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ICE NEWSROOM

FEBRUARY 18, 2021 • WASHINGTON, DC • ENFORCEMENT AND REMOVAL

ICE announces temporary guidelines for its enforcement and removal operations

WASHINGTON – Today, U.S. Immigration and Customs Enforcement (ICE) is implementing interim operating guidance that will temporarily govern its civil immigration enforcement and removal operations, until Secretary of Homeland Security Alejandro Mayorkas issues new enforcement guidelines for the Department. Secretary Mayorkas is expected to issue new enforcement guidelines in less than 90 days, after consultation with Department personnel and external stakeholders.

ICE's interim guidance will focus the agency's civil immigration enforcement and removal resources on threats to national security, border security and public safety. The guidance defines which cases are presumed to present such threats and do not require prior approval. The guidance also sets forth a pre-approval process for any civil immigration enforcement action that does not meet the presumption criteria. In addition, the guidance sets forth weekly reporting requirements to ensure coordination and consistency and to inform the development of the Secretary's final enforcement guidelines.

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“By focusing our limited resources on cases that present threats to national security, border security, and public safety, our agency will more ably and effectively execute its law enforcement mission,” said ICE Acting Director Tae Johnson. “Like every law enforcement agency at the local, state and federal level, we must prioritize our efforts to achieve the greatest security and safety impact. Further, by implementing a system for obtaining prior approval before pursuing certain cases, and through regular reporting of civil immigration enforcement actions, we will better coordinate our efforts, achieve consistency in our operations, and inform the development of the Secretary’s new enforcement guidelines. We look forward to working closely with the Secretary throughout this process.”

The operating guidance issued today defines which cases are presumed to present national security, border security and public safety threats, and which cases do not carry such presumptions and thus require prior approval before pursuing. Individuals are presumed to present a threat to national security if they have engaged in or are suspected of terrorism or espionage, or if their apprehension is otherwise necessary to protect our national security.

Individuals are presumed to be a border security enforcement priority if they are apprehended while attempting to unlawfully enter the United States on or after November 1, 2020, or if they were not physically present in the United States before November 1, 2020.

And, individuals are presumed to be a threat to public safety if, for example, they have been convicted of an aggravated felony or engaged in certain activity as part of a criminal gang or transnational criminal organization and there is reason to believe they currently pose a threat. In evaluating whether an individual poses a threat to public safety, officers and agents are to consider the extensiveness, seriousness and recency of any criminal activity, as well as mitigating factors, including, but not limited to, personal and family circumstances, health and medical factors, ties to the community, and evidence of rehabilitation. ICE’s prioritization of individuals with aggravated felony convictions is consistent with Congressional intent in creating that distinct category of offenses.

Absent exigent circumstances, ICE’s field personnel will need to obtain prior approval from their chain of command before pursuing cases that do not meet the presumption criteria.

Today’s interim operating guidance requires ICE personnel to review cases on an individualized basis, in accordance with the law, and encourages coordination between in-the-field personnel and agency leadership. The issuance of today’s interim guidance is one step in the agency’s effort to use its limited resources to enforce the nation’s immigration laws most impactfully and justly.

DOCUMENTS



Interim Guidance on Civil Immigration Enforcement and Removal Priorities

Updated: 02/18/2021

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