; Anderson, Sandra D; Andrews, Kelli A; Ardinger, Jo Ellen; Bagby, Liz E; Bailey, Susan H; Ball, Gregory J; Brady, Bonnie; Brukiewa, Melody A; Brundage, Christopher P; Burch, Holly M; Cassidy, Donald W; Celaya, Gracian A; Chait, Barry S; Cheng, Wen-Ting; Choi, Raphael; Christian, Victoria; Connolly, Eileen M; Costa, Philip J; Cox, Christopher R; Curry, Margaret; Davidson, Michael J; Davis, Mike P; Downer, Matthew M; Dunlay, Edward L; Ellington, John; Elliott, Travis Q; Eslava-Grunwaldt, Arnold; Falcone, Michael; Fehlings, Gregory E; Fenton, Jennifer M; Finkelstein, Robert S; Frederick, Kent J; Furlong, John M; Gastelo, Elias S Jr; Gebhard, Susanna P; Goldman, Gary L; Golparvar, Kuyomars Q; Gonzalez, Guadalupe R; Gossard, William S; Gountanis, John H; Grable, James W; Guzman, Nicole G; Hall, Sabrina A; Halliday-Roberts, Catherine E; Harris, Monique; Hartnett, Sarah L; Hengerer, Carla J; Hunker, Paul B; Izzo, Alec; Johnson, Carrie; Knutson, Larry; Koven, Lisa; Lambert, Mary-Jean; Lapid, Ronald; Lepkowitz, Edward; Liberta, Joseph M; Lundgren, Karen E; Marbury, Howard W; Martinez, Anibal D; Martinez, Mark B; Mathias, Susan M; Maury, Carlos E; McGrath, Frederick J; McLane, Jo Ann; Minichiello, Jane H; Mosley, Paul B; Neurauter, Jeff M; Neville, Richard D; Nishlie, Paul K; O'Hare, Donald C; O'Melinn, Barry C; Orland, David M; Owens, Alfie; Padilla, Kenneth; Palmer, David P; Pauling, Theresa; Penca, Jack; Perez, Nelson (CHI OCC); Perry, Carl E; Pincheck, Catherine; Putnam, Lisa M; Raborn, Glenda M; Ramlogan, Riah; Repede, Theresa A; Reyes-Lopez, Vivian; Richardson, Geraldine; Rogers, Andrea R; Ruane, Rachel A; Ryan, Marty; Sanchez, Raphael; Sanchez-Roig, Rebeca; Shepherd, Kimberley J; Sherman, Lloyd; Short, Tracy L; Slous, Joan; Soblick, Martin D; Spotts, JoAnne D; Stanton, Joshua B; Stefan, Dorothy; Stolley, Jim; Strong, Steven; Stultz, Paul R; Swartz, Jill T; Swartz, Neal J; Swendiman, Alan R; Tanke, Ann M; Thompson, Monica L; Todd, Aaron W; Ungerman, Leslie; Vargas-Padilla, Nelson A; Vincent, Peter S; Vroom, Patricia M; Wagner, Clarence M; Ward, George J; Whatmough, Lessa N; William, Kenneth; Witten, Todd E; Workeneh, Debra H; Yamada, Ted Y; Combs, Doris Joan; Crawl, Kobie T; Dusenberry, Debbie; Feagin, Robert P; Gawel, Robert W; Harrell, Ania M; Jenkins, Andrea M; Kumm, Marsha B

Sent: Wed Aug 18 18:26:14 2010
Subject: Agenda for CCCC #193

Chief Counsel Conference Call (CCCC) #193 will be held tomorrow, Aug 19, 2010 at 11:00 am PDT (2:00 pm EDT.) The following Chiefs are slated to attend: Kent Frederick, Gary Goldman, Nicole Guzman, Leslie Ungerman, Karen Lundgren, Jane Minichiello and Marty Soblick.

All other field managers and HQ managers are invited to attend. This will be a telephonic conference call; please dial 866 (b)(6), (b)(7)(C) and enter Participant Pass code: (b)(6), (b)(7)(C). You may dial in up to ten minutes before the scheduled start.

 Agenda

1. FLO Matters (Riah Ramlogan)
2. New BIA Precedent (Mike Davis)
3. New EOIR 800 Number Procedures (Mike Davis) *& WILL NEED CHAIRMAN'S DOC. DATE.*
4. Farewell APLD: Some Specifics on the FLO/ILP Restructuring and What it Means for the OCCs

8/19/2010

USE OPLA FIELD LEGAL OPS CALENDAR

*APPROX
 EST
 WESTMANBOX*

*DORIS COMBS
 NOTES*

TRAVEL COMP FORM

(Mike Davis)

5. Court Efficiencies and Prosecutorial Discretion – Houston Initiative (Gary Goldman)
6. Training Opportunities for Trial Attorneys (Art Adams)
7. VLTP (Art Adams)
8. PACER password has changed (Art Adams)
9. Stay in School Students (STEP/SCEP) must submit proof of fall enrollment (Art Adams)

Arthur E. Adams

Deputy Director, Field Legal Operations

U.S. Immigration and Customs Enforcement

24000 Avila Rd, Rm 6080

Laguna Niguel, CA 92607

(949) (b)(6), (b)(7)(C) BB (949) (b)(6), (b)(7)(C)

Policy Number: 16021.1
FEA Number: 054-14

Office of the Assistant Secretary

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536

AUG 20 2010



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: Peter S. Vincent
Principal Legal Advisor

James Chaparro
Executive Associate Director,
Enforcement and Removal Operations

FROM: John Morton
Assistant Secretary

A handwritten signature in black ink, appearing to read "John Morton", written over the printed name and title.

SUBJECT: Guidance Regarding the Handling of Removal Proceedings of
Aliens with Pending or Approved Applications or Petitions

Purpose

This memorandum establishes U.S. Immigration and Customs Enforcement (ICE) policy for the handling of removal proceedings before the Executive Office for Immigration Review (EOIR) involving applications or petitions filed by, or on behalf of, aliens in removal proceedings. This policy outlines a framework for ICE to request expedited adjudication of an application or petition for an alien in removal proceedings that is pending before U.S. Citizenship and Immigration Services (USCIS) if the approval of such an application or petition would provide an immediate basis for relief for the alien.¹ This policy will allow ICE and EOIR to address a major inefficiency in present practice and thereby avoid unnecessary delay and expenditure of resources.

Background

Historically, where a *Petition for Alien Relative* (hereinafter Form I-130 or petition) was pending before USCIS, this fact tended to promote delays in removal proceedings. Indeed, in July of 2009, EOIR identified approximately 17,000 removal cases that have been continued pending the outcome of USCIS decisions on petitions. Recognizing that many of these cases may ultimately result in relief for the alien, ICE has been working with USCIS and EOIR to identify more effective procedures to resolve these pending petitions along with other applications to promote increased docket efficiency.

¹ This memo applies only to applications or petitions that USCIS legally has jurisdiction to adjudicate during removal proceedings.

Subject: Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending Applications or Petitions

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To this end, USCIS will issue guidance to complement this memorandum and will endeavor to complete the adjudication of all applications and petitions referred by ICE within 30 days for detained aliens and 45 days for non-detained aliens. Close coordination and communication between the ICE Offices of Chief Counsel (OCC) and USCIS will ensure that all applications and petitions are adjudicated quickly to realize our shared goal of efficiently resolving cases in removal proceedings.

New ICE Policy

As a matter of prosecutorial discretion and to promote the efficient use of government resources, I hereby issue new ICE policy to govern the handling of removal proceedings involving aliens with applications or petitions pending with USCIS. This policy extends both to the prosecution of removal proceedings by OCCs and to any associated detention decisions by Enforcement and Removal Operations (ERO).

1. Expedited Adjudication

- A. In any case involving a detained alien whose application or petition is pending with USCIS, OCC shall affirmatively request that USCIS expedite the adjudication of the application or petition. ICE should promptly transfer the applicant's A-file to USCIS. USCIS will endeavor to adjudicate all the detained cases referred to it by ICE within 30 days of receiving the A-files. ICE will ensure that, if needed, USCIS has access to the detained individual to conduct an interview.
- B. In any case involving a non-detained alien whose application or petition is pending with USCIS, OCC shall affirmatively request that USCIS expedite the adjudication of the application or petition. ICE should promptly transfer the applicant's A-file to USCIS. USCIS will endeavor to adjudicate all non-detained cases referred to it by ICE within 45 days of receiving the A-files.

2. Dismissal without Prejudice of Certain Cases in Removal Proceedings

Detained Cases

Where there is an underlying application or petition filed with USCIS by or on behalf of a detained alien and ICE determines as a matter of law and in the exercise of discretion that such alien appears eligible for relief from removal, OCC shall promptly consult with the Field Office Director (FOD) and Special Agent in Charge (SAC) to determine if there are any investigations or serious, adverse factors weighing against dismissal of proceedings.² Adverse factors include, but are not limited to, criminal convictions, evidence of fraud or other criminal misconduct, and national security and public safety considerations. If no investigations or serious adverse factors

² ICE offices in the Fifth and Ninth Circuits must be sensitive to the issue of *res judicata* that may arise in dismissing proceedings without prejudice. See, e.g., *Bravo-Pedroza v. Gonzales*, 475 F.3d 1358 (9th Cir. 2007); *Medina v. INS*, 993 F.2d 499, 503 (5th Cir. 1993). To protect the government's interests, motions to dismiss without prejudice in the 5th and 9th Circuits should be made in writing, i.e., not orally. The Office of the Principal Legal Advisor (OPLA) has developed a template for motions to dismiss without prejudice for use in these two circuits.

Subject: Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending Applications or Petitions

Page 3 of 4

exist, the OCC should promptly move to dismiss proceedings without prejudice before EOIR, and notify the FOD of the motion. Once the FOD is notified, the FOD must release the alien pursuant to the dismissal of proceedings.

Non-Detained Cases

Where there is an underlying application or petition and ICE determines in the exercise of discretion that a non-detained individual appears eligible for relief from removal, OCC should promptly move to dismiss proceedings without prejudice before EOIR.³

Standard for Dismissal

Only removal cases that meet the following criteria will be considered for dismissal:

- The alien must be the subject of an application or petition filed with USCIS to include a current priority date, if required, for adjustment of status;⁴
- The alien appears eligible for relief as a matter of law and in the exercise of discretion;
- The alien must present a completed *Application to Register Permanent Residence or Adjust Status* (Form I-485), if required; and
- The alien beneficiary must be statutorily eligible for adjustment of status (a waiver must be available for any ground of inadmissibility).

An alien in removal proceedings may appear eligible for relief but for a variety of reasons, ICE may oppose relief on the basis of discretion. In those cases, ICE should continue prosecution of the case before EOIR regardless of whether USCIS has approved the underlying application or petition.

Standard Operating Procedures

In coordination with the local USCIS field office, each OCC must develop a standard operating procedure (SOP) to identify removal cases that involve an application or petition pending before USCIS. This SOP should address the categories of cases discussed above: (1) those identified for expedited adjudication, and (2) those for which dismissal of proceedings may be appropriate. The request to expedite shall be made to by OCC to USCIS. No obligation for such requests shall be placed on the alien's attorney, accredited representative, or the immigration judge. The SOP regarding requests to expedite must establish the following:

- A mechanism whereby the ICE attorney who handles the master calendar hearing in a case determines whether a request to expedite the pending petition or application is appropriate;
- A structure to communicate the ICE request to expedite to USCIS;

³ As more fully stated in footnote 2, ICE offices in the Fifth and Ninth Circuits must be sensitive to the issue of *res judicata* that may arise in dismissing proceedings without prejudice. OPLA has developed a template for motions to dismiss without prejudice for use in these two circuits.

⁴ At the OCC's discretion, other cases not meeting this criterion may be appropriate for dismissal.

Subject: Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending Applications or Petitions

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- A system to ensure that decisions about the application or petition are received from USCIS, uploaded into GEMS, and received by the ICE attorney scheduled to handle the subsequent hearing; and
- A method by which A-files will be routed as appropriate so as to avoid delays in either the adjudication or the immigration court proceedings.

Any questions regarding this memorandum should be directed to OPLA Field Legal Operations or ERO Field Operations through appropriate channels.⁵

cc: Alejandro Mayorkas
Director, U.S. Citizenship and Immigration Services

⁵ This document provides only internal ICE guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil, or criminal. Likewise, no limitations are placed on otherwise lawful enforcement or litigative prerogatives of DHS or ICE.

Thompson, Monica L

From: Thompson, Monica L
Sent: Friday, August 20, 2010 5:48 PM
To: Goldman, Gary L; Cassidy, Donald W
Subject: AILA inquiry

Raed Gonzales, the AILA liaison to EOIR, called me to ask about the motions to dismiss that have been filed recently. He said that he is aware of the A/S memo. I told him that we are using the memo to review all of the cases that are on the docket and moving to dismiss those that don't fit the criteria. I asked him to encourage the private bar to wait to file motions/requests for joint motions until October because we should have completed our review by that time and it would be helpful not to be overwhelmed with having to respond to their motions while we are filing our own. He seemed excited.

Goldman, Gary L

From: Goldman, Gary L
Sent: Tuesday, August 24, 2010 2:04 PM
To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L
Subject: Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions
Attachments: Guidance on Aliens with Pending Applications.pdf

All,

The August 20, 2010 A/S John Morton memorandum attached is an agency priority. Thus I am withdrawing both my August 12, 2010 memorandum captioned "Efficiencies in the Removal Process and Prosecutorial Discretion File Review" and my August 16, 2010 memorandum captioned "Prosecutorial Discretion." Effective immediately, our affirmative efforts regarding prosecutorial discretion are to focus on the class of cases outlined in the attached August 20 memorandum.

Gary

8/24/2010

Office of the Principal Legal Advisor

U.S. Department of Homeland Security
500 12th St., SW
Washington, DC 20024



U.S. Immigration
and Customs
Enforcement

August 25, 2010

MEMORANDUM FOR:

Gary Goldman
Chief Counsel, Houston

FROM:

Riah Ramlogan
Director, Field Legal Operations

SUBJECT:

Houston OCC Initiative – August 2010

I recently received and reviewed a copy of the memoranda you issued on August 12, 2010, and August 16, 2010. I appreciate your interest in advancing the agency's priorities and your attempt to interpret the Assistant Secretary's June 30, 2010 memorandum, "Civil Immigration Enforcement: Priorities for the Apprehension, Detention and Removal of Aliens." I understand that your office has implemented the memoranda you issued by terminating each case it identified that did not correspond to one or more of the three priorities identified in the Assistant Secretary's memorandum. However, your implementation overlooks a key provision of that guidance, which makes clear that, in addition to focusing on 1) aliens who pose a danger to national security or a risk to public safety (such as criminals), 2) recent illegal entrants, and 3) aliens who are fugitives or otherwise obstruct immigration controls, ICE shall continue enforcing the law against other aliens as well. The guidance explicitly indicated that "[n]othing in this memorandum should be construed to prohibit or discourage the apprehension, detention, or removal of other aliens unlawfully in the United States." I am concerned that your interpretation of the memorandum, although well-intentioned, could create a gap in basic immigration enforcement. Your approach that our attorneys should only litigate cases within the agency's highest priorities is not an accurate interpretation of the Assistant Secretary's guidance and is not consistent with agency policy. As such, to the extent you may not have already done so, please immediately rescind your memoranda dated August 12, 2010 and August 16, 2010, and direct your staff to the Assistant Secretary's June 30 guidance and his more recent August 20, 2010 memorandum, "Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions."

Thank you for your cooperation. I am available to discuss the agency's priorities and how to implement those in a meaningful and appropriate way.

Goldman, Gary L

From: Goldman, Gary L
Sent: Thursday, August 26, 2010 12:01 PM
To: Ramlogan, Riah
Subject: FW: Houston OCC Initiative
Attachments: goldman.pdf

Riah,

Thank you for your memorandum and your clarification of OPLA's understanding of the savings clause in Assistant Secretary Morton's memorandum concerning non-priority cases. As you know, my two memoranda dated August 12 and August 16 were sent to OPLA's attention moments after they were sent to my staff. (b)(5), (b)(6)

(b)(5), (b)(6)

I recognize when written policy is implemented, adjustments and fine-tuning may be needed. We all must remain flexible and open-minded to ensure that we continue to interpret and implement agency guidance and policy in a manner consistent with leadership's intention. Accordingly, and consistent with your August 25, 2010 directive, on August 24, I rescinded my memoranda dated August 12, 2010 and August 16, 2010. Attorneys have been directed to the Assistant Secretary's June 30 guidance and his most recent August 20, 2010 memorandum.

I want to personally thank you very much for your constant guidance and support not only throughout this process but at all times. I am honored to work for you.

Gary

From: Ramlogan, Riah
Sent: Thursday, August 26, 2010 8:19 AM
To: Goldman, Gary L
Subject: Houston OCC Initiative

Gary – Please see attached. Do not hesitate to call if you would like to discuss. Riah

8/26/2010



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

August 25, 2010

MEMORANDUM FOR: Riah Ramlogan, DFLO

Cc: Mike P. Davis, Arthur Adams

FROM: Gary Goldman
Chief Counsel
Houston, Texas

SUBJECT: Efficiencies in the Removal Process and
Prosecutorial Discretion

On June 30, 2010, John Morton, Assistant Secretary, issued a memorandum to All ICE Employees captioned Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens. The memorandum outlined the civil immigration priorities of ICE as they related to the apprehension, detention, and removal of aliens, and advised that "ICE personnel shall follow the priorities set forth in this memorandum immediately", that "ICE programs shall develop appropriate measures and methods for recording and evaluating their effectiveness in implementing the priorities", and that "ICE will ensure that reporting capabilities for these priorities allow for such reporting as soon as practicable, but not later than October 1, 2010."

A Chief Counsel Conference was held in Denver, Colorado on August 2 and 3, 2010. Among other topics, the focus of the two day conference was on improving the efficiencies of the removal process, ICE enforcement priorities, prosecutorial discretion, optimizing the use of current resources, and the Assistant Secretary's June 30 memorandum.

(b)(6)

(b)(6)

On August 12, I distributed the first of two memoranda to my staff. Attorneys were advised that as the first part of this two-pronged tasking, beginning on August 12, every court and duty attorney was to initially determine whether the case was amenable to the exercise of prosecutorial

discretion pursuant to guidelines outlined in the June 30, 2010 Assistant Secretary John Morton memorandum captioned Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens. To ensure compliance, attorneys were directed to file a Motion to Dismiss Proceedings Without Prejudice in clear prosecutorial discretion cases. Attorneys were encouraged to consult with the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney on any case where the exercise of prosecutorial discretion was at issue. However, that memorandum would only efficiently address cases currently calendared in court. However, that tasking alone would not efficiently address the cases awaiting a hearing date in 2011 and 2012.

In addition to this prosecutorial discretion responsibility assigned to every court and duty attorney, I also implemented a court efficiencies task force consisting of five Assistant Chief Counsels who were tasked with performing a file review of every file in the Houston Office of Chief Counsel files room prior to COB Friday, September 17, 2010. Attorneys were directed to file a Motion to Dismiss Proceedings Without Prejudice in clear PD cases. Files warranting further review and discussion regarding the exercise of PD were to be brought to the attention of the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney. (b)(6)

(b)(6)

My goal in implementing these two taskings was to improve the efficiencies of the removal process by utilizing our resources to ensure that the removals the agency does conduct promote the agency's highest enforcement priorities, namely national security, public safety, and border security. By removing non-priority cases from the immigration court's docket that clearly are not a Priority 1, 2 or 3 Priority case, we would be able to ensure our courts' dockets can more readily accommodate public safety threats and quickly litigate the cases of highest priority. (b)(5) AC

(b)(5) AC

Before the tasking began, all attorneys were again reminded that the Priority 1 cases were aliens who pose a danger to national security or a risk to public safety. (b)(5)

(b)(5)

Priority 2 cases were aliens who are "recent illegal entrants." (b)(5)

(b)(5)

Priority 3 cases were aliens who were fugitives or who obstructed immigration controls. (b)(5)

(b)(5)

(b)(5) AC

(b)(5)



On August 16, 2010, I issued a second memorandum advising my attorneys the reasons for the exercise. ICE attorneys nationwide litigate hundreds of thousands of cases each year through our approximately 1,000 attorneys. Case preparation time is extremely limited. We must be selective in pursuing cases to ensure our prosecutions focus on cases of national security, public safety, criminal aliens and the other classes of ICE Priority cases. Attorneys were reminded that our universe of opportunities to exercise prosecutorial discretion is large. It broadly encompasses NTA review, court litigation, not opposing relief, joining in a Joint Motion, not appealing an adverse decision, etc. Further opportunities arise at the appellate level with the extraordinary amount of work reaching the Board of Immigration Appeals and the Circuit Courts of Appeals. We also could seek efficiencies in the removal process through continuing dialogue with ERO, HSI, CIS, CBP, and EOIR, through improved written advocacy, remands, etc.

(b)(5)



(b)(5) That is the beauty of prosecutorial discretion. We do strive for consistency in application of process but the agency does not want to stifle attorneys' independent authority to exercise sound judgment in matters of prosecutorial discretion. I advised my staff that ICE Senior Leadership does not want their attorneys to merely fill a seat in immigration court and blindly prosecute every case handed to them. The current administration wants attorneys of greater sophistication, independence, and complexity in decision making. We are tasked with discerning which cases clearly a.) meet agency priorities, b.) fall outside agency priorities, and c.) merit further review prior to any prosecutorial discretion decision making. Attorneys were advised that everyone should strive to be guided by ideas and process improvements that move matters forward and by identifying strategies that promote the efficiencies of the removal process.

There are approximately 60 field offices in the United States including suboffices. Thus there are countless ways of effectuating the Assistant Secretaries Priorities. The Houston office was in a better position with our resources than most other Chief Counsel offices to implement a court efficiencies tasking because we had five new attorneys who entered on duty in 2010 while the Houston court has not brought on board either of their two new immigration judges. Additionally, a third Houston judge has been out on extended leave since April 2010. Thus we had twenty-six attorney on board for six immigration judges resulting in us temporarily being overstaffed with attorneys. I wanted to ensure we best utilized those resources in whatever time we had to improve the efficiencies of the removal process. I was

asked to speak on the "Houston Initiative" on the Thursday, August 19 Chief Counsel Conference call and I explained our tasking to those on the call.

(b)(6)

(b)(6) Our office was very careful to conservatively interpret and to follow the guidance in the June 30 Assistant Secretary's memorandum. AILA attorneys in Houston were routinely discovering in court that ICE attorneys were filing Motions to Dismiss Proceedings on their non-egregious cases. Below are five examples of compelling cases where we did file a Motion to Dismiss Proceedings:

(b)(5) AC

Word in the way we had been conducting business did not go unnoticed. AILA communicated our practice to the media and on Wednesday, August 25, the Houston Chronicle ran an article, attached at the end of this memorandum.

Through Tuesday, August 24, our tasking team had reviewed 1,924 cases and had exercised prosecutorial discretion on 246 cases, a 12.5% of filings. In dismissing

non priority cases, ICE Offices of Chief Counsel are attempting to take a necessary step toward unclogging a massive backlog of cases on the immigration courts' dockets by removing cases from the court dockets (b)(5)

(b)(5)

(b)(5) to remove these cases from the immigration court docket to push forward the more egregious cases.

On August 20, 2010, the Assistant Secretary issued another memorandum designed to increase the efficiency and effectiveness of the removal process from the Notice to Appear through the entry of a final administrative order. (b)(5)

(b)(5)

(b)(5) Chief Counsel and local USCIS field offices are to work together to ensure that appropriate cases are dismissed and that applications and petitions for these cases are adjudicated quickly.

(b)(5), (b)(6)

(b)(5), (b)(6) Thus I advised my staff that we would not continue the initial file room tasking but would focus our current energies of removing the cases with pending CIS applications and petitions from the immigration court docket.



NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #193
August 19, 2010

Chief Counsel: Gary Goldman, Nicole Guzman, Leslie Ungerman, Karen Lundgren,
Jane Minichiello, Ed Dunlay, Dave Orland, Geri Richardson,

Headquarters: Riah Ramlogan, Art Adams, Bob Finkelstein, Ron Lapid, Mike Davis

Notes prepared by MPA Doris Joan Combs, Edited by Art Adams

1. ***Senior Counsel for Field Management*** Non-Responsive

Non-Responsive

Discussion

Non-Responsive

2. ***Chief Counsel Meeting, Denver Aug 2010 - Recap*** Non-Responsive

Non-Responsive

3. ***New Additions to the FLO Family*** – Non-Responsive

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #193 of August 19, 2010
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Non-Responsive

4. ***Deputy Principal Legal Advisor Barry O'Melinn to Leave OPLA*** Non-Resp

Non-Responsive

5. ***DESIGNATION OF SPECIAL AGENTS TO WORK WITH OCCs.*** Non-Respo

Non-Responsive

6. ***Matter of Sanchez-Cornejo, 25 I&N Dec. 273 (BIA 2010)*** Non-Responsive

Non-Responsive

7. ***Matter of Velasquez, 25 I&N Dec. 278 (BIA 2010)*** Non-Responsive

Non-Responsive

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Non-Responsive



8. ***Matter of Quilantan***, 25 I&N Dec. 285 (BIA 2010)

Non-Responsive

Non-Responsive



9. ***Matter of Reza***, 25 I&N Dec. 296 (BIA 2010)

Non-Responsive

Non-Responsive



10. ***Matter of Cortez***, 25 I&N Dec. 301 (BIA 2010), and ***Matter of Pedroza***, 25 I&N Dec. 312 (BIA 2010)

Non-Responsive

Non-Responsive



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Non-Responsive

11. ***Expect More BIA Precedents on Admission*** Non-Responsive

Non-Responsive

12. ***New EOIR 800 Number Procedures*** Non-Responsive

Non-Responsive

(b)(6), (b)(7)(C)

13. ***Farewell APLD*** Non-Responsive

Non-Responsive

14. ***Template Motion to Dismiss Proceedings (Mike Davis)*** - A template motion to dismiss has been developed to address the potential res judicata effects of terminating removal proceedings. The template and an explanatory cover page have been uploaded here in SharePoint. (b)(5)

(b)(5)

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Notes of ICE/OPLA Chief Conference Call Number #193 of August 19, 2010
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(b)(5)



15. ***Forensic Document Laboratory (FDL)***

Non-Responsive



Non-Responsive

16. ***Leave and Travel Manager***

Non-Responsive



Non-Responsive

17. ***CCs to Update OPLA Field Legal Operations Calendar***

Non-Responsive



Non-Responsive

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18. ***Alternative Work Schedules (AWS)*** Non-Responsive

Non-Responsive

19. ***Travel Compensatory Time*** Non-Responsive

Non-Responsive

20. ***Training Opportunities for Trial Attorneys*** Non-Responsive

Non-Responsive

Discussion

Non-Responsive

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Non-Responsive



21. ***Voluntary Leave Transfer Program (VLTP)*** Non-Responsive

Non-Responsive



22. ***PACER Password has Changed*** Non-Responsive

Non-Responsive



23. ***STAY IN SCHOOL PROGRAMS (STEP/SCEP)*** Non-Responsive

Non-Responsive



24. ***DETAIL TO WASHINGTON, D.C.*** Non-Responsive

Non-Responsive



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Notes of ICE/OPLA Chief Conference Call Number #193 of August 19, 2010
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Non-Responsive

25. ***AWAY FROM OFFICE***

Non-Responsive

Non-Responsive

26. ***Employment Law Training for Managers***

Non-Responsive

Non-Responsive

Non-Responsive

AROUND THE OCCs

San Diego -

Non-Responsive

Non-Responsive

Newark -

Non-Responsive

Non-Responsive


Discussion

Non-Responsive

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Chicago - Non-Responsive
Non-Responsive



San Francisco - Non-Responsive
Non-Responsive



Orlando - Non-Responsive
Non-Responsive



Philadelphia - Non-Responsive
Non-Responsive



Next Call - Non-Responsive
Non-Responsive



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Office of the Chief Counsel

U.S. Department of Homeland Security
126 Northpoint Drive – Room 2020
Houston, Texas 77060
Office (281) 931-2046



**U.S. Immigration and
Customs Enforcement**

MEMORANDUM

October 28, 2010

TO: Gary Goldman
Chief Counsel
Houston, Texas

FROM: Charlotte Lang, Assistant Chief Counsel

SUBJECT: Meeting with Principal Legal Adviser Peter Vincent week of May 17, 2010

During the week of May 17, 2010, I attended the Worksite Enforcement Auditor's Conference in Arlington, VA. Assistant Chief Counsel D'Anna Harrison also attended the conference. One morning during the conference, there was a breakout session in which the OPLA attorneys at the conference went to a separate room in the training center for a short meeting with Peter Vincent, who spoke with us about worksite cases and concerns, and discussed OPLA priorities. A few attorneys at the conference expressed concern over (b)(5)

(b)(5)

Goldman, Gary L

From: Goldman, Gary L
Sent: Monday, November 01, 2010 7:41 PM
To: Davis, Mike P
Subject: Discussion

Michael,

I know how busy you must be so I thought I would simply write you a very brief email to clarify one issue. (b)(5), (b)(6)

(b)(5), (b)(6)



Thanks for supporting the field.

Gary

11/1/2010



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

November 3, 2010

MEMORANDUM FOR: Peter Vincent, Principal Legal Advisor

THROUGH: Gary Goldman, Chief Counsel, Houston
Mike Davis, Acting Director, Field Legal
Operations

FROM: Monica Thompson
Deputy Chief Counsel
Houston, Texas

SUBJECT: Interactions with Raed Gonzalez

On October 28 my supervisor, Chief Counsel Gary Goldman, advised me that you requested a memorandum disclosing all of the contact that I have had with Raed Gonzalez beginning with an August 20 phone call which the Houston Chronicle mentioned in its October 15, 2010, article regarding the Houston Chief Counsel Office's exercise of prosecutorial discretion.

On August 20, I received a call from Raed Gonzalez. Mr. Gonzalez currently serves as the AILA Liaison to Houston EOIR. I routinely field calls from the private bar in an effort to resolve various issues that relate to immigration court proceedings, e.g., joint motions to reopen, communication obstacles, etc. After saying our hellos, Mr. Gonzalez stated that he was calling on behalf of the AILA members. He called to inquire about the motions to dismiss our office had recently filed. He stated that he had a copy of the Assistant Secretary's June memo and wondered if our motions were associated with the A/S memo. I did not find it unusual that he had a copy of the A/S memo because on many occasions, the private bar has attached INS, ICE and USCIS memos to their briefs and motions to bolster their arguments. I told him that our office was reviewing all of the cases on the court's docket and moving to dismiss those that did not fit the priority criteria set forth in the memo. We did not discuss any specifics set forth in the memo. Mr. Gonzalez asked if the private bar should file motions or contact the ACCs about filing motions to dismiss. I asked him

to encourage his members to wait until October to file any motions or contact us about any motions so that our office and the court would not be overwhelmed with duplicate motions and responses being filed on the same case. I advised him that we expected to complete our file review by the end of September. He thanked me for the information and we concluded the call. The phone call lasted less than 10 minutes.

On August 25, DCC Donald Cassidy scheduled a meeting with the liaison immigration judge and the court administrator to discuss the practice of automatically resetting cases with pending I-130s to await adjudication without input from the parties on the petitions' status. I later asked to attend the meeting to discuss the use of adjournment codes because our review of cases reset for DHS adjudications revealed that several cases appeared to be incorrectly coded. The liaison judge would not attend the meeting unless AILA was also invited, so the court extended an invitation to Mr. Gonzalez.

On September 3, DCC Cassidy and I met with the court administrator, the liaison judge, Mr. Gonzalez and another AILA attorney, Elise Wilkinson. Despite the agenda, Mr. Gonzalez and Mrs. Wilkinson attempted to discuss prosecutorial discretion. We responded that we were following all of ICE's prosecutorial discretion memos and that private bar attorneys may contact the case attorney in our office to request a review of their case.

On September 7, Mr. Gonzalez sent me an e-mail asking me to review an e-mail that he planned to send to AILA members summarizing the meeting held on September 3. The e-mail made it appear that only ICE and AILA attended the meeting and that the purpose of the meeting was to discuss prosecutorial discretion. I discussed the e-mail with CC Gary Goldman and DCC Cassidy and then asked Mr. Gonzalez to amend his e-mail to reflect that AILA was invited by EOIR and that the true purpose of the meeting was to discuss I-130 resets and adjournment codes.

On September 7, I sent an e-mail to Mr. Gonzalez and Houston EOIR informing them that our office was changing its mailing address. On October 1, I resent the same e-mail as a reminder of our change of address.

(b)(5)



On September 17, Mr. Gonzalez forwarded me an e-mail from a member of the private bar that appeared to be directed to EOIR. I sent an e-mail telling Mr. Gonzalez that it appeared that the e-mail had been inadvertently sent to me. Mr. Gonzalez responded that he had intended it for me. The e-mail asked whether EOIR would entertain a CAT claim filed by an alien in state custody serving a 15 year sentence. I did not understand why this question would be directed to our office. I responded that we address every case on the court's calendar.

On September 28, Mr. Gonzalez asked that I review a case in which an ACC declined to exercise prosecutorial discretion. I reviewed the GEMS notes and sent Mr. Gonzalez an e-mail stating that we would not exercise prosecutorial discretion in the case.

Goldman, Gary L

From: Goldman, Gary L
Sent: Thursday, November 04, 2010 7:10 AM
To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L
Subject: FW: OCC FY11 Tracking of Motions to Dismiss - DATA from October 1 through November 3, 2010
Importance: High

Attorneys,

(b)(5)

(b)(5)

You will still need to report this information to a manager so that we may incorporate this data into the OPLA monthly Excel spreadsheet attached. Please remember that what ICE refers to as a "motions to dismiss", the court may call it a "motion to terminate."

Gary

From: Goldman, Gary L
Sent: Thursday, November 04, 2010 6:12 AM
To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L
Subject: FW: OCC FY11 Tracking of Motions to Dismiss - DATA from October 1 through November 3, 2010
Importance: High

Attorneys,

Please complete the attached Excel spreadsheet including your data from October 1, 2010 through November 3, 2010. After you submit this initial data, Don, Monica, or I will update the spreadsheet for any future unilateral motion to dismiss you file on or after November 3, 2010 after your consultation with us requesting permission to file the motion.

Submit your data to Don, Monica, and me by COB Monday, November 15. You should be able to readily obtain most or all of your data from your Motion to Dismiss Excel spreadsheet that you have worked on this week.

Gary

11/4/2010

From: Goldman, Gary L

Sent: Wednesday, November 03, 2010 4:54 PM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: FW: OCC FY11 Tracking of Motions to Dismiss

Importance: High

Attorneys,

(b)(5)

(b)(5)

You do not have to complete the attached spreadsheet. Monica, Don, and I will ensure the attached spreadsheet contains all relevant data.

Gary

From: Adams, Arthur E

Sent: Wednesday, November 03, 2010 4:33 PM

To: Choi, Raphael; Falcone, Michael; Sanchez, Raphael; Owens, Alfie; Cox, Christopher R; Short, Tracy L; Brukiewa, Melody A; Spotts, JoAnne D; Vargas-Padilla, Nelson A; McGrath, Frederick J; Furlong, John M; Neville, Richard D; Grable, James W; Hengerer, Carla J; Lundgren, Karen E; Gountanis, John H; Perez, Nelson (CHI OCC); Hunker, Paul B; Almeida, Corina E; Brady, Bonnie; O'Hare, Donald C; Todd, Aaron W; Christian, Victoria; Pincheck, Catherine; Gonzalez, Guadalupe R; Gastelo, Elias S Jr; Beattie, Patricia A; Goldman, Gary L; Cassidy, Donald W; Thompson, Monica L; Stolley, Jim; Aguilar, Jason; Anderson, Sandra D; Lambert, Mary-Jean; Lepkowitz, Edward; Maury, Carlos E; Mosley, Paul B; Ruane, Rachel A; Ryan, Marty; Workeneh, Debra H; Gossard, William S; Alvarez, Diana I; Celaya, Gracian A; Izzo, Alec; Marbury, Howard W; Sanchez-Roig, Rebeca; Swartz, Jill T; Minichiello, Jane H; Brundage, Christopher P; Witten, Todd E; Raborn, Glenda M; Harris, Monique; Harlow, Craig A; Pauling, Theresa; Cheng, Wen-Ting; Costa, Philip J; Johnson, Carrie; Padilla, Kenneth; Sherman, Lloyd; Guzman, Nicole G; Martinez, Mark B; Frederick, Kent J; Ellington, John; Richardson, Geraldine; Vroom, Patricia M; Bjornerud, Maria; Eslava-Grunwaldt, Arnold; Golparvar, Kuyomars Q; Shepherd, Kimberley J; Chait, Barry S; Stultz, Paul R; Tanke, Ann M; Ball, Gregory J; Whatmough, Lessa N; Putnam, Lisa M; Soblick, Martin D; Halliday-Roberts, Catherine E; Orland, David M; Yamada, Ted Y; Ungerman, Leslie; Curry, Margaret; Nishiie, Paul K; Park, Joseph; Reyes-Lopez, Vivian; Stefan, Dorothy; Dunlay, Edward L; Fehlings, Gregory E

Cc: Davis, Mike P; Landau, David A; Downer, Matthew M; Ramlogan, Riah; Perry, Carl E; Ardinger, Jo Ellen; Connolly, Eileen M; Lapid, Ronald; Downer, Matthew M

Subject: OCC FY11 Tracking of Motions to Dismiss

Importance: High

Disseminated on behalf of Mike P. Davis . . .

Chief Counsel,

Our recent review of OPLA's nationwide motion-to-dismiss practices have made clear the limitations presented by GEMS and our need to institute improved tracking techniques to ensure appropriate management oversight in this area. Until GEMS can be made to more accurately track this information, we need to promptly deploy an interim tracking system. Effective immediately, all OCCs must use the attached Excel spreadsheet to log and track the motions to dismiss filed with EOIR. Monthly reports

11/4/2010

shall be elevated to Headquarters using this system.

Since, OPLA is likely to receive future requests for FY11 motion-to-dismiss data, we need each OCC to backfill the spreadsheet to account for all motions to dismiss filed with EOIR since the beginning of October 1, 2010. Only unilateral ICE motions to dismiss should be tracked under this directive, while other ICE motions, joint motions to dismiss, and non-oppositions to alien motions to dismiss should continue to be tracked under existing procedures, including GEMS, as appropriate.

We have designated the attached Excel spreadsheet as a user friendly tool, including basic columns for each OCC to identify the following information: the OCC of origin, the respondent's A#, the respondent's last name, the basis of the motion, the date the motion was filed, the status of the motion, the date the IJ ruled on the motion, and extra space to explain further why the motion was dismissed (along with any other appropriate notations). This last column should be used to offer a brief rationale supporting the motion to dismiss. For instance, if the motion was filed for humanitarian reasons as a pure exercise of discretion, this column should include a few explanatory keywords to give a basic idea for the motion (e.g., "terminal cancer" or "noncriminal, sole caregiver of 5 USC children").

Each OCC's monthly report should be sent to the OPLAFieldLegalOPS mailbox by the 5th of each succeeding month. The numbers for October and November 2011 can be provided together on December 5th. Please direct any questions to FLO's Colleen Peppard.

Thank you for your cooperation,
Mike

Mike P. Davis
Acting Director, Field Legal Operations
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-(b)(6), (b)(7)(C) | Mobile: 202-(b)(6), (b)(7)(C)
Email: (b)(6), (b)(7)(C)

11/4/2010



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

November 8, 2010

MEMORANDUM FOR: Mike P. Davis, Acting DFLO

FROM: Gary Goldman
Chief Counsel

SUBJECT: Motion to Dismiss Case Information Houston

Attached is the Houston Office of Chief Counsel Motion to Dismiss spreadsheet for the period August 1, 2010 through October 31, 2010. This information was obtained through an A-file review, GEMS search and/or search of ENFORCE by DCC Monica Thompson, DCC Donald W. Cassidy, our attorney staff, and me who collectively located 445 cases.

Monica and I have categorized this data to comport to the specific and improved tracking techniques that you advanced in your November 5, 2010 emails to the Chief Counsels and Deputy Chief Counsels. Although future data submitted to OPLA Field Legal Operations will be limited to unilateral motions to dismiss, all motions to dismiss located by Houston attorneys for the requested 90 day period are listed in the attached report.

A summary of the case information follows:

(b)(5)	- 1
(b)(5)	- 191
(b)(5)	- 1
(b)(5)	- 0
(b)(5)	- 10
(b)(5)	- 3
(b)(5)	- 52
(b)(5)	- 0
(b)(5)	9
(b)(5)	- 2
(b)(5)	- 176

Total - 445

After returning from the August 2 and 3 Chief Counsel Conference in Denver on Court Efficiencies, I met with Don and Monica to discuss how our office could best comply with the Assistant Secretary's Priorities on Civil Immigration Enforcement.

(b)(5)

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(b)(6)

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Goldman, Gary L

From: Goldman, Gary L

Sent: Monday, November 08, 2010 11:09 AM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: Motions to Dismiss

Attorneys,

Monica and I have carefully reviewed the data from your August 1 through October 31 motions to dismiss spreadsheets. (b)(5), (b)(6)

(b)(5), (b)(6)

Gary

11/8/2010

Subj: **FW: Support**
Date: 11/11/2010 8:59:57 A.M. Central Standard Time
From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)

From: Goldman, Gary L
Sent: Thursday, November 11, 2010 7:43 AM
To: Ramlogan, Riah; Adams, Arthur E; Davis, Mike P
Cc: Cassidy, Donald W; Thompson, Monica L
Subject: Support
Importance: High

Riah, Art, Michael,

I know all three of you well enough to speak openly, to speak candidly. I will be brief.

(b)(5)



Gary



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

November 16, 2010

MEMORANDUM FOR: Gary Goldman, Chief Counsel, Houston

FROM: Monica Thompson
Deputy Chief Counsel
Houston, Texas

SUBJECT: Prosecutorial Discretion

(b)(5)

A large, solid black rectangular box covers the majority of the lower half of the page, indicating that the content has been redacted.

FROM
(HOUSTON OCC OFFICE PROCEDURAL MANUAL)

LVI. PROSECUTORIAL DISCRETION

A. In considering prosecutorial discretion, a series of memoranda have been issued. The following memoranda may be relevant to your analysis with the more recent memoranda given the greater focus:

1. General Counsel David Martin, Motions to Reopen Filed after September 30, 1996 Revised, 10/3/96;
2. General Counsel David Martin, Motions to Reopen Policy, 12/23/97;
3. General Counsel Paul Virtue, Operation Last Call and the Use of Prosecutorial Discretion, 1998;
4. General Counsel Paul Virtue, Extension of Filing Completion Deadline for NACARA Motion to Reopen, 2/8/99;
5. General Counsel Bo Cooper, INS Exercise of Prosecutorial Discretion, 10/4/99;
6. Commissioner Doris Meissner, Exercising Prosecutorial Discretion, 11/17/00;
7. General Counsel Bo Cooper, Motions to Reopen for Consideration of Adjustment of Status, 5/17/01;
8. Principal Legal Advisor William Howard, Exercising Prosecutorial Discretion To Dismiss Adjustment Cases, 10/6/05;
9. Principal Legal Advisor William Howard, Prosecutorial Discretion, 10/24/05;
10. Principal Legal Advisor William Howard, Motions to Reopen Orders of Removals In Absentia, 10/2/06;
11. Assistant Secretary Julie Myers, Prosecutorial and Custody Discretion, 11/7/07;
12. Assistant Secretary John Morton, Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens, 6/30/10;
13. Assistant Secretary John Morton, Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions, 8/20/10.

B. If you receive a written request to exercise prosecutorial discretion, the case attorney should (b)(5) AC

(b)(5) AC

C. If the case attorney believes the case merits prosecutorial discretion for a reason (b)(5) AC

(b)(5) AC

D. If the case attorney does not believe that the case merits prosecutorial discretion, the attorney should (b)(5) AC

(b)(5) AC

E. Prosecutorial Discretion may be requested by the respondent/respondent's counsel, a federal employee, or a state employee. Prosecutorial Discretion may involve (b)(5) AC

(b)(5) AC

F. When a determination is made to exercise prosecutorial discretion, the case attorney must (b)(5) AC

(b)(5) AC

G. If an immigration judge issues an order relating to a discretionary request, a proper GEMS record related to the order must be made. When a Motion to Dismiss Proceedings has been granted, attorneys must complete the "ORDER" column on the "EVENTS" tab in GEMS by selecting the correct description for termination of removal proceedings. Use the National GEMS codes for PD requested: (b)(5) AC

(b)(5) AC

H. A Joint Motion to Dismiss Proceedings for a CIS benefit adjudication must be made on the template provided by OPLA and distributed to all attorneys.

I. Unilateral motions to dismiss, oral or written, requested by the government (b)(5) AC

(b)(5) AC

J. An oral motion to dismiss may be needed while in court. This may occur when (b)(5) AC

(b)(5) AC

From: Goldman, Gary L

Sent: Monday, November 15, 2010 11:54 AM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; 'Eason, Kimani'; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; 'Lehman, Victor P'; 'Manning, James E'; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: Unilateral Motions to Dismiss Instructions

Attachments: Motion to Dismiss (FLO Revised 11-05-10).xls
Attorneys,

Attached below are previous instructions sent on November 3 and 4 and other instructions relating to the Unilateral Motions to Dismiss monthly spreadsheet:

1. Use the attached (FLO Revised) spreadsheet only. Open as an Excel file.
2. Submit your spreadsheet each month by no later than noon on the first working day of each month.
3. Your first spreadsheet is due by noon Wednesday, December 1. This spreadsheet must contain all your unilateral Motions to Dismiss that you filed between October 1, 2010 and November 30, 2010.
4. Your second spreadsheet will be due by no later than noon on Monday, January 3, 2011 and must contain all the Unilateral Motions to Dismiss that you filed between December 1, 2010 and December 31, 2010.

(b)(5)

Gary

From: Goldman, Gary L

Sent: Thursday, November 04, 2010 7:10 AM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: FW: OCC FY11 Tracking of Motions to Dismiss - DATA from October 1 through November 3, 2010

Importance: High
Attorneys,

(b)(5)

(b)(5)



Gary

From: Goldman, Gary L

Sent: Wednesday, November 03, 2010 4:54 PM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: FW: OCC FY11 Tracking of Motions to Dismiss

Importance: High
Attorneys,

(b)(5)



(b)(5) You do not have to complete the attached spreadsheet. Monica, Don, and I will ensure the attached spreadsheet contains all relevant data.

Gary

Thompson, Monica L

From: Cassidy, Donald W

Sent: Wednesday, June 23, 2010 9:37 AM

To: Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; Mcguirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: OCC call notes

1. **Prosecutorial Discretion and ICE Priorities (Riah Ramlogan)** - (b)(5)

(b)(5)

2. **Sedation Orders** Non-Responsive

Non-Responsive

3. **USC Claims – Level of Review needed before elevation** Non-Responsive

Non-Responsive

Adobe Professional 9.0 deployment and GEMS 6.0 release Non-Responsive

Non-Responsive

Army Certified Conviction Packets Non-Responsive

Non-Responsive

Donald W. Cassidy
Deputy Chief Counsel
ICE, Houston, Texas

12/20/2010

Thompson, Monica L

From: Goldman, Gary L
Sent: Thursday, June 24, 2010 7:12 AM
To: Lang, Charlotte K; Emmons, Dean F; Cassidy, Donald W; McGuirk, Erica; Sanders, Faye; Goldman, Gary L; (b)(6), (b)(7)c; Donovan, John; Evans, Mark S; Thompson, Monica L; Hamby, William; Garrett, Wini L; Armour, Kamie V; Kugel, Margaret R; Eason, Kimani R; Lehman, Victor P; Lemon, Vicki; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lavery, Catherine C; Lear, Kevin M; Moya, Jennifer C; Phelps, Ernest L; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A
Subject: ICE Leadership Conference

All Attorneys (copy to support staff),

Speakers at the ICE Leadership Conference ranged from Deputy Attorney General DOJ to Director of CIS to A/S Morton, to Secretary Janet Napolitano to PLA Peter Vincent, etc. The theme was consistent throughout. There are 10 million aliens who are not authorized to be in the US ranging from those lacking documents to the most serious criminals. ICE can remove only 400,000 per year based on our resources. That is only 4 percent of the unauthorized population. Thus all ICE components are tasked with ensuring that they prioritize the DHS clearly defined following three classes of cases:

1. Criminal aliens (including national security cases and gang members)
2. Fugitives (b)(5)
3. RECENT entrants and overstays (b)(5)

It was announced to all components that in addition to HSI Homeland Security Investigations (formerly OI) and ERO Enforcement Removal Operations (formerly DRO), OPLA is also now an independent operational component with independent prosecutorial discretion. A memo or memos will be disseminated to the field later this summer further defining specific priorities and guidelines. (b)(5)

(b)(5)



Gary

Thompson, Monica L

From: Goldman, Gary L
Sent: Thursday, June 24, 2010 4:59 PM
To: Lang, Charlotte K; Emmons, Dean F; Cassidy, Donald W; McGuirk, Erica; Sanders, Faye; Goldman, Gary L; (b)(6), (b)(7)c; Donovan, John; Evans, Mark S; Thompson, Monica L; Hamby, William; Garrett, Wini L; Armour, Kamie V; Kugel, Margaret R; Eason, Kimani R; Lehman, Victor P; Lemon, Vicki; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lavery, Catherine C; Lear, Kevin M; Moya, Jennifer C; Phelps, Ernest L; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A
Subject: Notes from Leadership meeting

(This is how the various presenters presented their messages to us)

(b)(5)



Gary

Thompson, Monica L

From: Goldman, Gary L
Sent: Wednesday, June 30, 2010 8:38 AM
To: Cassidy, Donald W; Donovan, John; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hamby, William; Lang, Charlotte K; Lehman, Victor P; (b)(6), (b)(7)c; McGuirk, Erica; Thompson, Monica L; Kugel, Margaret R; Eason, Kimani R; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lear, Kevin M; Lavery, Catherine C; Moya, Jennifer C; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A
Cc: Sanders, Faye; Garrett, Wini L; Armour, Kamie V; Lemon, Vicki; Phelps, Ernest L; Rogers, Susan
Subject: Fw: A Message from Assistant Secretary Morton

Attorneys,

(b)(5)



Gary

From: Cassidy, Donald W
To: Goldman, Gary L; Lang, Charlotte K; Emmons, Dean F; McGuirk, Erica; Sanders, Faye; (b)(6), (b)(7)c; Donovan, John; Evans, Mark S; Thompson, Monica L; Hamby, William; Garrett, Wini L; Armour, Kamie V; Kugel, Margaret R; Eason, Kimani R; Lehman, Victor P; Lemon, Vicki; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lavery, Catherine C; Lear, Kevin M; Moya, Jennifer C; Phelps, Ernest L; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A; Adams, Lashay N
Sent: Wed Jun 30 08:10:17 2010
Subject: RE: A Message from Assistant Secretary Morton

(b)(5)



Donald W. Cassidy

12/20/2010

Deputy Chief Counsel
ICE, Houston, Texas

From: Goldman, Gary L

Sent: Wednesday, June 30, 2010 7:44 AM

To: Lang, Charlotte K; Emmons, Dean F; Cassidy, Donald W; McGuirk, Erica; Sanders, Faye; Goldman, Gary L; (b)(6), (b)(7)c; Donovan, John; Evans, Mark S; Thompson, Monica L; Hamby, William; Garrett, Wini L; Armour, Kamie V; Kugel, Margaret R; Eason, Kimani R; Lehman, Victor P; Lemon, Vicki; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lavery, Catherine C; Lear, Kevin M; Moya, Jennifer C; Phelps, Ernest L; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A; Adams, Lashay N

Subject: Fw: A Message from Assistant Secretary Morton

Importance: High

This is an important message that was repeated to the CCs, SACs and FODs all last week. Attorneys particularly must be aware of this as will affect each case you prosecute. (b)(5)

(b)(5)

From: ICE-Broadcast

Sent: Tue Jun 29 15:46:40 2010

Subject: A Message from Assistant Secretary Morton

A Message from Assistant Secretary Morton

To all ICE employees
June 29, 2010

ICE Civil Immigration Enforcement Priorities

I am pleased to formally articulate the ICE civil immigration enforcement priorities. These priorities align with the ICE 2010-2014 Strategic Plan and the Quadrennial Homeland Security Review.

In addition, these civil immigration enforcement priorities reflect the need to focus wisely the limited resources Congress has provided. Indeed, last year the funds provided to ICE supported the removal and return of approximately 400,000 of the estimated 10 million people living without lawful authority in the United States.

These priorities direct our limited resources to best protect national security and promote public safety. We must prioritize the apprehension and removal of aliens who pose a threat to national security and/or public safety, such as criminals and terrorists. We also must focus resources on fugitives and recent border violators and visa overstays. Click on [Civil Immigration Enforcement: Priorities for the Apprehension, Detention and Removal of Aliens](#), for a more detailed memorandum on this subject.

With this prioritization, we will ensure that our work has the greatest possible impact and most effectively advances our mission.

John Morton
Assistant Secretary
U.S. Immigration and Customs Enforcement

12/20/2010

Thompson, Monica L

From: Cassidy, Donald W

Sent: Thursday, July 15, 2010 12:35 PM

To: McGuirk, Erica; Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: RE: implementing the AS memo on discretion

(b)(5)



Donald W. Cassidy
Deputy Chief Counsel
ICE, Houston, Texas

From: McGuirk, Erica

Sent: Thursday, July 15, 2010 12:30 PM

To: Cassidy, Donald W; Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: RE: implementing the AS memo on discretion

(b)(5)



From: Cassidy, Donald W

Sent: Thursday, July 15, 2010 12:17 PM

To: McGuirk, Erica; Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: RE: implementing the AS memo on discretion

(b)(5)



Donald W. Cassidy
Deputy Chief Counsel
ICE, Houston, Texas

From: McGuirk, Erica

Sent: Thursday, July 15, 2010 12:12 PM

To: Cassidy, Donald W; Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: RE: implementing the AS memo on discretion

Don,

12/20/2010

(b)(5)



Erica

From: Cassidy, Donald W

Sent: Wednesday, July 14, 2010 2:14 PM

To: Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: implementing the AS memo on discretion

(b)(5)



Does anyone have any better ideas for implementation?

Donald W. Cassidy
Deputy Chief Counsel
ICE, Houston, Texas

12/20/2010

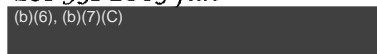
Thompson, Monica L

From: Thompson, Monica L
Sent: Monday, August 09, 2010 11:12 AM
To: Goldman, Gary L; Cassidy, Donald W
Subject: considerations for exercising prosecutorial discretion

(b)(5)



*Monica Thompson Guidry
Deputy Chief Counsel
126 Northpoint Dr., Room 2020
Houston, TX 77060
281 (b)(6), (b)(7)(C) office
281 (b)(6), (b)(7)(C) cell
281-931-2063 fax
(b)(6), (b)(7)(C)*



12/20/2010

Thompson, Monica L

From: Cassidy, Donald W
Sent: Tuesday, August 10, 2010 1:15 PM
To: Goldman, Gary L; Thompson, Monica L
Subject: Re: Court Efficiencies and Prosecutorial Discretion

Nice

From: Goldman, Gary L
To: Cassidy, Donald W; Thompson, Monica L
Sent: Tue Aug 10 13:02:16 2010
Subject: FW: Court Efficiencies and Prosecutorial Discretion

(b)(5)



From: Ramlogan, Riah
Sent: Tuesday, August 10, 2010 12:48 PM
To: Goldman, Gary L; Adams, Arthur E; Davis, Mike P
Subject: RE: Court Efficiencies and Prosecutorial Discretion

Outstanding Gary. I would like you to talk about this on our next Chief Counsel call which will likely not be until August 19.

(b)(5)



I really appreciate your efforts.

Riah

From: Goldman, Gary L
Sent: Tuesday, August 10, 2010 1:29 PM
To: Ramlogan, Riah; Adams, Arthur E
Subject: FW: Court Efficiencies and Prosecutorial Discretion

Riah, Art,

My memorandum to the staff to implement court efficiencies is attached. I want Houston to lead in this tasking, not lag behind.

Gary

From: Goldman, Gary L
Sent: Tuesday, August 10, 2010 12:25 PM
To: 'Armour, Kamie'; Bennett, Richard W; 'Cassidy, Donald W'; 'Donovan, John'; 'Eason, Kimani'; 'Emmons, Dean

12/20/2010

F'; 'Evans, Mark S'; 'Garrett, Wini L'; 'Goldman, Gary L'; 'Hafeez, Iram'; 'Hamby, William'; Harrison, D'Anna G; Kay, Alice H; 'Kugel, Margaret'; 'Lang, Charlotte K'; 'Lavery, Catherine C'; 'Lear, Kevin M'; 'Lehman, Victor P'; 'Lemon, Vicki'; 'Manning, James E'; 'McGuirk, Erica'; McPhail, John W; 'Menes, Daniel J'; 'Moya, Jennifer C'; Perez, Alex D; Perillo, Pamela; 'Phelps, Ernest L'; 'Potter, Rory H'; Rogers, Susan; 'Sanders, Faye F'; Silva, April A; 'Thompson, Monica'; Veve, Angella D; Wing, Sandra C

Subject: Court Efficiencies and Prosecutorial Discretion

The provisions of this memorandum will be incorporated into our Office.Procedural Manual.

Gary

RESCINDED 8/25/2010



U.S. Department of Homeland Security
Immigration and Customs Enforcement

Office of the Chief Counsel
126 Northpoint Drive
Room 2020
Houston, TX 77060

August 10, 2010

MEMORANDUM FOR: All Attorneys, Houston OCC

FROM: Gary Goldman
Chief Counsel

SUBJECT: Efficiencies in the Removal Process and
Prosecutorial Discretion File Review

Beginning immediately on all court and duty files, every attorney must determine whether the case may be amenable to the exercise of prosecutorial discretion (PD) pursuant to guidelines outlined in the June 30, 2010 Assistant Secretary John Morton memorandum captioned Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens. Court attorneys and duty attorneys are to consult with the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney on any case in which they feel that the exercise of PD is at issue.

In addition to this PD file review responsibility assigned to every attorney, a court efficiencies task force consisting of tasking attorneys Assistant Chief Counsels (b)(6) has been established to perform a file review of every file in room 2022 which houses all Houston Office of Chief Counsel non-detained files on the immigration court docket. Files warranting further review for the exercise of PD will be brought to the attention of and discussed with the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney.

During the first two weeks of the tasking from Wednesday, August 11 – Friday, August 20, tasking and reviewing attorneys will be paired as follows:

(b)(6) review of files 000 – 249 will discuss with (b)(6)

(b)(6) review of files 250 – 499 will discuss with (b)(6)

(b)(6) review of files 500 – 749 will discuss with (b)(6)

(b)(6) review of files 750 – 999 will discuss with (b)(6)

(b)(6) will serve as a reviewing attorney when (b)(6) are unavailable.

RESCINDED 8/25/2010

It is anticipated that the completion of the court efficiencies file room tasking will take between four to six weeks. The deadline for the file room tasking is Friday, September 24 COB as the results of the tasking must be reported by the Chief Counsel to OPLA by Friday, October 1, 2020.

The case attorney or the tasking attorney must bring the PD file for discussion to the Chief Counsel, a Deputy Chief Counsel, or a Senior Attorney. Facts are to be presented and a recommendation made. After a determination is made, (b)(5) AC

(b)(5) AC

Attorneys paired together on the court efficiencies file room tasking should

(b)(5) AC

Priority 1 cases are aliens who pose a danger to national security or a risk to public safety. This category includes violent criminals, felons, repeat offenders, and those individuals 16 years of older who participate in organized criminal gangs. Aliens posing a risk to public safety also fall within this category. Depending upon the circumstances, cases involving alcohol-related offenses should be brought to the attention of the reviewing attorney for discussion as these types of offenses, particularly multiple alcohol-related offenses, most often pose a serious threat to public safety.

Priority 1 is quite broad with regard to criminal aliens and includes "aliens convicted of crimes, with a particular emphasis on violent criminals, felons, and repeat offenders". This would include crimes that may or may not render an alien removable or inadmissible. (b)(5) AC

(b)(5) AC

(b)(5) AC

If the crime is remote in time and the alien has a substantial number of equities, all factors will be weighed to determine if an exercise of PD is appropriate. (b)(5) AC

(b)(5) AC

Priority 2 cases are aliens who are "recent illegal entrants." (b)(5) AC

(b)(5) AC

Priority 3 cases are aliens who are fugitives or who obstruct immigration controls. This category includes fugitives, aliens who reenter the US illegally after removal, and fraud cases.

In most instances, a Motion to Dismiss will (b)(5) AC

(b)(5) AC

RESCINDED 8/25/2010

Every case on the attorney's docket must contain a notation in GEMS that prosecutorial discretion was considered and was or was not exercised. This information is to be recorded using one of the following uniform or local GEMS Phrases:

(b)(5) AC



Attorneys using these local GEMS phrases will enter the code number or scan in the bar code and in the GEMS notes will articulate the reasons for exercising or electing not to exercise PD. Attorneys, using a few short phrases, should indicate their reasons for deciding to exercise or not exercise PD.

For example:

(b)(5) AC



Additionally, after a Motion to Dismiss Proceedings has been granted, attorneys must complete the "ORDER" column on the "EVENTS" tab in GEMS by selecting the correct description for termination of removal proceedings.

EVENTS - - - ORDER - - - TERMINATED - - -

by Govt.
by Alien
by Joint
by sua sponte

Attorneys will weigh the following factors when determining whether to exercise prosecutorial discretion:

(b)(5) AC




Humanitarian cases may involve beneficiaries of

(b)(5) AC




RESCINDED 8/25/2010

The goal of this tasking is to improve the efficiency of the removal process by ensuring the only cases we litigate fall within the parameters of the Assistant Secretary's June 30, 2010 memorandum. Attorneys should employ a similar thought process when considering Joint Motions to Reopen, Appeals, and Remands.

In addition to all the considerations outlined in this memorandum, detention setting attorneys must consider detention issues and issues of relief. Detention attorneys should be proactive in ensuring that Forms I-130, I-140, I-360, N-600, etc. are being processed quickly. Efforts made to promote the efficiency of the removal process including efforts to avoid continuances are to be recorded in GEMS.

Attorneys should make every effort to promote the efficiency of the removal process on any case in which relief is likely to be granted. Some of these cases can be resolved without a hearing on the merits.

Attorneys may assign the drafting of a Motion to Dismiss Proceedings to the appropriate Legal Assistant.

[attorney's name]
Assistant Chief Counsel
Immigration and Customs Enforcement
Office of the Chief Counsel
126 Northpoint Drive, Room 2020
Houston Texas 77060

NONDETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HOUSTON, TEXAS

IN THE MATTER OF)
)
)

[name],)
RESPONDENT)

IN REMOVAL PROCEEDINGS)
_____)

FILE NO. A000 000 000

DEPARTMENT OF HOMELAND SECURITY
MOTION TO DISMISS PROCEEDINGS

The Department of Homeland Security ("DHS") moves to dismiss the above-captioned proceedings, without prejudice. See 8 C.F.R. § 1239.2(c).

Respectfully submitted,

[attorney's name]
Assistant Chief Counsel

CERTIFICATE OF SERVICE

I certify that a copy of the attached filing was served on Respondent via First Class mail
on _____, and addressed as follows: _____.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
HOUSTON, TEXAS

In the Matter of: [name of alien]

A000-000-000

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of DHS' motion to dismiss, it is HEREBY ORDERED that the motion be **GRANTED** **DENIED** because:

- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per _____.
- Other: _____

Deadlines:

- The application(s) for relief must be filed by _____.

- The respondent must comply with DHS biometrics instructions by _____.

Date _____

Immigration Judge

Certificate of Service This document was served by: [] Mail [] Personal Service
To: [] Alien [] Alien c/o Custodial Officer [] Alien's Atty/Rep [] DHS
Date: _____ By: Court Staff _____

Thompson, Monica L

From: Goldman, Gary L
Sent: Tuesday, August 10, 2010 5:42 PM
To: Hartnett, Sarah L
Cc: Stefan, Dorothy; Akinbolaji, Omolade R; Rogers, Andrea R; Cassidy, Donald W; Thompson, Monica L; Goldman, Gary L
Subject: Re: Detained Juveniles and PD

Thank you Sarah. I look forward to your guidance. Gary

----- Original Message -----

From: Hartnett, Sarah L
To: Goldman, Gary L
Cc: Stefan, Dorothy; Akinbolaji, Omolade R; Rogers, Andrea R
Sent: Tue Aug 10 17:38:11 2010
Subject: RE: Detained Juveniles and PD

Gary,

(b)(5)



Let us take a look at this and we can circle back with you soon to discuss.

Sarah L. Hartnett

Section Chief

Enforcement Law Section

Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

Office: 202-(b)(6), (b)(7)(C)

Blackberry: 602-(b)(6), (b)(7)(C)

-----Original Message-----

From: Goldman, Gary L
Sent: Tuesday, August 10, 2010 6:07 PM
To: Hartnett, Sarah L
Cc: Stefan, Dorothy
Subject: Detained Juveniles and PD

Sarah,

(b)(5)



(b)(5)

Can you provide Dorothy and me with any guidance on how to handle detained juvenile cases? Thanks, Gary

Thompson, Monica L

From: Goldman, Gary L
Sent: Wednesday, August 11, 2010 6:08 PM
To: Cassidy, Donald W; Donovan, John; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hamby, William; Lang, Charlotte K; Lehman, Victor P; (b)(6), (b)(7)(C) Mcguirk, Erica; Thompson, Monica L; Kugel, Margaret R; Eason, Kimani R; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lear, Kevin M; Lavery, Catherine C; Moya, Jennifer C; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A; Kay, Alice H; Perillo, Pamela
Subject: PD on DWI cases

Attorneys,

(b)(5)



Gary

Thompson, Monica L

From: Goldman, Gary L
Sent: Thursday, August 12, 2010 10:44 AM
To: Armour, Kamie V; Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Garrett, Wini L; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Lemon, Vicki; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Rogers, Susan; Sanders, Faye; Silva, April A; Thompson, Monica L; Veve, Angella D; Wing, Sandra C
Subject: Revised PD memo attached - dated August 12
Attachments: Pros Disc GLG081210.doc

All,

The attached memo on PD dated August 12, 2010 replaces my memo of August 10 under the same heading. Some of the clarifications include (b)(5)

(b)(5), policy on ensuring all follow-up work on any PD case is routed to and completed by the case attorney not a tasking attorney, clarification on alcohol-related offenses including public intoxication cases, revised GEMS codes, and reference to how to handle the PD issue on late-docketed detained cases, among other modifications.

My August 10, 2010 memo has been withdrawn in favor of the August 12 memo attached.

Gary

12/20/2010

Thompson, Monica L

From: Goldman, Gary L
Sent: Thursday, August 12, 2010 6:53 PM
To: Cassidy, Donald W; Donovan, John; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hamby, William; Lang, Charlotte K; Lehman, Victor P; (b)(6), (b)(7)(C) McGuirk, Erica; Thompson, Monica L; Kugel, Margaret R; Eason, Kimani R; Potter, Rory H; Menes, Daniel J; Hafeez, Iram; Lear, Kevin M; Lavery, Catherine C; Moya, Jennifer C; McPhail, John W; Harrison, D'Anna G; Bennett, Richard W; Perez, Alex D; Silva, April A; Kay, Alice H; Perillo, Pamela
Subject: PD - 2 crimes

(b)(5)



Thompson, Monica L

From: Goldman, Gary L
Sent: Friday, August 13, 2010 12:40 PM
To: Cassidy, Donald W; Kay, Alice H; Thompson, Monica L
Subject: Re: PD Clarification

(b)(5)

From: Cassidy, Donald W
To: Goldman, Gary L; Kay, Alice H; Thompson, Monica L
Sent: Fri Aug 13 12:06:33 2010
Subject: RE: PD Clarification

(b)(5)

From: Goldman, Gary L
Sent: Friday, August 13, 2010 12:04 PM
To: Kay, Alice H; Cassidy, Donald W; Thompson, Monica L
Subject: Re: PD Clarification

Alice,

(b)(5)

(b)(5)

Monica, Don, do you agree?

Gary

From: Kay, Alice H
To: Goldman, Gary L
Sent: Fri Aug 13 09:25:17 2010
Subject: PD Clarification

Gary-

I want to clarify a PD point. (b)(5)

(b)(5)

Alice Hogue Kay
Assistant Chief Counsel
DHS / ICE - Houston, TX
PH (281) (b)(6), (b)(7)(C)
FX (281) 931-2063
(b)(6), (b)(7)(C)

12/20/2010

Thompson, Monica L

From: Goldman, Gary L
Sent: Monday, August 16, 2010 9:08 AM
To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L
Cc: Armour, Kamie V; Garrett, Wini L; Lemon, Vicki; Rogers, Susan; Sanders, Faye; Veve, Angella D; Wing, Sandra C
Attachments: Pros Disc GLG081610.doc

Attorneys,

Attached is an August 16, 2010 memorandum which supplements and provides further prosecutorial discretion guidance to my August 12, 2010 memorandum.

Please continue to bring these matters to the attention of Don, Monica, or me.

Gary

Thompson, Monica L

From: Goldman, Gary L

Sent: Wednesday, August 18, 2010 9:40 AM

To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: Prosecutorial discretion

Attorneys,

On page 2 of my Prosecutorial Discretion (PD) memorandum dated August 12, I stated, (b)(5)

(b)(5)

(b)(5)

Our primary consideration must always remain ensuring public safety is not being put at risk by any exercise of PD.

Gary

12/20/2010

Thompson, Monica L

From: Goldman, Gary L
Sent: Wednesday, August 25, 2010 9:34 AM
To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L
Subject: MTDPWP

Attorneys,

Just to be 100% clear, as of today, the only Motions to Dismiss Proceedings must be accomplished via the standard Joint Motion referenced in the Mike Davis email below which can be found at Sharepoint. That is the template for all field offices. No unilateral MTDP are to be filed. Although we still do retain prosecutorial discretion in very compelling cases, almost all our PD joint memos currently will flow from the A/S's August 20 memorandum and relate to CIS-related cases.

Gary

From: Davis, Mike P
Sent: Monday, August 23, 2010 4:55 PM
To: Almeida, Corina E; Ball, Gregory J; Chait, Barry S; Choi, Raphael; Frederick, Kent J; Goldman, Gary L; Gonzalez, Guadalupe R; Gossard, William S; Grable, James W; Guzman, Nicole G; Hunker, Paul B; Le Fevre, Ronald E; Lundgren, Karen E; McGrath, Frederick J; Minichiello, Jane H; Owens, Alfie; Pauling, Theresa; Raborn, Glenda M; Reyes-Lopez, Vivian; Soblick, Martin D; Spotts, JoAnne D; Stefan, Dorothy; Stolley, Jim; Todd, Aaron W; Ungerman, Leslie; Vroom, Patricia M; Wagner, Clarence M
Cc: Ramlogan, Riah; Adams, Arthur E; Perry, Carl E; Brukiewa, Melody A; Agronick, Lois; Albamonte, Elena M; Batey, Lisa M; Berry, Megan; Connolly, Eileen M; Davis, Mike P; Dehn, James T; Dent, Rhonda M; Downer, Matthew M; Fillinger, Charles T; Landau, David A; Lapid, Ronald; Lazarus, James; Lee, Jenny; Martin, George R; Page, Dani L; Silber, Rachel N; Skinner, Moira; White, David W; Zapata, Kathleen M
Subject: FW: Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions
Chief Counsel,

As noted in the Assistant Secretary's August 20th memorandum, a template motion to dismiss has been developed to address the potential res judicata effects of terminating removal proceedings. The template and an explanatory cover page have been uploaded here in SharePoint. (b)(5)

(b)(5)

12/20/2010

(b)(5)



Thanks and regards,
Mike

=====
Mike P. Davis

Deputy Director for Immigration Law and Practice
Office of the Principal Legal Advisor - Field Legal Operations
U.S. Immigration and Customs Enforcement

Main: 703- (b)(6), (b)(7)(C) Direct: 703- (b)(6), (b)(7)(C) Cell: 202- (b)(6), (b)(7)(C)
E-mail: (b)(6), (b)(7)(C)

~~*** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT ***~~

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From: Simpson, Crystal A (CTR)

Sent: Monday, August 23, 2010 2:39 PM

To: Ardinger, Jo Ellen; Bailey, Susan H; Brukiewa, Melody A; Cameron, Michael K; Crawl, Kobie T; Davis, Mike P; Dusenberry, Debbie; Golparvar, Kuyomars Q; Jenkins, Andrea M; Koven, Lisa; McLane, Jo Ann; O'Melinn, Barry C; OPLA Tasking; Perry, Carl E; Ramlogan, Riah; Rogers, Andrea R; Slous, Joan; Swartz, Neal J; Swendiman, Alan R; Vincent, Peter S; Ward, George J

Subject: Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions

Disseminated at the request of Peter S. Vincent...

To All OPLA Staff:

I am pleased to announce another Assistant Secretary initiative designed to increase the efficiency and effectiveness of the removal process from the issuance of the Notice to Appear through the entry of a final administrative order.

Historically, the pendency of petitions or applications before USCIS has caused delays in removal proceedings.

12/20/2010

Therefore, along with our USCIS partners, underlying petitions/applications (b)(5) AC
(b)(5) AC



(b)(5) AC Together, this initiative will help realize our goal of efficiently
and effectively prosecuting removal cases.

Peter S. Vincent
Principal Legal Advisor
U.S. Immigration and Customs Enforcement

12/20/2010

Thompson, Monica L

From: Goldman, Gary L

Sent: Friday, August 27, 2010 7:56 AM

To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: FW: Motions to Dismiss by private attorneys

Attorneys,

(b)(5)



Gary

From: Cassidy, Donald W

To: Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L

Sent: Fri Aug 27 07:24:34 2010

Subject: Motions to Dismiss by private attorneys

(b)(5)



Don Cassidy, Deputy Chief Counsel
Houston Office of Chief Counsel
ICE, DHS

12/20/2010

Thompson, Monica L

From: Cassidy, Donald W

Sent: Wednesday, September 01, 2010 9:19 AM

To: Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Silva, April A; Thompson, Monica L

Subject: joint motions to dismiss

(b)(5)



Don Cassidy, Deputy Chief Counsel
Houston Office of Chief Counsel
ICE, DHS

12/20/2010

Thompson, Monica L

From: Goldman, Gary L

Sent: Wednesday, September 22, 2010 3:40 PM

To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Attorneys,

This (below) is from an OPLA conference call. Very simply put, **do not speak** to the media and limit your discussions with AILA to case specific matters, not policy. I cannot repeat this often enough or strongly enough.

Gary

Press Queries about Prosecutorial Discretion (Mike Davis) - We want to be very careful in discussing enforcement priorities and prosecutorial discretion with external stakeholders. If a member of the media wants information about the ICE policies and practices, you should refer them to your local public affairs officer (PAO). OPLA should not generally be the one to speak to the media about such issues on behalf of ICE. PAOs are constantly working hand-in-hand with leadership to develop talking points and messaging specifically for use by the media. If your local PAO asks whether you would like to take a call from a reporter, the answer should generally be no.

Relatedly, just as the media is very interested in how we are using our prosecutorial discretion to further the agency's enforcement priorities, members of the private bar from around the country are investigating this issue. It appears that (b)(5)

(b)(5)



12/20/2010

Thompson, Monica L

From: Cassidy, Donald W

Sent: Thursday, October 21, 2010 6:18 AM

To: Thompson, Monica L; Bennett, Richard W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A

Subject: RE: responding to requests for PD

(b)(5)



Don Cassidy, Deputy Chief Counsel
Houston Office of Chief Counsel
ICE, DHS

From: Thompson, Monica L

Sent: Wednesday, October 20, 2010 10:22 PM

To: Bennett, Richard W; Cassidy, Donald W; Donovan, John; Eason, Kimani R; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A

Subject: responding to requests for PD


(b)(5)



Thanks,
Monica

Monica Thompson Guidry
Deputy Chief Counsel
126 Northpoint Dr., Room 2020
Houston, TX 77060
281-(b)(6), (b)(7)(C) desk
281-(b)(6), (b)(7)(C) cell
281-931-2063 fax

(b)(6), (b)(7)(C)



12/20/2010

OCC FY11 Tracking of Motions to Dismiss

Page 1 of 3

Thompson, Monica L

From: Goldman, Gary L
Sent: Friday, November 05, 2010 8:32 AM
To: McPhail, John W
Cc: Cassidy, Donald W; Thompson, Monica L
Subject: RE: OCC FY11 Tracking of Motions to Dismiss

(b)(5)

From: McPhail, John W
Sent: Friday, November 05, 2010 9:26 AM
To: Goldman, Gary L
Subject: RE: OCC FY11 Tracking of Motions to Dismiss

(b)(5)

From: Goldman, Gary L
Sent: Wednesday, November 03, 2010 3:54 PM
To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L
Subject: FW: OCC FY11 Tracking of Motions to Dismiss
Importance: High

Attorneys,

(b)(5)

(b)(5) You do not have to complete the attached spreadsheet. Monica, Don, and I will ensure the attached spreadsheet contains all relevant data.

Gary

From: Adams, Arthur E
Sent: Wednesday, November 03, 2010 4:33 PM
To: Choi, Raphael; Falcone, Michael; Sanchez, Raphael; Owens, Alfie; Coxe, Christopher R; Short, Tracy L; Brukiewa, Melody A; Spotts, JoAnne D; Vargas-Padilla, Nelson A; McGrath, Frederick J; Furlong, John M; Neville, Richard D; Grable, James W; Hengerer, Carla J; Lundgren, Karen E; Gountanis, John H; Perez, Nelson (CHI OCC); Hunker, Paul B; Almeida, Corina E; Brady, Bonnie; O'Hare, Donald C; Todd, Aaron W; Christian, Victoria; Pincheck, Catherine; Gonzalez, Guadalupe R; Gastelo, Elias S Jr; Beattie, Patricia A; Goldman, Gary L; Cassidy, Donald W; Thompson, Monica L; Stolley, Jim; Aguilar, Jason; Anderson, Sandra D; Lambert, Mary-Jean; Lepkowitz, Edward; Maury, Carlos E; Mosley, Paul B; Ruane, Rachel A; Ryan, Marty; Workeneh, Debra H; Gossard, William S; Alvarez, Diana I; Celaya, Gracian A; Izzo, Alec; Marbury, Howard W; Sanchez-Roig, Rebeca;

12/20/2010

OCC FY11 Tracking of Motions to Dismiss

Page 2 of 3

Swartz, Jill T; Minichiello, Jane H; Brundage, Christopher P; Witten, Todd E; Raborn, Glenda M; Harris, Monique; Harlow, Craig A; Pauling, Theresa; Cheng, Wen-Ting; Costa, Philip J; Johnson, Carrie; Padilla, Kenneth; Sherman, Lloyd; Guzman, Nicole G; Martinez, Mark B; Frederick, Kent J; Ellington, John; Richardson, Geraldine; Vroom, Patricia M; Bjornerud, Maria; Eslava-Grunwaldt, Arnold; Golparvar, Kuyomars Q; Shepherd, Kimberley J; Chait, Barry S; Stultz, Paul R; Tanke, Ann M; Ball, Gregory J; Whatmough, Lessa N; Putnam, Lisa M; Soblick, Martin D; Halliday-Roberts, Catherine E; Orland, David M; Yamada, Ted Y; Ungerman, Leslie; Curry, Margaret; Nishiie, Paul K; Park, Joseph; Reyes-Lopez, Vivian; Stefan, Dorothy; Dunlay, Edward L; Fehlings, Gregory E
Cc: Davis, Mike P; Landau, David A; Downer, Matthew M; Ramlogan, Riah; Perry, Carl E; Ardinger, Jo Ellen; Connolly, Eileen M; Lapid, Ronald; Downer, Matthew M
Subject: OCC FY11 Tracking of Motions to Dismiss
Importance: High

Disseminated on behalf of Mike P. Davis . . .

Chief Counsel,

Our recent review of OPLA's nationwide motion-to-dismiss practices have made clear the limitations presented by GEMS and our need to institute improved tracking techniques to ensure appropriate management oversight in this area. Until GEMS can be made to more accurately track this information, we need to promptly deploy an interim tracking system. Effective immediately, all OCCs must use the attached Excel spreadsheet to log and track the motions to dismiss filed with EOIR. Monthly reports shall be elevated to Headquarters using this system.

Since, OPLA is likely to receive future requests for FY11 motion-to-dismiss data, we need each OCC to backfill the spreadsheet to account for all motions to dismiss filed with EOIR since the beginning of October 1, 2010. Only unilateral ICE motions to dismiss should be tracked under this directive, while other ICE motions, joint motions to dismiss, and non-oppositions to alien motions to dismiss should continue to be tracked under existing procedures, including GEMS, as appropriate.

We have designated the attached Excel spreadsheet as a user friendly tool, including basic columns for each OCC to identify the following information: the OCC of origin, the respondent's A#, the respondent's last name, the basis of the motion, the date the motion was filed, the status of the motion, the date the IJ ruled on the motion, and extra space to explain further why the motion was dismissed (along with any other appropriate notations). This last column should be used to offer a brief rationale supporting the motion to dismiss. For instance, if the motion was filed for humanitarian reasons as a pure exercise of discretion, this column should include a few explanatory keywords to give a basic idea for the motion (e.g., "terminal cancer" or "noncriminal, sole caregiver of 5 USC children").

Each OCC's monthly report should be sent to the OPLAFieldLegalOPS mailbox by the 5th of each succeeding month. The numbers for October and November 2011 can be provided together on December 5th. Please direct any questions to FLO's Colleen Peppard.

Thank you for your cooperation,
Mike

Mike P. Davis
Acting Director, Field Legal Operations
Office of the Principal Legal Advisor

12/20/2010

OCC FY11 Tracking of Motions to Dismiss

Page 3 of 3

U.S. Immigration and Customs Enforcement

Desk: 202 (b)(6), (b)(7)(C) | Mobile: 202 (b)(6), (b)(7)(C)

Email: (b)(6), (b)(7)(C)

12/20/2010

Thompson, Monica L

From: Goldman, Gary L
Sent: Tuesday, November 16, 2010 7:04 AM
To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L
Subject: RE: Unilateral Motions to Dismiss Instructions

Attorneys,

Don, Monica, and I need an affirmative response from everyone at the end of each month. If you have not filed any UMTT during the month, a short email "no unilateral motions to terminate filed in (month)" will suffice. But you must affirmatively respond.

Gary

From: Menes, Dan
Sent: Tuesday, November 16, 2010 6:55 AM
To: Goldman, Gary L
Subject: RE: Unilateral Motions to Dismiss Instructions

Gary do we need to submit a spreadsheet if we have not filed any unilateral motions to terminate?

From: Goldman, Gary L
Sent: Monday, November 15, 2010 11:54 AM
To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L
Subject: Unilateral Motions to Dismiss Instructions

Attorneys,

Attached below are previous instructions sent on November 3 and 4 and other instructions relating to the Unilateral Motions to Dismiss monthly spreadsheet:

1. Use the attached (FLO Revised) spreadsheet only. Open as an Excel file.
2. Submit your spreadsheet each month by no later than noon on the first working day of each month.
3. Your first spreadsheet is due by noon Wednesday, December 1. This spreadsheet must contain all your unilateral Motions to Dismiss that you filed between October 1, 2010 and November 30, 2010.
4. Your second spreadsheet will be due by no later than noon on Monday, January 3, 2011 and must contain all the Unilateral Motions to Dismiss that you filed between December 1, 2010 and

12/20/2010

December 31, 2010.

5. (b)(5)
(b)(5)

Gary

From: Goldman, Gary L

Sent: Thursday, November 04, 2010 7:10 AM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: FW: OCC FY11 Tracking of Motions to Dismiss - DATA from October 1 through November 3, 2010

Importance: High
Attorneys,

(b)(5)

(b)(5) AC You will still need to report this information to a manager so that we may incorporate this data into the OPLA monthly Excel spreadsheet attached. Please remember that what ICE refers to as a "motions to dismiss", the court may call it a "motion to terminate."

Gary

From: Goldman, Gary L

Sent: Wednesday, November 03, 2010 4:54 PM

To: Bennett, Richard W; Bivins, Demetrius; Cassidy, Donald W; Donovan, John; Eason, Kimani; Emmons, Dean F; Evans, Mark S; Goldman, Gary L; Hafeez, Iram; Hamby, William; Harrison, D'Anna G; Kay, Alice H; Kugel, Margaret R; Lang, Charlotte K; Lavery, Catherine C; Lear, Kevin M; Lehman, Victor P; Manning, James E; McGuirk, Erica; McPhail, John W; Menes, Daniel J; Moya, Jennifer C; Perez, Alex D; Perillo, Pamela; Potter, Rory H; Sherman, Bradley A; Silva, April A; Thompson, Monica L

Subject: FW: OCC FY11 Tracking of Motions to Dismiss

Importance: High
Attorneys,

(b)(5)

12/20/2010

(b)(5)



(b)(5) You do not have to complete the attached spreadsheet. Monica, Don, and I will ensure the attached spreadsheet contains all relevant data.

Gary

12/20/2010

Boll, Steven P

From: Goldman, Gary L

Sent: Monday, August 30, 2010 7:06 AM

To: Rutt, Robert P; Connolly, John ICE - OI; Landgrebe, Kenneth L; Cassidy, Donald W; Thompson, Monica L; Boll, Steven P

Subject: Friday, August 27

The Washington Post

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Advertisement

Tension over Obama policies within Immigration and Customs Enforcement

By Andrew Becker
Friday, August 27, 2010; B03

As it poises for further immigration initiatives, U.S. Immigration and Customs Enforcement is struggling with festering internal divisions between political appointees and career officials over how to enforce laws and handle detainees facing deportation.

Under the Obama administration, the Department of Homeland Security has shifted its focus away from the worksite raids and sweeps employed during George W. Bush's presidency to deporting more criminals and creating less prisonlike detention settings. But ICE, a branch of DHS, is facing intensified resistance from agency middle managers and attorneys, and the union that represents immigration officers.

The internal conflict has grown increasingly public over ICE's plans, among them to expand a risk assessment tool to guide agents on detention decisions, cut down on transfers of detained immigrants, and open more "civil" detention facilities -- what field directors call "soft" detention.

Immigration officers say the new measures limit their enforcement efforts and the revamped lockups will compromise their safety. In June, their union took the unprecedented step of issuing a vote of no confidence in the agency's director, John Morton, and the official overseeing detention reform, Phyllis Coven.

Months before that, the 24 field managers who oversee detention and deportation sent a memorandum to Morton that challenged a number of recommended changes. Current and former ICE attorneys in New York, Houston and other offices nationwide say they are angry that they have been instructed to drop efforts to deport some immigrants.

"We can't find a supervisor or manager that supports Morton or his initiatives," said Chris Crane, president of the American Federation of Government Employees' National Council 118, the union that issued the no-confidence vote.

Many of the measures, set to be implemented in the coming weeks and months, may not require a conversation with the union, but ICE leadership seeks the union's viewpoint on issues tied most closely to immigration reform, said Beth Gibson, ICE's assistant deputy director.

"We are at the beginning of a big push," Gibson said in an interview. "We are about to come up on a series of things I see as incredibly powerful pieces of reform."

Crane said the union wants to negotiate over implementation, which could delay some changes.

The criticisms of ICE illustrate the obstacles the Obama administration must navigate in selling the changes to the ranks while trying to appear both tough on enforcement and serious about fixing the nation's immigration laws. The friction between the agency's leadership and managers tasked with instituting the changes reflects the nation's split over immigration.

A senior White House official, acknowledging the rift between ICE leadership and boots-on-the-ground employees, said the union's unusual posture of addressing policy sent a message consistent with groups that espouse tougher immigration restrictions.

"The call from the left is John Morton is too tough. The guy is leading the effort to remove more people from the country than ever before," said the official, who spoke on condition of anonymity to discuss internal matters. "That others say he's soft on enforcement strikes me as remarkable. At the end of the day, it's about sound law-and-order principles, not decisions based on the political wind."

Several current and former immigration officers, senior managers and attorneys, however, said in interviews that the agency's leadership regularly changes course on policy, apparently based on the political climate. Attorneys point to an ongoing review of pending cases and the dismissal of deportation charges against some immigrants without serious criminal records.

Michael D. Rozos Sr., who retired May 1 as one of the agency's most senior field managers, said he left his position in Miami "several years early" out of frustration that the agency was moving backward toward the years of the Immigration and Naturalization Service. The defunct agency became part of ICE when DHS was created in 2002.

"I see a repeat of what the INS was like, which was chasing its tail," Rozos said. "They're trying to go in every direction and end up going in circles."

Rozos was one of the 24 field managers who sent a 19-page memo, obtained by the Center for Investigative Reporting, that outlined objections to an October report widely adopted as the detention-policy playbook. They also complained that their input was never sought.

"The Report seems to advocate that an entirely 'soft' detention system would be the ideal," the memo states. "In reality, there is a significant population with criminal convictions, arrest histories, gang affiliation, psychological issues, drug abuse, etc., and these individuals pose a flight risk or security risk to ICE officers, other detainees and, at times, themselves."

The "soft" detention facilities will house low-risk detainees without criminal records in less restrictive settings while giving more access to recreation.

One of the new civil detention sites, the James Musick Facility, is a non-working farm near Los Angeles, Gibson said. Other lockups will open in San Francisco, Miami, Chicago and elsewhere to cut

down on transfers.

ICE spokesman Brian P. Hale said the agency remains committed to reform, despite the internal rumblings. "There are significant numbers that are in agreement and support our effort," Hale said. "Our challenge and ultimate goal is to stay focused and successfully implement our goals."

ICE might not be alone in facing a backlash. Sen. Chuck Grassley (R-Iowa) in July released a leaked draft memo from ICE's sister agency, U.S. Citizenship and Immigration Services, which outlined administrative remedies if a legislative fix falls short.

The memo angered Republicans, who said it proved the Obama administration wants to circumvent Congress to provide amnesty to thousands of illegal immigrants.

Janice Kephart of the Center for Immigration Studies, which advocates for immigration restrictions, said agents are frustrated because they feel they aren't allowed to do their jobs to fully enforce the law. Frank Sharry, executive director of the pro-immigration-reform group America's Voice, said ICE is run by "a bunch of political appointees on top of a rogue agency."

Doris Meissner, who as INS commissioner in the 1990s saw similar tensions, said the union's message is a "severe internal pushback."

"It is a barometer of how difficult it is to make change and how they have to really work it internally as well as externally," added Meissner, a senior fellow at the Migration Policy Institute, a nonpartisan Washington think tank.

Though ideological differences pose a challenge, they are not insurmountable, Meissner said, adding that she expects ICE employees to follow the new policies. The dissension, fostered by the country's polarization over immigration, is a product of legislative inaction, she said.

"Congress hasn't moved forward with the legislation that the administration envisioned, which puts ICE in the middle of the fray," she said. "The only thing happening with immigration in the country is enforcement."

Andrew Becker is a reporter for the Center for Investigative Reporting.

Landgrebe, Kenneth L

From: ICE-Broadcast
Sent: Tuesday, June 29, 2010 3:47 PM
Subject: A Message from Assistant Secretary Morton
Importance: High

A Message from Assistant Secretary Morton

To all ICE employees
June 29, 2010

ICE Civil Immigration Enforcement Priorities

I am pleased to formally articulate the ICE civil immigration enforcement priorities. These priorities align with the ICE 2010-2014 Strategic Plan and the Quadrennial Homeland Security Review.

In addition, these civil immigration enforcement priorities reflect the need to focus wisely the limited resources Congress has provided. Indeed, last year the funds provided to ICE supported the removal and return of approximately 400,000 of the estimated 10 million people living without lawful authority in the United States.

These priorities direct our limited resources to best protect national security and promote public safety. We must prioritize the apprehension and removal of aliens who pose a threat to national security and/or public safety, such as criminals and terrorists. We also must focus resources on fugitives and recent border violators and visa overstays. Click on [Civil Immigration Enforcement: Priorities for the Apprehension, Detention and Removal of Aliens](#), for a more detailed memorandum on this subject.

With this prioritization, we will ensure that our work has the greatest possible impact and most effectively advances our mission.

John Morton
Assistant Secretary
U.S. Immigration and Customs Enforcement

1/7/2011

Policy Number: 10072.1
FEA Number: 601-14

Office of the Assistant Secretary

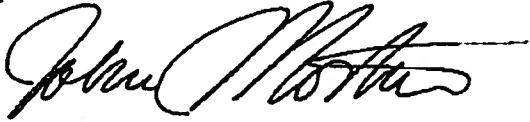
U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536

JUN 30 2010



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: All ICE Employees

FROM: John Morton
Assistant Secretary 

SUBJECT: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens

Purpose

This memorandum outlines the civil immigration enforcement priorities of U.S. Immigration and Customs Enforcement (ICE) as they relate to the apprehension, detention, and removal of aliens. These priorities shall apply across all ICE programs and shall inform enforcement activity, detention decisions, budget requests and execution, and strategic planning.

A. Priorities for the apprehension, detention, and removal of aliens

In addition to our important criminal investigative responsibilities, ICE is charged with enforcing the nation's civil immigration laws. This is a critical mission and one with direct significance for our national security, public safety, and the integrity of our border and immigration controls. ICE, however, only has resources to remove approximately 400,000 aliens per year, less than 4 percent of the estimated illegal alien population in the United States. In light of the large number of administrative violations the agency is charged with addressing and the limited enforcement resources the agency has available, ICE must prioritize the use of its enforcement personnel, detention space, and removal resources to ensure that the removals the agency does conduct promote the agency's highest enforcement priorities, namely national security, public safety, and border security.

To that end, the following shall constitute ICE's civil enforcement priorities, with the first being the highest priority and the second and third constituting equal, but lower, priorities.

Priority 1. Aliens who pose a danger to national security or a risk to public safety

The removal of aliens who pose a danger to national security or a risk to public safety shall be ICE's highest immigration enforcement priority. These aliens include, but are not limited to:

Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens
Page 2

- aliens engaged in or suspected of terrorism or espionage, or who otherwise pose a danger to national security;
- aliens convicted of crimes, with a particular emphasis on violent criminals, felons, and repeat offenders;
- aliens not younger than 16 years of age who participated in organized criminal gangs;
- aliens subject to outstanding criminal warrants; and
- aliens who otherwise pose a serious risk to public safety.¹

For purposes of prioritizing the removal of aliens convicted of crimes, ICE personnel should refer to the following new offense levels defined by the Secure Communities Program, with Level 1 and Level 2 offenders receiving principal attention. These new Secure Communities levels are given in rank order and shall replace the existing Secure Communities levels of offenses.²

- Level 1 offenders: aliens convicted of "aggravated felonies," as defined in § 101(a)(43) of the Immigration and Nationality Act,³ or two or more crimes each punishable by more than one year, commonly referred to as "felonies";
- Level 2 offenders: aliens convicted of any felony or three or more crimes each punishable by less than one year, commonly referred to as "misdemeanors"; and
- Level 3 offenders: aliens convicted of crimes punishable by less than one year.⁴

Priority 2. Recent illegal entrants

In order to maintain control at the border and at ports of entry, and to avoid a return to the prior practice commonly and historically referred to as "catch and release," the removal of aliens who have recently violated immigration controls at the border, at ports of entry, or through the knowing abuse of the visa and visa waiver programs shall be a priority.

Priority 3. Aliens who are fugitives or otherwise obstruct immigration controls

In order to ensure the integrity of the removal and immigration adjudication processes, the removal of aliens who are subject to a final order of removal and abscond, fail to depart, or intentionally obstruct immigration controls, shall be a priority. These aliens include:

¹ This provision is not intended to be read broadly, and officers, agents, and attorneys should rely on this provision only when serious and articulable public safety issues exist.

² The new levels should be used immediately for purposes of enforcement operations. DRO will work with Secure Communities and the Office of the Chief Information Officer to revise the related computer coding by October 1, 2010.

³ As the definition of "aggravated felony" includes serious, violent offenses and less serious, non-violent offenses, agents, officers, and attorneys should focus particular attention on the most serious of the aggravated felonies when prioritizing among level one offenses.

⁴ Some misdemeanors are relatively minor and do not warrant the same degree of focus as others. ICE agents and officers should exercise particular discretion when dealing with minor traffic offenses such as driving without a license.

Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens
Page 3

- fugitive aliens, in descending priority as follows:⁵
 - fugitive aliens who pose a danger to national security;
 - fugitives aliens convicted of violent crimes or who otherwise pose a threat to the community;
 - fugitive aliens with criminal convictions other than a violent crime;
 - fugitive aliens who have not been convicted of a crime;
- aliens who reenter the country illegally after removal, in descending priority as follows:
 - previously removed aliens who pose a danger to national security;
 - previously removed aliens convicted of violent crimes or who otherwise pose a threat to the community;
 - previously removed aliens with criminal convictions other than a violent crime;
 - previously removed aliens who have not been convicted of a crime; and
- aliens who obtain admission or status by visa, identification, or immigration benefit fraud.⁶

The guidance to the National Fugitive Operations Program: Priorities, Goals and Expectations, issued on December 8, 2009, remains in effect and shall continue to apply for all purposes, including how Fugitive Operation Teams allocate resources among fugitive aliens, previously removed aliens, and criminal aliens.

B. Apprehension, detention, and removal of other aliens unlawfully in the United States

Nothing in this memorandum should be construed to prohibit or discourage the apprehension, detention, or removal of other aliens unlawfully in the United States. ICE special agents, officers, and attorneys may pursue the removal of any alien unlawfully in the United States, although attention to these aliens should not displace or disrupt the resources needed to remove aliens who are a higher priority. Resources should be committed primarily to advancing the priorities set forth above in order to best protect national security and public safety and to secure the border.

C. Detention

As a general rule, ICE detention resources should be used to support the enforcement priorities noted above or for aliens subject to mandatory detention by law. Absent extraordinary circumstances or the requirements of mandatory detention, field office directors should not expend detention resources on aliens who are known to be suffering from serious physical or mental illness, or who are disabled, elderly, pregnant, or nursing, or demonstrate that they are

⁵ Some fugitives may fall into both this priority and priority 1.

⁶ ICE officers and special agents should proceed cautiously when encountering aliens who may have engaged in fraud in an attempt to enter but present themselves without delay to the authorities and indicate a fear of persecution or torture. See Convention relating to the Status of Refugees, art. 31, *opened for signature* July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137. In such instances, officers and agents should contact their local Office of the Chief Counsel.

Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens

Page 4

primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest. To detain aliens in those categories who are not subject to mandatory detention, ICE officers or special agents must obtain approval from the field office director. If an alien falls within the above categories and is subject to mandatory detention, field office directors are encouraged to contact their local Office of Chief Counsel for guidance.

D. Prosecutorial discretion

The rapidly increasing number of criminal aliens who may come to ICE's attention heightens the need for ICE employees to exercise sound judgment and discretion consistent with these priorities when conducting enforcement operations, making detention decisions, making decisions about release on supervision pursuant to the Alternatives to Detention Program, and litigating cases. Particular care should be given when dealing with lawful permanent residents, juveniles, and the immediate family members of U.S. citizens. Additional guidance on prosecutorial discretion is forthcoming. In the meantime, ICE officers and attorneys should continue to be guided by the November 17, 2000 prosecutorial discretion memorandum from then-INS Commissioner Doris Meissner; the October 24, 2005 Memorandum from Principal Legal Advisor William Howard; and the November 7, 2007 Memorandum from then-Assistant Secretary Julie Myers.

E. Implementation

ICE personnel shall follow the priorities set forth in this memorandum immediately. Further, ICE programs shall develop appropriate measures and methods for recording and evaluating their effectiveness in implementing the priorities. As this may require updates to data tracking systems and methods, ICE will ensure that reporting capabilities for these priorities allow for such reporting as soon as practicable, but not later than October 1, 2010.

UNITED STATES GOVERNMENT

October 21, 2010

The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security
Nebraska Avenue Complex
245 Murray Lane, Mailstop 0150
Washington, DC 20528-0150

Dear Secretary Napolitano

Recently, media reports have revealed that pending removal proceedings are being dismissed in record numbers. That sharp increase in dismissals is the result of a directive from Immigration and Customs Enforcement (ICE) Director John T. Morton to all ICE attorneys to review pending cases and seek dismissal if the cases do not involve Level I offenders (aliens convicted of aggravated felonies or two or more felonies). Specifically, ICE attorneys are directed to seek dismissal of cases involving Level II^[1] and Level III^[2] criminal aliens so long as the aliens have no felony convictions and no more than two misdemeanors. As we understand it, cases involving aliens with misdemeanors involving domestic violence, sexual crimes, or driving while intoxicated would not be dropped.

Though the reports focused only on cases pending before Houston immigration judges, our understanding is that the ICE directive applies nationwide. Numerous criminal aliens are being released into society and are having proceedings terminated simply because ICE has decided that such cases do not fit within the Department's chosen enforcement priorities.

The ICE directive, along with other recently announced detention and removal policies, raises serious questions about your Department's commitment to enforce the immigration laws. It appears that your Department is enforcing the law based on criteria it arbitrarily chose, with complete disregard for the enforcement laws created by Congress. The repercussions of this decision extend beyond removal proceedings, because it discourages officers from even initiating new removal proceedings if they believe the case ultimately will be dismissed based on the new directive.

Even more disturbing is the fact that your Department has chosen to dismiss cases against criminal aliens, including aliens who have committed crimes involving moral turpitude, crimes of violence, assault, theft, fraud, drug offenses, driving under the influence, and illegal entry.

^[1] Aliens convicted of one felony or 3 or more misdemeanors

^[2] Aliens convicted of a misdemeanor

To be sure, ICE has cited a lack of resources as one of the reasons for its prioritization of cases and for its selective enforcement. But to date, we have not seen any efforts by ICE, your Department, or the Administration to request an increase in ICE funding sufficient to address staffing shortages, detention capacity, and coordination of enforcement efforts nationwide to achieve a streamlined and robust immigration removal system. As a result, it appears that your Department is doing the very thing that we have raised concerns about in several letters – allowing illegal aliens to evade the law while waiting, without much concern about removal, to one day obtain legal status. Though Congress has been slow to reach a comprehensive immigration solution, your Department is charged with enforcing the law as written and it should not be adopting a lax approach to immigration enforcement or selectively enforcing the laws against only those aliens it considers a priority.

We would like a detailed list of the number of cases that have been dismissed since January 2010 to the present. If the case involved a criminal alien, we also would like you to identify which crimes the aliens were convicted of and in which jurisdiction. In addition, we want you to detail exactly how much funding your Department would require to ensure that enforcement of the law occurs consistently for every illegal alien encountered and apprehended by ICE or U.S. Customs and Border Protection. Please respond by November 15th.

Sincerely,

John Conroy

Jon Kyl

Chuck Hensley

Tom Lohman

J. G. ...

...



NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #195

September 16, 2010

Chief Counsel: Guadalupe Gonzalez, Bill Gossard, Fred McGrath, Furlong
Glenda Raborn, Dorothy Stefan, Aaron Todd, and Clarence Wagner,
Patricia Vroom, Ania Harrell, Ed Dunley

Headquarters: Art Adams, David Landau, Mike Davis

Notes prepared by MPA Doris Joan Combs, Edited by Art Adams

1. *Acting Director of Field Legal Operations*

Non-Responsive

2. *Advising ERO on Mandatory Detention Matters*

Non-Responsive

Discussion

Non-Responsive

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3. ***Press Queries about Prosecutorial Discretion (Mike Davis)*** - We want to be very careful in discussing enforcement priorities and prosecutorial discretion with external stakeholders. If a member of the media wants information about the ICE policies and practices, you should refer them to your local public affairs officer (PAO). OPLA should not generally be the one to speak to the media about such issues on behalf of ICE. PAOs are constantly working hand-in-hand with leadership to develop talking points and messaging specifically for use by the media. If your local PAO asks whether you would like to take a call from a reporter, the answer should generally be no. However, if you think that there might be some compelling justification to speak to the journalist yourself, rather than to defer to the PAO, please seek prior FLO approval.

Relatedly, just as the media is very interested in how we are using our prosecutorial discretion to further the agency's enforcement priorities, members of the private bar from around the country are investigating this issue. It appears that (b)(5)

(b)(5)

4. ***Stipulated Removal Process*** Not

Non-Responsive

5. ***How many of our resources are devoted to worksite enforcement?*** No

Non-Resp

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Non-Responsive

Discussion

Non-Responsive

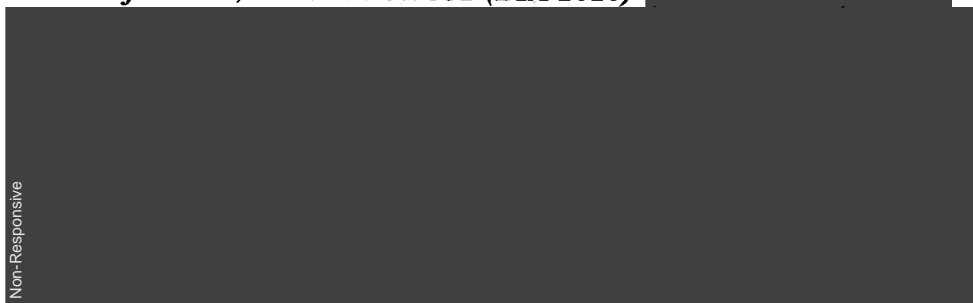
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Non-Responsive

6. *Matter of Garcia, 25 I&N Dec. 332 (BLA 2010)*

Not



Non-Responsive



Non-Responsive

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Non-Responsive

7. *FLO-ILP East and West Inboxes*

Non-Responsive

Non-Responsive

8. *New FLO/ILP Review Process*

Non-Responsive

Non-Responsive

Discussion

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Non-Responsive

9. *MSS Details to Los Angeles*

Non-Responsive

10. *Virtual University Mandatory Courses*

Non-Responsive

11. *WebTA Transfer of Responsibilities to MS Dallas*

Non-Responsive

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Non-Responsive

12. *Clarence Wagner's Impending Departure*

Non-Responsive

Non-Responsive

Discussion

Non-Responsive

13. *Acting Chief Counsel Honolulu*

Non-Responsive

Non-Responsive

Non-Responsive

Around the OCCs

El Paso

Non-Responsive

Non-Responsive

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Non-Responsive

Miami

Non-

Non-Responsive

Boston

Non-

Non-Responsive

New Orleans

Non-

Non-Responsive

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Non-Responsive

Seattle -

Non-

Non-Responsive

Detroit -

Non-

Non-Responsive

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Arizona -

Non-

Non-Responsive

Hawaii -

Non-

Non-Responsive

(b)(6)

Next Call

Non-

Non-Responsive

Non-Responsive

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NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #196

October 7, 2010

Chief Counsel: Corina Almeida, Raphael Choi, Paul Hunker, Karen Lundgren, Fred McGrath, Alfie Owens, Theresa Pauling and Marty Soblick, Ted Yamada

Headquarters: Art Adams, Jo Ellen Ardinger, Bob Finkelstein, David Landau, Joe Liberta.

Notes prepared by MPA Doris Joan Combs, Edited by Art Adams

1. *Completing Ratings and Issuing New Performance Work Plans*



Discussion:



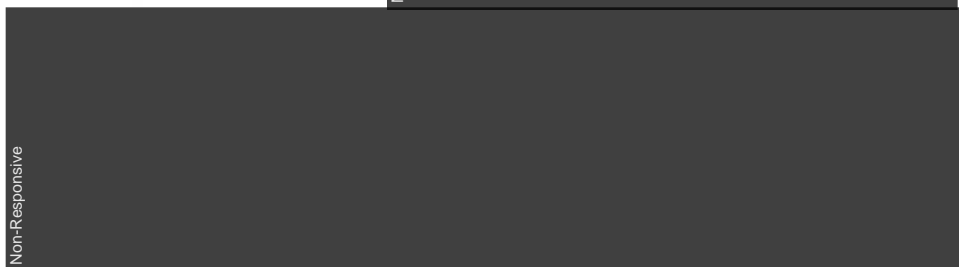
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2. ***Maintaining Employee Personnel Folders (EPFs)***



3. ***How HSILD Does Business***



4. ***Criminal Point of Contact Conference Call***



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5. **GEMS Release 6.0**

Non-

Non-Responsive

Discussion

Non-Responsive

6. **Stipulated removals**

Non-

Non-Responsive

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Discussion



Non-Responsive

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Non-Responsive

7. *Reminder re FLO-ILP Mailbox Changes*

Non

Non-Responsive

Non-F

Discussion

Non-Responsive

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Non-Responsive

8. *Review of Appeal Briefs*

Non

Non-Responsive

Discussion

Non-Responsive

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Non-Responsive

9. *Contacting Interpol – Foreign Fugitive Cases – Guidance from May 2008*

Non-

Non-Responsive

10. *Prosecutorial Discretion as Applied to* (b)(6) *including*
(b)(6) (David Landau)

David – There was a case out of LA where (b)(6)

(b)(5)

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(b)(5)

11. ***Fed Traveler***

Non-

Non-Responsive

Discussion

Non-Responsive

12. ***Budget Outlook***

Non-

Non-Responsive

13. ***FEMA Training***

Non-

Non-Res

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14. *Annual Report on Diversity of Our Attorney Workforce*

Non-Responsive

15. *Implementation of AS Memo of Aug 20 including OCC SOPS and Handling of Pending I-589s*

Non-Responsive

AROUND THE OCCs

Non-Responsive

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[REDACTED]

Non-Responsive

Next Call

Non

Non-Responsive

Non-Responsive

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NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #199

November 4, 2010

Chief Counsel: Corina Almeida (Bonnie and Don), Guadalupe Gonzalez, Bill Gossard, Karen Lundgren, Fred McGrath, Aaron Todd, Pat Vroom, Paul Mosley and Sandra Anderson

Headquarters: Mike Davis, Art Adams, David Landau, Eileen Connolly, and Joe Ellen Ardinger

Notes prepared by MPA Ania Harrell, Edited by Art Adams

1. Motions to Suppress

Non

Non-Responsive

¹ In human rights violator or national security cases, notification should be made to the appropriate HSILD section: HRLS or NSLS.

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Non-Responsive

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Non-Responsive

3. ***Tracking of Motions to Dismiss (Mike Davis)*** - We have been getting a lot of attention from the ICE front office and above regarding how we move to dismiss cases and how we exercise our discretion. Not meant to discourage the exercise of discretion but to allow us to account for it if asked. This is consistent with Director Morton's June 30th memo that specifically asks us to be able to track how we are enforcing the civil enforcement priorities memo, and the of August 20th I-130 memo based upon collateral USCIS adjudication. It will allow us to go forward in providing reports to Peter. Wanted to leverage GEMS to capture this information, but updates in GEMS and refinement take time to deploy and because we need to collect this information going back to October 1st, we didn't want to wait too long before we got this reporting requirement out to you so that you could start gathering this information. If you have innovative ways locally to track this information using GEMS to populate data, more power to you. Can revisit this with Kobie and others going forward to see if we can automate this through GEMS. Unfortunately, the way GEMS is configured, it is pretty good at tracking termination of orders, but it is not particularly good at identifying motions to terminate on the front end, and it seems that there has been some disparity in offices in logging the actual motion

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Notes of ICE/OPLA Chief Conference Call Number #199 of November 4, 2010

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itself that is prepared, as opposed to the order we receive on the back end from EOIR. EOIR statistics tend to be a little more detailed than ours and we are often at a disadvantage when EOIR provides these numbers to our leadership, we are asked to come forward and explain those, and there are a lot of issues that we can account for why we are taking cases off the docket.

Lots of media coverage ---Miami Herald, Houston Chronicle, LA Times looking at this issue right now, so obviously lots of sensitivity going forward as to how we are exercising our discretion and what the basis' are for our decisions to take cases off the docket particularly when we are looking at criminal aliens who are in fact removable and we decide not to proceed the case. Appreciates every ones cooperation, and knows there are a lot of reporting requirements that we operate under, and we really tried to refine the reporting requirement in a way to make it relevant to the actual demands. Spreadsheet has drop down menus to make it easy to populate the fields. Need to ensure that our field managers know what their TAs are doing with respect to motions to dismiss/terminate, and what the immigration courts are doing with our motions.

David—

(b)(5)

Mike—

(b)(5)

(b)(5)

Certainly welcomes innovation in using GEMS locally to capture this information more efficiently. Let us her how you can leverage GEMS to make this as unburdonsome a process as possible. Would like to hear what you have to say and your concerns. Would like to hear positive feedback too.

David – In terms of positive feedback I think that what is important is what we are doing in tracking our filing, and what EOIR is doing that we have no control over. Existing stats do not really capture.

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Rebecca – When you look at GEMS as a database, it was never created for the purpose of generating statistics that one could be able to hand to a statistician to interpret. We have developed GEMS into that because we do not have another mechanism to track these numbers, and it is only as good as what you put into it. From our perspective, we need to have an excel spreadsheet, because you need to be able to go to one place to upload the information to generate the data that we need to show the media. Unless we get to a point where we can have a database that can do it for us, we are going to have to reply on excel spreadsheets. I have my own excel spreadsheet on SharePoint where my attorneys can input information on what they need where I can either approve or indicate there are issues. I do it for my own purpose. Not most efficient method, but the only one available to us at this time.

Mike – By standardizing it for everyone to use, we can have it sent up to HQs for Colleen to compile and send the data over to the statistician to develop the reports.

Rebecca – Litigation practice has changed significantly in the last year. This year we have Haitian TPSs. Is this going to make it higher, absolutely it is, is there good reason for it, yes, there is. We never get asked these questions. You will be able to see the trends more on a spreadsheet. We have great super users. I oversee them and they are tremendous. If you use the GEMS system, you have to literally go and do a stubby pencil audit. The spreadsheet is the way to go.

Mike – Thanks to Rebecca and her team. When we engage private bar, in particular AILA, I think the message is that prosecutorial discretion is nothing new and we comply with all the memoranda, and look at cases on a case by case basis. We welcome presentations from private counsel on cases that might be appropriate for exercising prosecutorial discretion, but we do not engage in wholesale blanket dismissal of cases and to Cherry's credit, she has articulated this consistent with our shared understanding.

4. *Deputy Director Pena's Message – Public Safety Custodial Interrogation of Certain Terrorism Suspects* Not



Notes of ICE/OPLA Chief Conference Call Number #199 of November 4, 2010

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Non-Responsive

Non-Responsive

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4. *Efficient Handling or Remands to the IJ Following Circuit Court Remands* Not

Non-Responsive

5. *Extending ILP Review of Briefs to Briefs Following Circuit Court Remands* No

Non-Responsive

6. *Custody Determinations for Aliens Convicted of DUI* Not

Non-Responsive

7. *LGBT Asylum Claims* Not

Non-Responsive

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Non-Responsive

8. ***Expedited Removal Authority and ERO***

Not

Non-Responsive

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Non-Responsive

9. *Budget and Staffing Issues*

Non-Responsive

Non-Responsive

Non-Responsive

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10. FTE Allocation Working Group

Non

Non-Responsive

12. PWP for Supervisors

Non

Non-Responsive

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Non-Responsive

13. [Redacted] *selected as Honolulu Chief Counsel*

14. [Redacted] *announce retirement plans* [Redacted]

15. [Redacted] *to EOD as Immigration Judge -* [Redacted]

Non-Responsive

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Non-Responsive

Around the OCC's

Phoenix

Non-Responsive

Detroit

Non-Responsive

Boston

Non-Responsive

Chicago

Non-Resp

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Miami

Not

Non-Resp

El Paso

Not

Non-Responsive

Denver

Not

Non-Responsive

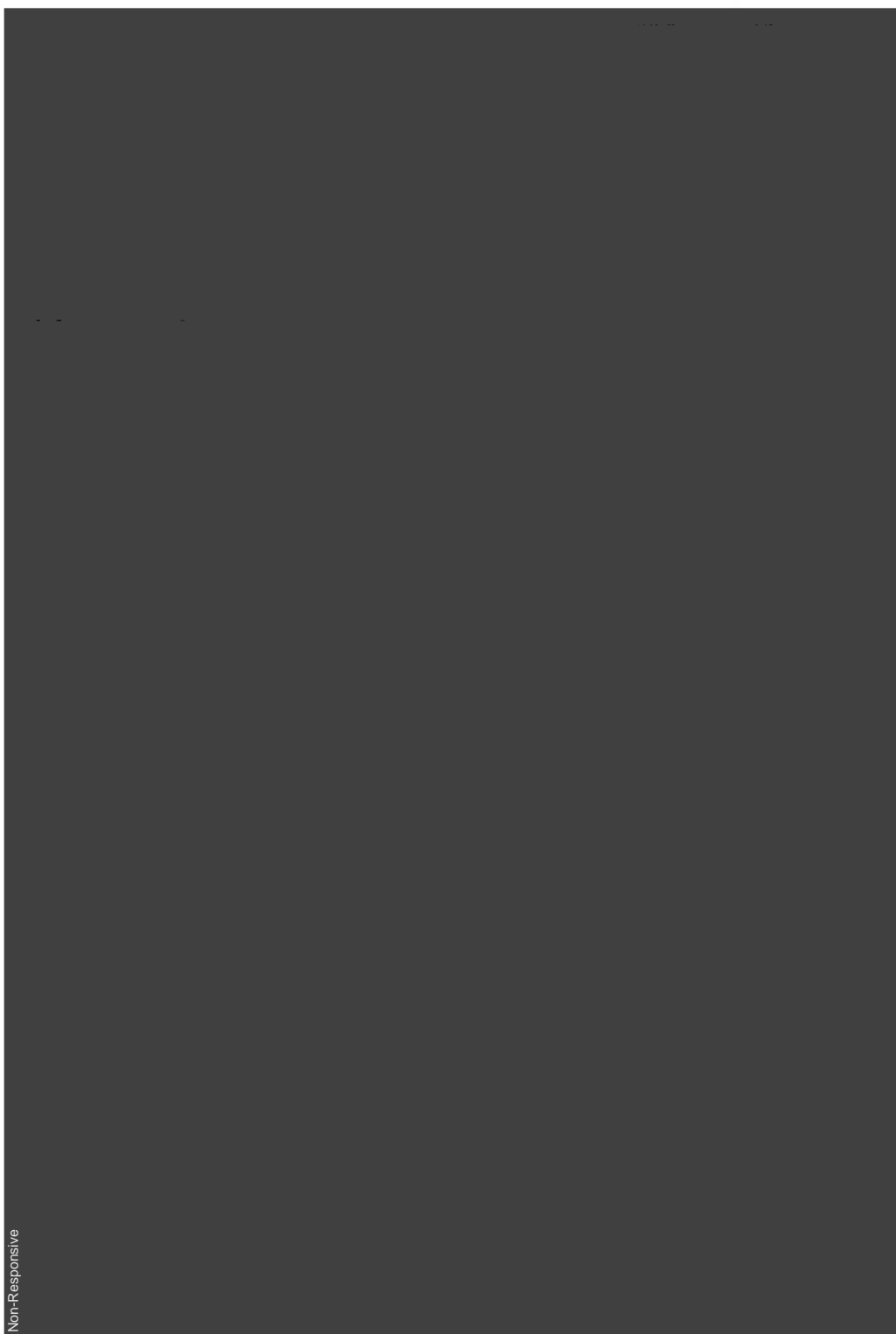
Dorothy – USCIS NTA issuance.

Not

Non-Responsive

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Next Call -

Non-

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Notes of ICE/OPLA Chief Counsel Conference Call #200 of Nov 18, 2010

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NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL
Call #200
November 18, 2010

Chief Counsel: Barry Chait, Michael Falcone, Alfie Owens, Theresa Pauling; Dorothy Stefan, Ed Dunlay, and Greg Fehlings; Jim Stolley; Paul Stultz; and Leslie Ungerman, Paul Nishiie and Meg Curry.

Headquarters: Mike Davis, Art Adams, David Landau, and Eileen Connolly

Notes prepared by MPA Doris Joan Combs, Edited by Art Adams,

1. Clarification Regarding Having ICE Officers Testify in Immigration Court

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Non-Responsive

2. Ninth Circuit Dent Decision - Alien Right to A-files

Non

Non-Responsive

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Non-Responsive

3. *David Landau's Detail Ends, New Acting Deputy Directors of ILP*

Non-Responsive

Non-Responsive

Non-Responsive

Discussion -

Non-Responsive

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Non-Responsive

4. *Tracking Steps in GEMS*

Not

Non-Responsive

Non-Responsive

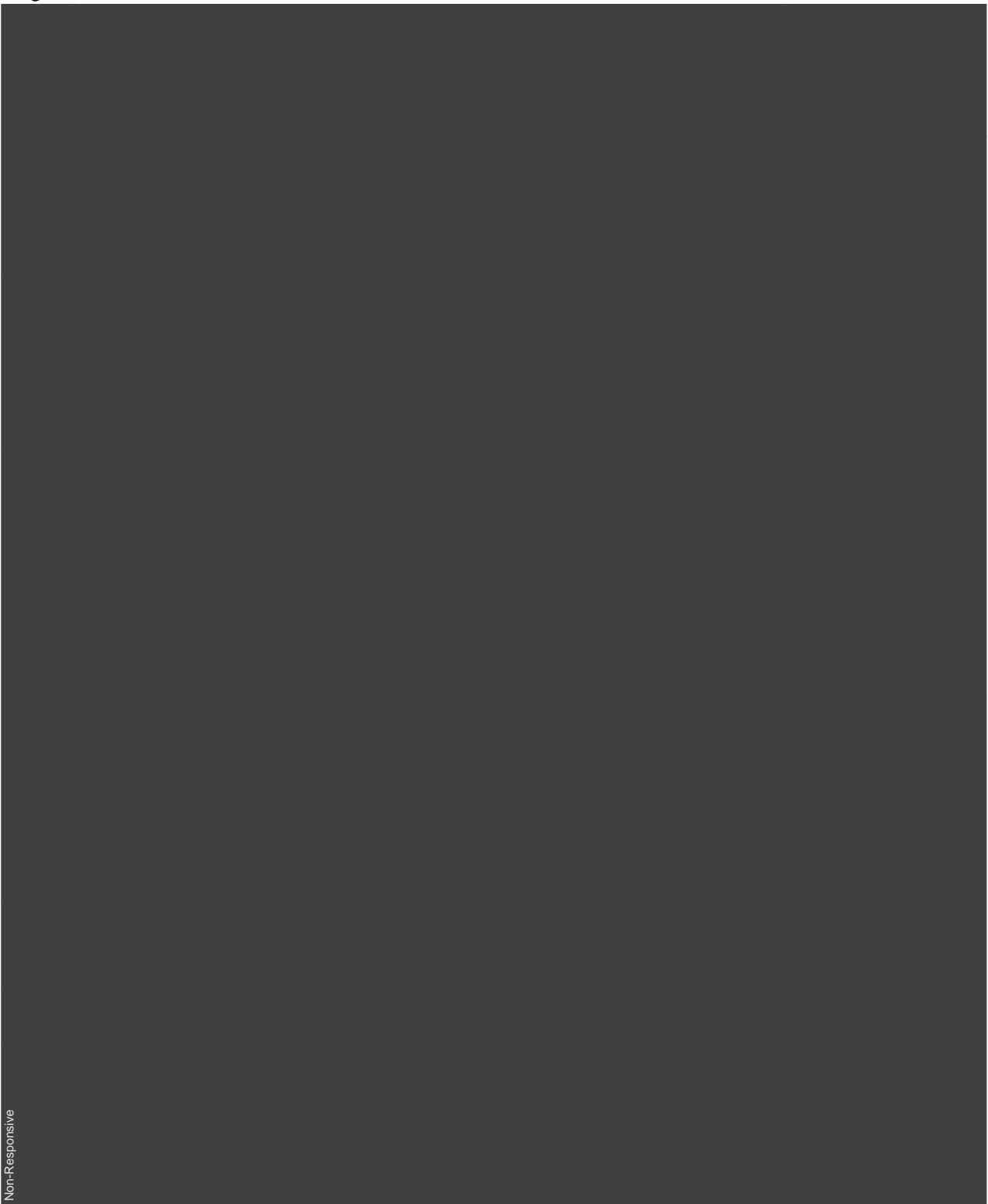
Discussion –

Non-Responsive

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Notes of ICE/OPLA Chief Counsel Conference Call #200 of Nov 18, 2010

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Non-Responsive

5. *BIA Practice Manual Does not Permit Electronic Signatures*

Not

Non

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Non-Res

6. ***Employee Benefits Open Season 11/8 -12/13/2010***

Not

Non-Responsive

7. ***Use or Lose Annual Leave***

Not

Non-Responsive

8. ***Advise Clients that Criminal Charts are Available on ICE Intranet***

Not

Non-Responsive

8. ***New Guidance on Reporting Misconduct***

Not

Non-Responsive

Non-Responsive

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Non-Responsive

10. *Chief Counsel Performance Goals*

Non-

Non-Responsive

11. *FEMA Training Completion Certificates Due to Grace Jones by 11/22*

Non-

Non-Responsive

12. *A Culture of Privacy Awareness Training now over due*

Non-

Non-Responsive

AROUND THE OCCS

Paul Stultz (St Paul) -

Non-

Non-Responsive

Michael Falcone (Arlington) -

Non-

Non-Responsive

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Non

Alfie Owens (Atlanta) - Non

Non-Responsive

Jim Stolley (Los Angeles) - Non

Non-Responsive

Leslie Ungerman (San Francisco) - Non

Non-Responsive

Leslie Ungerman (San Francisco) - Did a recent review on 300-400 files looking at them for purpose of prosecutorial discretion. Determined 333 out of 383 were improperly coded by EOIR. Should have been coded as 7C when there is a pending I-130. Alien was not even seeking adjustment. Met with local court and local ACIJ and pointed out issue. She apologized and said they looked into it and that it will not happen in the future.

Paul Nishiie (San Francisco) - Non

Non-Responsive

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Non-Responsive

Leslie Ungerman (San Francisco) - Not

Non-Responsive

Discussion -

Non-Responsive

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NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #201

December 2, 2010

Chief Counsel: Kent Frederick, Nicole Guzman, Paul Hunker, Jane Minichiello, Glenda Raborn, Marty Soblick, Dorothy Stefan.

Headquarters: Mike Davis, Art Adams, and Joe Ellen Ardinger

Notes prepared by MPA Ania Harrell, Edited by Art Adams

1. ***Classified Documents Released by WikiLeaks are still Classified – Do Not Access Them on Your Computer*** Non



Non-Responsive

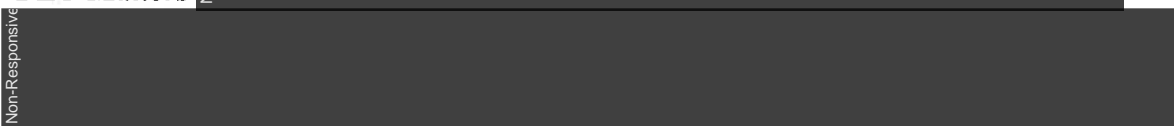
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Non-Responsive

2. **FLO Matters**

Non



Non-Responsive

3. **HSILD Issues**

Non



Non-Responsive

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Non-Responsive

4. *Deputy Director Kumar Kibble's outreach to Chief Counsel*

Non

Non-Responsive

5. *Chief Counsel Monthly Meetings with ERO and H.S.I.*

Not

Non-Res

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Notes of ICE/OPLA Chief Conference Call Number #201 of December 2, 2010

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Non-Responsive

6. ***POC lists to Clients***

Non-Responsive

7. ***SharePoint poc lists***

Non-Responsive

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Non-Responsive

8. *OPLA ALP Graduates*

Non-Responsive

Non-Responsive

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Non-Responsive

9.

Not

Last Week with OPLA

Not

Non-Responsive

10. *Orlando OCC Move*

Not

Non-Responsive

Around the OCCs:

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Notes of ICE/OPLA Chief Conference Call Number #201 of December 2, 2010

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(Seattle – Dorothy Stefan) - Received a telephone call yesterday regarding prosecutorial discretion (PD) wherein an AILA attorney referenced a memorandum by the Legal Action Center, American Legal Immigration Advisor, dated November 30, 2010. I managed to obtain a copy of the memorandum and sent it up to HQs FLO. Basically, it is a 17-page write up instructing AILA how to obtain PD. The memo states that officers have the authority to agree to PD, or can obtain a dismissal of the case and to halt a whole list of things that fall under attorney purview. The memo also instructs them that we (OPLA attorneys) do not have the authority to grant deferred action, but we can liaise with the client and get it for them. The caller yesterday wanted Dorothy to get deferred action for them and she told them that they would have to apply with the entity that they were seeking deferred action from. There are some incorrect practice items that they have put out there. Thought her colleagues would like to know.

(San Diego –

Non-

Non-Responsive

(Oakdale –

Non-

Non-Responsive

(Newark –

Non-

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #201 of December 2, 2010

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(Dallas —

Non-

Non-Responsive

(Orlando —

Non-

Non-Responsive

(Philadelphia —

Non-

Non-Responsive

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NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #203

December 17, 2010

Chief Counsel: Bill Gossard, Karen Lundgren, Fred McGrath, John Furlong, Jim Stolley, Ed Lepkowitz, and Paul Mosley, Aaron Todd, Leslie Ungerman, Lessa Whatmough, Dorothy Stefan, Ed Dunlay and Matt Downer,

Headquarters: Peter Vincent, Riah Ramlogan, Carl Perry, Jo Ellen Ardinger, Art Adams, Ron Lapid and Jennifer West

Notes prepared by MPA Doris J. Combs, Edited by Art Adams

1. Non is the new Director of Field Legal Operations Not

Non-Responsive

2. *Customs Points of Contact (POCs)* Not

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #203 of Dec 16, 2010

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Non-Responsive

Discussion

Non-Responsive

3. ***Deputy Director/Deputy Assistant Secretary Kumar Kibble's Initiative on Interaction and Collocation Between Chiefs, FODS, and SACs***

Non-Responsive

Discussion

Non-Responsive

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4. *Use of Continuing Resolution Request Form for all Expenses under CR*

Non-Responsive

Discussion

Non-Responsive

5. *Expansive Use of Administrative Removal and Reinstatement*

Non-Responsive

Discussion

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #203 of Dec 16, 2010

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Non-Responsive

6. Consistency and Judiciousness in Senior Attorney Hiring

Non-

Non-Responsive

7. Handling A-File Requests under *Dent v. Holder*

Non-

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #203 of Dec 16, 2010

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Non-Responsive

Discussion

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #203 of Dec 16, 2010

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Non-Responsive

8. Non- Non- – *Notable Unpublished BIA Decision on Submission of Expert Witness Affidavit*

Non-Responsive

9. *4th Amendment Training* Non-

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #203 of Dec 16, 2010

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AROUND THE OCCs

San Antonio - Non-

Non-Responsive

Miami - Non-

Non-

Chicago - Non-

Non-Responsive

Discussion

Non-Respo

Boston - Non-

Non-Responsive

Los Angeles - Non-

Non-Responsive

Detroit - Non-

Non-Responsive

San Francisco - Non-

Non-

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Notes of ICE/OPLA Chief Conference Call Number #203 of Dec 16, 2010

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NOTES OF ICE/FIELD LEGAL OPERATIONS
CHIEF COUNSEL CONFERENCE CALL

Call #204

January 7, 2010

Chief Counsel: Barry Chait, Michael Falcone, Elias Gastelo, Alfie Owens, Kenneth Padilla, Marty Soblick and Dorothy Stefan, Greg Fehlings, Jo Ann McLane, Cate Halliday-Roberts

Headquarters: Carl Perry, Mike Davis, Art Adams, Sarah Hartnett, Gayle Dixon, Ania Harrell, Kathy Meehan and Doris J. Combs

Dallas MSO: Ralph Kepp and Wanda Johnson

Notes prepared by MPA Doris J. Combs, Edited by Art Adams

1. *Possible All-Hands Conference Call*

Non-

Non-Responsive

2. *SCR Guidance – Need to Update SCRs When Developments Occur*

Non-

Non-Responsive

3. *Chief Counsel Telephone Calls from Deputy Director Kumar Kibble*

Non-

Non-

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Non-Responsive

Discussion

Non-Responsive

4. ***U.S. Citizenship and Immigration Services (USCIS) Coordination (Mike Davis)*** - As you will recall, on August 20, 2010, Director Morton issued a memorandum to OPLA and ERO, entitled "Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions." This memorandum affirms OPLA's authority to seek dismissal, where appropriate, of the removal proceedings of aliens who have immigration relief applications or petitions pending with or approved by USCIS. Because OPLA will necessarily undertake an initial assessment of an alien's eligibility for relief from USCIS before seeking dismissal of the alien's removal proceedings, we can reasonably anticipate that most aliens whose proceedings are dismissed for USCIS adjudication will ultimately be granted such relief. However, it is important to ensure that aliens do not make frivolous and/or fraudulent claims to immigration relief simply to thwart the removal process. We must also ensure that aliens who otherwise constitute enforcement priorities for the agency do not evade removal when their bid for USCIS relief proves unsuccessful. Accordingly, please coordinate locally with USCIS to ensure that aliens whose removal proceedings are terminated for USCIS relief adjudication but who are ultimately denied relief are placed back into removal proceedings, when appropriate. For instance, where USCIS denies relief on the basis of fraud or intervening criminal misconduct, the alien's case would likely constitute an enforcement priority under Director Morton's June 30, 2010 memorandum, "*Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*," which, *inter alia*, prioritizes the removal of criminal aliens and those who obstruct immigration controls. By January 7, 2011, please reach out to your USCIS field leadership counterparts to initiate the formulation of local standard operating procedures

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Notes of ICE/OPLA Chief Conference Call Number #204 of January 7, 2011

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on the reissuance of NTAs in appropriate cases. Please advise those on the "cc" line of this message when this outreach has occurred. If you have any questions, please conduct Field Legal Operations' Sonya Choung. *[Editor's note – Since this call was held, FLO has reached out to each OCC to find out how many of the dismissed cases, where subsequently re-filed in immigration court. There will be greater discussion of the ongoing developments in CCCC #205.]*

5. **Mike Davis' Return to ILP**

Non-

Non-Responsive

6. **Mental Competency Issues in Removal Proceedings**

Non-

Non-Responsive

Non-Responsive

7. **Biometric Fee Increases**

Non-

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #204 of January 7, 2011

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8. *Credit Card Charges for Cancelled Reservations*

Non-

Non-Responsive

9. *Indexing Lexis Immigration Law Handbook*

Non-

Non-Responsive

Discussion

Non-Responsive

10. *Accurint Passwords*

Non-

Non-Responsive

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Notes of ICE/OPLA Chief Conference Call Number #204 of January 7, 2011

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Non-Responsive

Discussion

Non-Responsive

11. *Fourth Amendment Training*

Non-

Non-Responsive

Discussion

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Non-Responsive

12. ***Employee Decision Period (EDP)*** (Non-Responsive)

Non-Responsive

13. ***Changing Assigned Days off for Chief Counsel*** (Non-Responsive)

Non-Responsive

14. ***Continuing Resolution Authority (CRA)*** (Non-Responsive)

Non-Responsive

15. ***Dealing with SAUSA Vacancies*** (Non-Responsive)

Non-Responsive

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Non-Responsive

Discussion

Non-Responsive

16. *Protecting the Homeland - Sharing our Agency's Mission with all OPLA Employees*

Non-Responsive

17. *Use of Students in OCCs*

Non-

Non-Responsive

Discussion

Non-Responsive

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Non-Responsive

18. *Input Proposed Departures into DANSS as soon as practical*

Non-

Non-Responsive

19. *Attorney Directory now being Prepared by Andrea Jenkins*

Non-

Non-

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Non-Responsive

20. *EOIR Staffing May Not Increase If They Do Not Get Funding*

Non-

Non-Responsive

Discussion

Non-Responsive

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Non-Responsive

21. *ERO Numbers are Down – Let's Help Them Improve*

Non-Responsive

Non-Responsive

22. *FLO Office*

Non-Responsive

Non-Responsive

23. *Reporting to FLO*

Non-Responsive

Non-Responsive

Non-Responsive

24. *Supreme Court Case Turner v. Rogers Regarding Right to Counsel*

Non-Responsive

Non-Responsive

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Non-Responsive

Discussion

Non-Responsive

25. Some California Misdemeanor Conviction Records May Now Be Unavailable

Non-Responsive

AROUND THE OCCs

St Paul

Non-Responsive

Non-Responsive

Arlington

Non-Responsive

Non-Responsive

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Non-Respo

El Paso

Non-

Non-Responsive

Atlanta

Non-

Non-Responsive

New York City

Non-

Non-Responsive

San Diego

Non-

Non-Responsive

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Seattle

Non-Responsive

Discussion

Non-Responsive

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DRAFT ONLY HOUSTON OCC SEPT. 16, 2010

Respondents in Proceedings with Possible CIS Benefits

This SOP outlines the Houston OCC process for compliance with A/S John Morton's Memorandum ("memorandum") of August 20, 2010: Guidance Regarding the Handling of Removal Proceedings of Respondents with Pending or Approved Applications or Petitions. Under the memorandum, the OCC has two responsibilities; facilitate timely adjudication of pending petitions and applications and determine if dismissal of court cases is appropriate based on the status of the pending petition or application.

Facilitating the Processing of Applications

(b)(5)



(b)(5)

(b)(5)



Facilitating Joint Motions to Dismiss

(b)(5)



(b)(5)



Note - The following information concerning CIS referrals is accurate as of the date of this memorandum. CIS regularly rotates duties thus the ACC should verify that the file is being routed to the appropriate person. The primary POC for Form I-130s is Marie-Louise Crawford at (b)(5) Email Marie Crawford with the information that the file and I-130 is being hand-carried to CIS for action. Copy Supervisor John Wyscarver, Branch Chief Sylvia Halfhill, and FOD Ricky Hamilton.