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EOIR Statement Regarding Prosecutorial Discretion

On August 18, 2011, the Department of Homeland Security (DHS) announced a new process to ensure that resources are focused on the Administration's highest immigration enforcement priorities. Today, Peter Vincent, Principal Legal Advisor for Immigration and Customs Enforcement (ICE), issued a directive to all ICE attorneys relating to the exercise of prosecutorial discretion both for cases pending in the immigration courts and for cases where a charging document has not yet been filed in immigration court. The decision to exercise prosecutorial discretion will be made by ICE attorneys. Immigration judges are prepared to adjudicate motions on a case-by-case basis as they are filed with the court, including motions to administratively close or terminate cases.

In addition to the implementation of prosecutorial discretion nationwide, DHS announced a pilot program with a focused review of pending cases in the Baltimore and Denver immigration courts from December 4, 2011 to January 13, 2012. To support this effort and allow appropriate time for DHS attorneys to review files, the Executive Office for Immigration Review (EOIR) anticipates rescheduling some cases on the non-detained dockets of these courts for the duration of the pilot program. Hearing notices will be issued to all respondents whose cases are rescheduled. EOIR also expects that it will detail judges hearing the non-detained docket in Baltimore and Denver to handle detained cases, either in person or by video teleconferencing.

EOIR remains supportive of DHS efforts to ensure that government resources are focused on the highest priority cases.