

Case-by-Case Review Statistics

Case by Case Reviews

- In August of 2011, Secretary Napolitano directed that the approximately 300,000 backlogged cases pending in the immigration courts be reviewed for the exercise of prosecutorial discretion. Secretary Napolitano also directed that all newly filed immigration cases be reviewed for prosecutorial discretion. In late November 2011, ICE began this review.
- As of May 29, 2012, ICE has reviewed 232,181 non-detained cases with approximately 20,608, or 9%, identified as amenable for prosecutorial discretion.
- Provided they clear a background check, all 20,608 will be offered prosecutorial discretion. To date, 4,363 of these cases have been administratively closed or dismissed.
- As of May 29, 2012, 56,180 detained cases have been reviewed with approximately 40, or less than 1%, identified as amenable for prosecutorial discretion.
- To date, 3,998 individuals have declined an offer of prosecutorial discretion.

Review of New Cases

- Since the beginning of the case by case review to May 29, 2012, approximately 111,000 new cases have been filed with the immigration court. All 111,000 of these new cases have been reviewed as part of the case by case review¹.
- DHS is currently calculating the precise number of these new cases that have been determined to be eligible for PD. As of May 15, 2012, approximately 95% of all the cases eligible for prosecutorial discretion were backlogged cases that had been pending in the immigration court for more than six months.
- Less than 5% of the cases eligible for prosecutorial discretion had been placed into immigration court within the last six months.

NTAs Issued

- In the first four months of calendar 2011 (January through April) there were 85,337 new NTAs filed in the immigration courts.
- By comparison, in the first four months of calendar 2012 there were 75,044 new NTAs filed.

¹ Because these new cases were initiated following the implementation of DHS prosecutorial discretion policies, DHS anticipates that fewer of these cases actually filed in immigration court will constitute a very low enforcement priority.

Deferred Actions

- Enforcement and Removal Operations (ERO) officers and agents have granted deferred actions or issued a stay of a final order of removal in 1,973 cases thus far in fiscal year 2012 as of May 26, 2012.
- Of those 1,973 deferred actions or stays, 1,687 involved individuals subject to a final order of removal.
- In fiscal year 2010, ERO officers granted deferred actions or issued a stay of a final order in 486 cases; in fiscal year 2009 ERO officers granted 740 deferred actions; in fiscal year 2008 ERO officers granted 1006 deferred actions; in fiscal year 2007 ERO officers granted 598 deferred actions.²

Work Authorization

- On April 23, 2012, DHS reviewed 2,974 cases that had been administratively closed. Of those 2,974 cases, 1,881 have received employment authorization in the past and 1,257, or over 40%, currently have employment authorization.
- On April 23, 2012, DHS also reviewed 2,710 cases where an individual declined an offer of prosecutorial discretion. Of these individuals, 2,052 have received employment authorization in the past and 1,483, or over 54%, currently have employment authorization.

² Due to upgrades to ICE's electronic system for tracking enforcement actions which affected how this data is recorded, the data from FY2012 are not directly comparable to the data from FY2008-FY2010. Because of these upgrades, ICE is not currently able to calculate FY2011 deferred action numbers.