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U.S. shifts approach to deporting illegal immigrants

By Marcus Stern

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The Obama administration is changing the federal immigration enforcement strategy in ways that reduce the threat of deportation for millions of illegal immigrants, even as states such as Arizona, Colorado, Virginia, Ohio and Texas are pushing to accelerate deportations.

The changes focus enforcement on immigrants who have committed serious crimes, an effort to unclog immigration courts and detention centers. A record backlog of deportation cases has forced immigrants to wait an average 459 days for their hearings, according to an Aug. 12 report by Syracuse University's Transactional Records Access Clearinghouse (TRAC), which analyzes government data.

Among the recent changes:

• Immigration and Customs Enforcement (ICE) Director John Morton ordered agency officials on Aug. 20 to begin dismissing deportation cases against people who haven't committed serious crimes and have credible immigration applications pending.

• A proposed directive from Morton posted on ICE's website for public comment last month would generally prohibit police from using misdemeanor traffic stops to send people to ICE. Traffic stops have led to increased deportations in recent years, according to Jessica Vaughan, director of policy studies at the Center for Immigration Studies, a think tank whose research supports tighter enforcement.

The directive said exceptions would be made in certain cases, such as when immigrants have serious criminal records.

• ICE officers have been told to "exercise discretion" when deciding whether to detain "longtime lawful permanent residents, juveniles, the immediate family members of U.S. citizens, veterans, members of the armed forces and their families, and others with illnesses or special circumstances," Daniel Ragsdale, ICE executive associate director of management, testified July 1 in the administration's lawsuit to block Arizona's controversial immigration law. The law requires police officers to determine the immigration status of suspects stopped for another offense if there was a "reasonable suspicion" they are in the USA illegally. A U.S. district judge has held up the provision pending review.

• A draft memo from ICE's sister agency, U.S. Citizenship and Immigration Service, to Morton discussed ways the administration could adjust regulations so certain groups, such as college students and the spouses of military personnel, could legalize their status or at least avoid deportation if Congress doesn't pass comprehensive immigration reform. USCIS rules on applications for visas, work permits and citizenship. USCIS spokesman Christopher Bentley said the memo was intended to stimulate brainstorming on how to legalize immigrants if new laws aren't passed.

The administration's new direction puts it at odds with those who believe the nation's immigration laws should be strictly enforced and that all illegal immigrants should be deported.

ICE is "thumbing its nose at the law," said Rep. Steve King of Iowa, the top Republican on the House immigration subcommittee.

The changes have also drawn complaints from immigration advocates. They say deportations under Obama are at record highs and immigrants who remain behind are living in limbo, without work permits, Social Security cards or driver's licenses.

"This isn't a free ticket," said Raed Gonzalez, a Houston attorney who saw cases against his clients dropped last month. "The government can put them back into proceedings at any time."

Morton said in an interview that the new strategy is smarter, not softer, enforcement. At a time when more than 10 million people are in the country illegally, record sums are spent on enforcement and the federal budget faces huge deficits, it makes sense to target people who pose the biggest threat to public safety or national security, he said.

"Congress provides enough money to deport a little less than 400,000 people," Morton said. "My perspective is those 400,000 people shouldn't be the first 400,000 people in the door but rather 400,000 people who reflect some considered government enforcement policy based on a rational set of objectives and priorities."

ICE statistics show that deportations have increased dramatically from 189,000 in 2001 to 387,000 in 2009. Much of the increase results from deportations of people who haven't committed serious crimes, according to TRAC.

This year, however, that trend took a sharp turn, according to an Aug. 12 TRAC report.

The number of criminal immigrants removed by ICE "climbed to an all-time high," the report said. In fiscal 2010, which began Oct. 1, "The removal pace of criminal aliens ... is fully 60% higher than in the last year of the Bush administration, and at least a third (37%) higher than in the first year of the Obama administration."