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Subject: ICE's Removal Priorities
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Corey/Pete -

ICE is tentatively scheduled to issue its new enforcement and removal guidance early next week. As you can imagine, the formulation of this new guidance is a complex task, and it is important that ICE proceed toward that new guidance in a thoughtful and deliberate way. In the meantime, I want to be certain that ICE prioritizes its removal missions to ensure they align with focusing our finite resources on the most significant national security, border security and public safety threats.

Effective immediately and until additional formal guidance is issued, removals should be conducted according to the priorities of the Acting Secretary Pekoske's January 20, 2021 memorandum titled, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities* (AS1 Memo). Please note, these priorities only apply to individuals processed under Title 8 and not Title 42 of the U.S. Code.

These priorities as listed in the AS1 Memo are as follows:

1. National security. Individuals who have engaged in or are suspected of terrorism or espionage, or whose apprehension, arrest and/or custody is otherwise necessary to protect the national security of the United States.
2. Border security. Individuals apprehended at the border or ports of entry while attempting to unlawfully enter the United States on or after November 1, 2020, or who were not physically present in the United States before November 1, 2020.
3. Public safety. Individuals incarcerated within federal, state, and local prisons and jails released on or after the issuance of this memorandum who have been **convicted of an "aggravated felony,"** as that term is defined in section 101(a) (43) of the Immigration and Nationality Act at the time of conviction, **and are determined to pose a threat to public safety.**

The "public safety" priority will involve officers undertaking a careful review of an individual's record. Generally, the convictions that place an individual within the "public safety" category would include:

1. Convictions for serious crimes of violence such as murder, rape, arson, robbery, child abuse, domestic violence, kidnapping, human trafficking, gun related charges or serious drug offenses (trafficking/Smuggling).
2. Institutional records indicating a history of violent or assaultive behavior.
3. Well documented gang affiliation or affiliation with a transnational criminal organization.

Generally, these convictions would **not** include:

1. Drug based crimes (less serious offenses), simple assault, DUI, money laundering, property crimes, fraud, tax crimes, solicitation, or charges without convictions.
2. Where a crime is very old – over 10 years and not the reason for the individuals most recent apprehension.
3. Prior removals or convictions under 1325 or 1326.
4. Gang tattoos or only loose affiliation in records with gang activity.

If there is any question as to whether an individual falls into the category of posing a public safety threat, managers should err on the side of caution and postpone the individual's removal until a full assessment, in coordination with local Office of Chief Counsel, is conducted. If there isn't sufficient time to determine whether an individual was convicted of an aggravated felony or poses a public safety risk, the individual shall be removed from the manifest until such time as the review is completed.

Over the next few days until formal guidance is issued, removal flights will continue, and should be prioritized so that only those who meet the above priorities will be removed. Additionally, while removal resources should be focused on the priorities as described above, ICE is not foreclosed from taking appropriate enforcement action, including removal, against other removable noncitizens, particularly when there are indicators present in the case that the individual poses a serious and articulable threat to public safety.

Please let me know if you have any questions or concerns. Thank you