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Immigration Agency Ends Some Deportations

By Julia Preston

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Immigration enforcement officials have started to cancel the deportations of thousands of immigrants they have detained, a policy they said would pare huge case backlogs in the immigration courts.

Immigration and Customs Enforcement officials said the new approach was part of a broad shift in priorities at the agency, to focus its efforts on catching and deporting immigrants who have been convicted of crimes or pose a national security threat. The policy — announced in an Aug. 20 memorandum from John Morton, the head of the agency — drew praise from immigrant advocates, who called it a common-sense strategy, and was denounced by several Republicans as evidence that the Obama administration was weakening enforcement and making it easier for illegal immigrants to remain in the country.

The change in emphasis at the immigration agency, which represents a significant break with longstanding practices, has awakened resistance among agents and detention officers on the ground, according to officials of the agency, which is known as ICE, and of the union representing those employees.

Mr. Morton's memorandum refers to a particular group of illegal immigrants: those who have been detained in ICE operations because they did not have legal status, but who have active applications in the system to become legal residents. The memo encourages ICE officers and lawyers to use their authority to dismiss those cases, canceling the deportation proceedings, if they determine that the immigrants have no criminal records and stand a strong chance of having their residence applications approved.

The policy is intended to address a "major inefficiency" that has led to an unnecessary pileup of cases in the immigration courts, Mr. Morton said. The courts have reported at least 17,000 cases that could be eliminated from their docket if ICE dismissed deportations of immigrants, like those married to United States citizens, who were very likely to win legal status, the memo says.

To resolve that number of deportation cases, officials will have to fix persistent breakdowns in coordination between two federal agencies that oversee the nation's overburdened and troubled

immigration system, ICE officials acknowledged. On one hand, ICE enforces immigration law. Another agency, Citizenship and Immigration Services, is in charge of approving applications for immigration documents. When ICE opens a deportation case against an immigrant, it is heard in immigration court.

The courts are swamped under a backlog that reached a record in June of 247,922 cases, according to the Transactional Records Access Clearinghouse, a research group at Syracuse University that analyzes federal data. The average waiting time for cases in those courts was 459 days.

But immigration lawyers said they are currently waiting as long as two years to get a hearing date in some especially crowded immigration courts.

The new policy “is a pretty basic, common-sense thing to do,” said Helen Harnett, policy director for the National Immigrant Justice Center, a legal assistance group in Chicago. She said that if an immigrant’s application for legal residence was ultimately denied, ICE could reinstate the deportation.

“This is for people who do have a path to legalize their status,” said Mary Meg McCarthy, director of the justice center. “This does not create a new path to legalization for anyone.”

But Republican lawmakers said the Obama administration was moving toward a de facto legalization program by allowing some illegal immigrants to remain here despite their violations of the law.

“Actions like this demoralize ICE agents who are trying to do their job and enforce the law,” said Senator Charles E. Grassley, Republican of Iowa. “Unfortunately, it appears this is more evidence that the Obama administration would rather circumvent Congress and give a free pass to illegal immigrants who have already broken our law.”

Mr. Morton’s memorandum was first reported this week in The Houston Chronicle, which found that some immigrants in Texas had already seen their deportations canceled.

ICE officials said they arrived at the policy after conferring with immigration court officials. “This is not a backdoor amnesty,” said Beth Gibson, assistant deputy director of ICE. “It is really about efficient use of docket space and smart use of everybody’s scarce resources.”

The agency has deported a record number of 167,000 immigrants with criminal convictions in the past year, ICE officials said, an increase of about 43 percent over the previous year.

However, dissension in the ranks at ICE surfaced on June 25, when a local of the American Federation of Government Employees representing some enforcement and detention officers announced that it had taken a vote of no confidence in Mr. Morton.

The director and other senior ICE officials had “abandoned the agency’s core mission of enforcing United States immigration laws,” the local said in a news release, undertaking “reckless and misguided initiatives” while failing to alert Congress to the need for more manpower and funds for ICE.

Chris Crane, the president of the local, did not respond to an e-mail message on Thursday.

The national president of the federation, John Gage, said the union had not yet taken a position on the issues raised by the local. Mr. Gage said after several ICE locals had complained, he called a meeting next week of representatives of all of the federation’s locals that represent ICE employees.

“I really would like to get some facts,” Mr. Gage said Thursday. “Our ICE officers have real concerns, but there is conflicting information. If there is any increased risk to our people, we will be all over it,” he said.