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U.S. to Review Cases Seeking Deportations

By [JULIA PRESTON](#)

The [Department of Homeland Security](#) will begin a review on Thursday of all deportation cases before the [immigration](#) courts and start a nationwide training program for enforcement agents and prosecuting lawyers, with the goal of speeding deportations of convicted criminals and halting those of many illegal immigrants with no criminal record.

The accelerated triage of the court docket — about 300,000 cases — is intended to allow severely overburdened immigration judges to focus on deporting foreigners who committed serious crimes or pose national security risks, Homeland Security officials said. Taken together, the review and the training, which will instruct immigration agents on closing deportations that fall outside the department's priorities, are designed to bring sweeping changes to the immigration courts and to enforcement strategies of field agents nationwide.

According to a document obtained by The New York Times, Homeland Security officials will issue guidelines on Thursday to begin the training program and the first stages of the court caseload review. Both are efforts to put into practice a policy senior officials had announced in June, to encourage immigration agents to use prosecutorial discretion when deciding whether to pursue a deportation.

The policy, described in [a June 17 memorandum](#) by John Morton, the director of [Immigration and Customs Enforcement](#), [suggested that](#) the Obama administration would scale back deportations of illegal immigrants who were young students, military service members, elderly people or close family of American citizens, among others. While the announcement raised excited expectations in Latino and other immigrant communities, until now the policy has been applied spottily, deepening disillusionment with President Obama in those communities.

The Obama administration [has removed](#) high numbers of illegal immigrants, nearly 400,000 in each of the last three years. Homeland Security Secretary Janet Napolitano and Mr. Morton said those numbers would not decrease, but they wanted agents and courts to focus on deporting the worst offenders, including national security risks, criminal convicts and those who repeatedly violate immigration laws. Many immigration offenses, including being present in the United States without legal status, are civil violations; they are not crimes.

Administration officials have flexibility to transform immigration court procedures because those courts are part of the Justice Department in the executive branch, not part of the federal judiciary. Central to the plan is giving more power to immigration agency lawyers — the equivalent of prosecutors in the federal court system — to decide which deportation cases to press.

“We are empowering the attorneys nationally to make them more like federal prosecutors, who decide what cases to bring,” said a senior Homeland Security official, who asked not to be named because the policy has not been formally announced.

In the first stage of the court docket review, which will begin on Thursday, immigration agency lawyers will examine all new cases just arriving in immigration courts nationwide, with an eye to closing cases that are low-priority according to the Morton memorandum, before they advance into the court system.

At the same time, immigrants identified as high priority will see their cases put onto an expedited calendar for judges to order their deportations, Homeland Security officials said.

The goal is to “reduce inefficiencies that delay the removal of criminal aliens and other priority cases by preventing new low priority cases from clogging the immigration court dockets,” the Homeland Security document said. Officials said the first stage was an “initial test run” that would be completed by Jan. 13.

The Transactional Records Access Clearinghouse, a research group that analyzes immigration court data, [reported in September](#) that the backlog before the nation’s 59 immigration courts was at “a new all-time high.”

In a second stage, to begin Dec. 4, the Department of Homeland Security and the Justice Department will start six-week pilot projects in the immigration courts in Baltimore and Denver, in which teams of immigration agency lawyers will comb through the current dockets of those courts. They will focus on cases of immigrants who have been arrested for deportation, but who are not being held in detention while their cases proceed.

Immigrants who are deemed to qualify for prosecutorial discretion will have their cases closed, but not dismissed, officials said. That means that agents could re-open the deportations at any time if the immigrants commit a crime or a new immigration violation. Immigrants whose cases are closed will be allowed to remain in the United States, but they will be in legal limbo, without any positive immigration status.

The pilot projects will also end on Jan. 13, and then officials will decide how to expand the program to all immigration courts nationwide early next year.

Also on Thursday, Homeland Security officials will introduce a training program based on scenarios that could arise in enforcement operations, which every Immigration and Customs Enforcement agent must complete by mid-January. The goal is to instruct agents, many of whom have expressed doubts about Mr. Morton’s policy, to apply the prosecutorial discretion criteria.

The approach of deporting some illegal immigrants but not others requires a deep change in the mentality of the agents, who have long operated on the principle that any violation was good cause for deportation.

Republicans in Congress have denounced the new deportations policy, accusing the Obama administration of trying an end-run around Congress by granting de facto amnesty to illegal immigrants. Representative Lamar Smith, a Republican from Texas who is chairman of the House Judiciary Committee, said the prosecutorial discretion policy had the “specific purpose of overruling or preventing orders of removal for illegal immigrants.”

Administration officials said they would proceed case by case using existing legal authorities, and had no plans to exempt any large group of illegal immigrants from deportation.

<http://www.nytimes.com/2011/11/17/us/deportation-cases-of-illegal-immigrants-to-be-reviewed.html>