

DHS: Prioritizing Enforcement and Exercising Prosecutorial Discretion

Experts Welcome New Guidance, But Agree the Devil is in the Details

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Washington D.C. - Today, the American Immigration Council hosted a briefing to discuss the Department of Homeland Security's (DHS) announcement last week that it would issue agency-wide guidance to make certain that prosecutorial discretion is exercised in a manner that ensures the agency's enforcement resources are used to remove those who pose the greatest risk to public safety. DHS also announced the creation of a joint committee with the Department of Justice (DOJ) that will review nearly 300,000 cases currently in removal proceedings to determine which ones are low priority and can be administratively closed in order to begin unclogging immigration courts. While it is unclear how these proposals will play out in practice, the federal government must continue to assert its authority over immigration given the rise of state legislative initiatives that seek to impose different priorities on immigration enforcement.

Melissa Crow, Director of the Legal Action Center at the American Immigration Council discussed the practical implications of the use of greater prosecutorial discretion and had a warning for immigrants not in removal proceedings:

"Prosecutorial discretion is not a new concept, and is exercised on a daily basis by law enforcement agencies. It refers to the authority of a law enforcement agency or officer to decide whether – and to what extent – to enforce the law in a particular case. Prosecutorial discretion can take a variety of forms, depending on the nature of the case involved.

DHS has also been clear that last week's announcements do not impact individuals who are not currently in removal proceedings. Thus, 'DREAM' students and others unlawfully present in the United States, but not in removal proceedings should not actively seek out the immigration authorities. Since there are no guarantees that an individual removal case will be administratively closed, anyone who seeks to be placed in removal proceedings could end up being deported."

Clarissa Martinez, the Director of Immigration and National Campaigns at the National Council of La Raza discussed the Administration's move:

"This is a huge step forward for our country. This means that DHS will be using its resources more effectively. For those attacking this approach, I would challenge them to say what should be prioritized over national security and public safety. Every law enforcement agency uses prosecutorial discretion to do just that."

Javier Morillo-Alicea, President of Service Employees International Union (SEIU) Local 26 in Minnesota said:

"For years now we have reminded the Administration that their stated enforcement priorities of going after criminals—not law-abiding citizens—was not an on-the-ground reality. Last week's announcement, if properly implemented, will give teeth to long-stated enforcement priorities which is an extremely important move on the part of the Administration. It is right on policy and it is right on politics."

To listen to a recording of the briefing or view other resources on Prosecutorial Discretion see:

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Published on American Immigration Council (<http://www.americanimmigrationcouncil.org>)

- [Prosecutorial Discretion and Executive Action: A Resource Page](#) [1]

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