

PRACTICE ADVISORY
Updated: December 13, 2011

**IMPLEMENTATION OF THE PROSECUTORIAL DISCRETION REVIEW PILOT
PROGRAM IN DENVER, COLORADO**

By: AILA Colorado¹

On November 17, 2011 the Department of Homeland Security, Immigration and Customs Enforcement (ICE) released a memorandum entitled *Case-by-Case Review of Incoming and Certain Pending Cases* (AILA InfoNet Doc. # 11111761 (posted 11/17/11)), along with two companion memoranda, entitled *Next Steps in the Implementation of the Prosecutorial Discretion Memorandum* and the *August 18th Announcement on Immigration Enforcement Priorities* (AILA InfoNet Doc. # 11111749 (posted 11/17/11)) and *Guidance to ICE Attorneys Reviewing the CBP, USCIS, and ICE Cases Before the Executive Office for Immigration Review ("Guidance to ICE Attorneys")* (AILA InfoNet Doc. # 11111762 (posted 11/17/11)). Together, these documents detail the steps taken by the Department of Homeland Security (DHS) as well as representatives from the Department of Justice (DOJ) towards implementing the guidance articulated in ICE Director John Morton's memoranda *Exercising Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens* (June 17, 2011) (AILA InfoNet Doc. # 11061734 (posted on 6/17/11)), and *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (June 17, 2011) (AILA InfoNet Doc. # 11061731 (posted 6/13/11)).

On August 18, 2011, Homeland Security Secretary Napolitano announced that a review will take place of all administrative removal cases pending before and incoming to the Executive Office for Immigration Review (EOIR) of the Department of Justice. The purpose of this review, as reported by ICE, is to identify those cases that reflect a high enforcement priority for the DHS, namely, national security, public safety, border security and the integrity of the immigration system. See *Letter from Janet Napolitano to the Honorable Dick Durbin* (August 18, 2011) (AILA InfoNet Doc. No. 11081834 (posted 8/18/11)). On the same day, the Obama administration announced the establishment of a high-level DHS- DOJ working group charged with conducting the necessary review of cases.²

Steps Taken in the Implementation of the Prosecutorial Discretion Memoranda

As a result of the formation of a working group comprised of officials from DHS, including ICE, United States Citizenship and Immigration Services (CIS), and Customs and Border Protection

¹ The implementation of Prosecutorial Discretion is being monitored by AILA Colorado's Executive Committee and by agency liaison. E-mail contacts are as follows:

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Also reviewed by Jen Casey, AILA-Colorado - EOIR liaison committee member.

² All of the Prosecutorial Discretion Memos can be found on AILA InfoNet at

<http://www.aila.org/issues/issue.aspx?docid=35986>.

(CBP), as well as representatives from the DOJ, tasked with identifying best practices for the implementation of the recent DHS guidance, ICE has begun to implement the following initiatives:

1. Prosecutorial Discretion Training for All ICE Officers and Attorneys: This program was launched on November 17, 2011, and by January 13, 2012, all ICE enforcement officers and attorneys nationwide should have completed the training. Conducted by Director Morton, along with other members of ICE's senior leadership, the training utilizes a scenario-based approach to educate all ICE officers and attorneys on the "appropriate use of the June 17, 2011" memorandum.
2. Review of Incoming and Pending Cases: ICE announced the launch of two pilot programs, one in Denver, CO, and the other in Baltimore, MD, to test run this focused review of all pending cases before the EOIR. This process is intended to identify the cases most clearly eligible (and ineligible) for a favorable exercise of Prosecutorial Discretion (PD). This review will also be guided by "more focused criteria" as laid out in the November 17, 2011 *Guidance to ICE Attorneys*.

The Office of Principal Legal Advisor (OLPA) has indicated that at the end of the six-week review period, running from December 4, 2011 through January 13, 2012, the Office will assess the data and other implementation outcomes and make any necessary adjustments to the process before implementing a revised policy for the continuation of this review.

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)

Contact Emily White, AILA Colorado-ICE liaison, with any ICE-related questions/concerns at EmilyAssunta.White@SternCurry.com.

Scope of the Case Review of the Denver Pilot Program

The OPLA has directed each Office of Chief Counsel (OCC) around the country to immediately begin review of the following three categories of case: (1) cases in which the Notices to Appear (NTA) have not been filed with EOIR; (2) all cases on the master docket; and (3) all non-detained cases with merits hearings scheduled up to seven months from November 17, 2011 (note: if the case is transferred from the detained to non-detained docket, the case should also be reviewed for PD).

As a pilot program site, the review of cases in Denver is even broader in scope and includes all cases currently pending on the non-detained docket. In Denver there are approximately 7,800 pending cases subject to the review. The only cases not subject to review are those on the detained docket, pending at the Board of Immigration Appeals (BIA), or where a final order has already entered. Denver OCC is already well underway in the review of these cases. As of this writing, 2,000 cases have already been reviewed.

Criteria of Review

During the course of review, OCC attorneys are instructed to focus on the full range of factors discussed in the June 17, 2011 PD Memoranda, as well as the criteria contained in the *Guidance*

to ICE Attorneys Reviewing CBP, USCIS, and ICE Cases Pending Before the Executive Office for Immigration Review. OCC attorneys are also to consider the following memoranda from Director Morton: *Civil Immigration Enforcement Priorities for the Apprehension, Detention, and Removal of Aliens* (March 2, 2011) (AILA InfoNet Doc.# 11030323 (posted 3/3/11)) and *Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions* (August 20, 2010) (AILA InfoNet Doc. # 10082561 (posted 8/25/10)).

Denver OCC has indicated that during review of cases for prosecutorial discretion a strong emphasis is placed on the more specific criteria contained on page 1 and 2 of the *Guidance to ICE Attorneys Reviewing CBP, USCIS, and ICE Cases Pending Before the Executive Office for Immigration Review*. Even though not explicitly referenced in the memoranda, OCC has confirmed that the Office will consider same sex relationships (whether partnerships or marriage) in evaluating community ties.

Standard Operating Procedure by which Review will be Conducted

The process by which Denver OPLA is executing the review and ensuring consistent decision making in the exercise of PD is governed by a Standard Operating Procedure (SOP). That SOP has been reviewed and approved by the Director of Field Legal Operations at headquarters. The SOP should include the process for initial review by Assistant Chief Counsel/Senior Attorney; supervisory review; notification process to individuals where the OCC decides to exercise PD in the absence of a request; use and monitoring of the electronic mailbox; notification to a supervisory official at Enforcement and Removal Operations (ERO), Homeland Security Investigations (HSI), CIS or CBP of the decision to exercise PD; and national security and public safety checks for cases being considered for PD. DHS officials have stated that the SOPs will NOT be released.

Denver OCC has shared that the review process involves Assistant Chief Counsel (ACC) having a caseload of files for review. The Assistant Chief Counsel (ACC) will review the file and all relevant information contained within to compile the known facts of the respondent's case.

After the ACC's initial review and compilation of favorable and nonfavorable factors, the ACC presents the case to one of the Deputy Chief Counsels or the Chief Counsel for decision-making on whether to recommend that case for prosecutorial discretion. Final decision-making on whether or not to exercise prosecutorial discretion is done by top level supervisors at Denver OCC. Note: Deputy Chief Counsel O'Hare is not participating in the review or decision-making of cases before Immigration Judge Trujillo.

In some cases, OCC will identify a piece of information that needs to be obtained in order to make a final decision on whether or not to recommend prosecutorial discretion. For example, if OCC does not have the information about whether the respondent is in school or has successfully completed high school or its equivalent in the United States, the case will be put in a "hold bin" for further follow up. OCC notes that most cases in the "hold bin" are awaiting further information on the education within the United States of the respondent.

Presentation to Denver OCC of Additional Documentation in Support of a Request for PD

ICE guidance has indicated that OCC attorneys should base their decisions on the information in the record and are **not** expected to conduct additional investigation, although they may seek additional information if easily and timely available. However, individuals may affirmatively submit additional evidence to OCC for consideration in the review process.

Those who wish to submit additional evidence to be considered by OCC should email OPLA-PD-DEN-OCC@ice.dhs.gov with the particular request for Prosecutorial Discretion and all accompanying evidence. *The procedure for use of this e-mail address is a change from earlier guidance (see below).*

Formatting the Email

Denver OCC requests that two items appear in the subject line of every e-mail to the PD mailbox:

- 1) The IJ's last name or initials used by EOIR for the judges.
 - IJ Cordova or DJC
 - IJ Livingston or DLL
 - IJ Tsankov or MMT
 - IJ Trujillo or ERT
 - IJ Vandello or JPV
 - IJ Davis or JWD

- 2) The Alien's A-file number.

Providing Additional Evidence

Generally, an email to OCC stating facts of the respondent's case without the evidence attached to the email will be insufficient for consideration by OCC. For example, if the email states, "The respondent completed high school in the United States, is married to a United States citizen, and that citizen spouse suffers from a rare kidney disease," OCC wants to see via an attachment the high school diploma, the marriage certificate, and a medical record with the diagnosis.

The evidence that the respondent wants to be considered should be attached to the email as a PDF document except where the evidentiary submission is too large to be accepted by the OPLA-PD-DEN-OCC email.

If the supporting documentation is not lengthier than 20-30 pages, PDF the attachment in the lowest resolution possible (in order to save mail server space) and attach the document to your email. If you are submitting more documents than that, send an email to the OPLA-PD-DEN-OCC box indicating that you will be mailing the supporting documentation.

Do not send your request to either the Motions Box or the Case Query Box at Denver OCC. Further, do not send the request to individual OCC attorneys. Please send all requests to the OPLA-PD-DEN-OCC e-mail box.

Each attorney must use his or her own discretion and judgment in determining what evidence to submit, however OCC has cautioned that without appropriate proof of a particular factor, they may not be able to approve a particular request.

Address the Relevant Factors

During the course of review, OCC attorneys have been instructed to focus on the factors and priorities discussed in several ICE memoranda. In the September 27, 2011 liaison meeting with the Colorado Chapter of AILA, OCC stated that in reviewing requests for PD, all 19 of the factors listed in the Morton Memorandum will be reviewed and will be weighed appropriately. OCC has indicated that a request for PD that includes bullet-points addressing each of the 19 factors as applied to the respondent will be helpful in OCC's evaluation. Additionally, at the December 12th liaison meeting, OCC stressed that an emphasis is placed on the criteria contained within *Guidance to ICE Attorneys Reviewing CBP, USCIS, and ICE Cases Pending Before the Executive Office for Immigration Review*. Therefore, consulting the factors within the "Criteria for Review" section of this guidance and addressing relevant factors may also be important.

In addition to other factors, OCC weighs its time commitment to a particular case if litigation is pursued. Thus, a critical question for OCC is whether the exercise of PD in a particular case would allow ICE to shift its resources to cases that fall within DHS' enforcement priorities.

Each attorney must use his or her own discretion and legal judgment in determining how to present a request for PD and how and whether to address the factors.

Articulate the Requested Form of Prosecutorial Discretion

Under the pilot program, the primary avenue for prosecutorial discretion will be administrative closure. OCC has informed AILA Colorado that virtually all of the cases deemed appropriate for prosecutorial discretion have been recommended for administrative closure. Generally, termination will be reserved for cases wishing to pursue adjustment of status through CIS.

Note: this is a significant change to previous Practice Advisories and Liaison minutes on this point, which stated other alternatives, including termination.

CIS Liaison Note: Per the September 7, 2011 Denver CIS liaison meeting minutes, requests that CIS reopen previously denied I-485s in cases where proceedings have been terminated will be entertained on a case by case basis. AILA members should submit a request in writing to the attention of the Field Office Director. The request should explain why Denver CIS' initial decision was erroneous, thus warranting reopening the I-485 instead of requiring a new application and fee.

Requests for Multiple Respondents in Consolidated Cases

In general, consolidated cases involving multiple respondents will be treated as a whole. OCC has indicated that, where they are likely to reach disparate conclusions as to family members in such a case (e.g., one respondent has significant adverse factors, while the rest only exhibit positive factors), the attorney may wish to specify different requests for different family members. If so, a motion to sever may be necessary concurrent with any motion following a favorable exercise of prosecutorial discretion from OCC.

Process by which Represented Respondents will Receive OCC Notification of Option to Administratively Close Case

Following a decision by a top level supervisor at OCC Denver to recommend a case for prosecutorial discretion, security checks of the respondent will be completed by HSI and ERO. Additionally, the agency that initiated removal proceedings (CIS, CBP, or ERO) must be notified and consent to the decision to exercise prosecutorial discretion. Once those steps are successfully completed, a notification will be sent to respondent's counsel that the case has been deemed appropriate for administrative closure. If the respondent agrees to administrative closure, respondent's counsel will be asked to draft a Joint Motion to Administratively Close Proceedings. A stock motion will be posted to the Colorado AILA list serve. OCC is requesting that counsel format the motion specific to the respondent's and counsel's identifying information but make absolutely no other changes to the stock motion. Counsel will sign and return the motion to OCC for signature and submission to court.

Process by which Unrepresented Respondents will Receive OCC Notification of Option to Administratively Close Case

This process has not yet been finalized. There is discussion about the possibility of notifying non-represented respondents of the option to administratively close their case at a future master calendar hearing.

Notification to OCC of Cases Where Respondent Does Not Desire Administrative Closure

Since tremendous resources are being utilized to run security clearances and confer with the referring agency prior to a case being recommended for prosecutorial discretion, OCC requests that counsel notify OCC in all cases where it is known that prosecutorial discretion in the form of administrative closure or termination is not desired. Therefore, if AILA attorneys have a case where they are confident the respondent does not desire administrative closure or termination, an email to the OPLA-PD-DEN-OCC box should be sent with the respondent's A number and a brief statement that the respondent does not desire administrative closure or termination.

Consequences of Rejecting Offer for Prosecutorial Discretion

In general, OCC has described this process as offering respondents "one bite at the apple" of prosecutorial discretion. If the resources are expended now to complete the security checks, consult with the referring agency, and offer administrative closure and the respondent turns down the offer, OCC may be reluctant to consider future requests for prosecutorial discretion in the case. Certainly, requests for future prosecutorial discretion will be considered and new evidence weighed but the position of OCC is that the previous rejection of the offer for prosecutorial discretion may be viewed as a negative factor.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR)

Contact Bryony Heise, AILA Colorado-EOIR liaison, with any EOIR-related questions/concerns at bryony@immigrationdenver.com.

EOIR Non-Detained Docket Hearings Rescheduled in Denver and Baltimore

In order to effectuate the ICE PD pilot project in Denver and Baltimore, EOIR has essentially cleared the non-detained dockets in the Denver and Baltimore Immigration Courts for the period between December 4, 2011 and January 13, 2012. During this time, ICE will engage in the

focused review of pending cases. EOIR has re-scheduled all Denver and Baltimore non-detained cases that fall within the pilot project period. In Denver, cases have been re-scheduled to early 2014. Respondents whose cases have been re-scheduled due to the pilot project have been mailed hearing notices along with an advisory regarding requests to advance hearing dates. Please note: EOIR expects that these 2014 dates are only “place holders” and cases will likely be plugged back into earlier dates once the docket is opened up as a result of the PD review.

Motions to EOIR

Joint Motions to Administratively Close or Terminate: See above for OCC procedure in contacting represented individuals when their case has been recommended for prosecutorial discretion. Also see above for procedure when counsel *chooses to join in the motion*.

If individual counsel *chooses NOT to join in the motion*, however, then the Immigration Judge ought to consider the motion as opposed, and rule accordingly. Under current law, a case cannot be administratively closed if both parties do not agree to the closure. *Matter of Gutierrez*, 21 I&N Dec. 479, 480 (1996).

Additionally, ICE attorneys may agree to the administrative closure for an asylum applicant if the respondent jointly requests administrative closure from the immigration judge. Upon the filing of this joint request, however, the asylum clock will stop per 8 CFR § 208.7(a)(2).

Note: If the respondent joins in a motion to administratively close a case, counsel should consider whether their client will be eligible for an employment authorization document (EAD). EOIR has stated that once a case is administratively closed by the Immigration Judge, the court cannot accept an application for relief. Therefore, if a respondent wants to administratively close his/her case, but an application for relief has not yet been filed with the court, it is advisable to get that application filed (after having been properly fee'd in), BEFORE filing the joint motion for administrative closure. This will allow the respondent to apply for an EAD.

Denver EOIR has indicated that it will be keeping track of cases in which the Immigration Judge grants a joint motion to administratively close, resulting from an exercise of prosecutorial discretion. EOIR will share these numbers with AILA at the next liaison meeting.

Motions to Advance Court Hearing: The Denver Immigration Court has indicated that any requests to advance the hearing date from the date provided in the notices being sent out should be made **by written motion** and indicate the reasons for the request (e.g. imminent eligibility for relief, a health crisis necessitating immediate action by the Immigration Judge, or other emergent situation of similar gravity) as well as the adverse consequences if the request is not granted. **All requests should be filed with a cover page labeled “Motion to Advance,” and should comply with the deadlines and requirements for filing**, established in the Immigration Court Practice Manual, available at www.justice.gov/eoir/.³

³ See Notice from Alec Revelle, Denver Court Administrator, *available at* AILA Doc. No. 11120169.

Asylum Applications and the One Year Filing Deadline: Since defensive asylum applications must be filed in open court at a master calendar hearing (see Chapter 3.1(b)(iii)(a) of the Immigration Court Practice Manual), the respondent may either file a Motion to Advance the Hearing Date, or if the one year filing deadline falls during the six week pilot program, counsel should contact Alec Revelle, Court Administrator at Denver EOIR, directly to request that a master hearing be scheduled at the GEO detention facility, in order to allow the respondent, through counsel, to submit the asylum application within the requisite one year. Denver EOIR is working with the GEO detention facility in Aurora, CO to iron out issues regarding allowing respondents from the non-detained docket into the facility to attend a MC hearing, for the purposes of filing an asylum application, or alternatively to consider the possibility of a telephonic appearance at such a master.

Asylum Clock Issues: Please note that the asylum clock cannot start until the asylum application is filed and accepted by the immigration judge at a hearing. That being said, for cases in which the asylum clock is already running, and the hearing was rescheduled due to the PD pilot program, EOIR has assured AILA that the asylum adjudications clock will be appropriately coded to show a court-related reason for the adjournment, and will therefore continue to run. OPPM 11-02, The Asylum Clock, VI (F)(2). Please contact Alec Revelle directly at Denver EOIR, with any issues related to the asylum clock during this pilot program.

Emergency Motions Filed Between December 4, 2011 and January 13, 2012: All times-sensitive motions will be duly adjudicated during this period. EOIR cannot provide specific guidance regarding detail assignments of the Denver Immigration judges.

Re-Calendering Rescheduled and Accelerated Cases: Denver EOIR expects that the PD review being performed by OCC will open up substantial space in the Denver non-detained docket. Denver EOIR expects that rescheduled cases (those set out to 2014) and cases being accelerated (as determined by OCC) will be plugged into the newly open spaces in the non-detained docket. *Additional guidance forthcoming.*

Motions to Continue (following the pilot program): *Guidance forthcoming.*

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Contact Lisa York, AILA Colorado-CIS liaison, with any CIS-related questions/concerns at lisa@lhylaw.com.

Summary of the CIS NTA memo and the Denver CIS Liaison Meeting on 12/7/11

The CIS liaison meeting on 12/7/11 was very productive. In addition to the written responses from Denver CIS, which have already been distributed to the chapter, here are the highlights from the meeting, along with a summary of the new Notice to Appear (NTA) guidance memo:

- Denver CIS is deferring to Denver ICE to develop procedures for the PD Pilot Project.
- In Denver, FDNS is not involved with the PD Pilot Project, nor involved in issuing NTAs.

- Denver CIS will be issuing NTAs pursuant to the guidance in the new NTA memo, “Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens,” PM-602-0050, November 7, 2011, (AILA InfoNet at Doc. # 11110830 (posted on 11/11/11)) (NTA memo).
- According to the new NTA memo, CIS will continue to issue NTAs in the following cases: I-751 Denials; I-829 Removal of Conditions on Entrepreneurs; Termination of refugee status by the District Director; NACARA section 202 adjustment denials; HRIFA adjustment denials; and asylum, NACARA section 203, and credible fear cases. CIS has statutory or regulatory authority to issue NTAs in all of these types of cases. Up until the new NTA guidance memo was issued, Denver CIS filed NTAs directly with the immigration court. It is unclear whether CIS will continue to directly file NTAs with the court or if some revised procedure will be developed in light of the PD Pilot Project and NTA memo.
- The NTA memo covers cases involving threats to public safety, criminals, and individuals engaged in fraud. National security cases are covered by separate guidance memo(s). The NTA memo does not cover cases where there is no criminal, public safety or fraud issue. Thus, unlawful presence denials, permanent bar denials, and other types of denials that do not involve fraud, crimes, or public safety issues, are not covered by the NTA memo.
- Denver CIS will not be issuing NTAs in cases that are not covered by the NTA guidance memo in the absence of further guidance from CIS HQ. At this time, Denver CIS liaison is not aware of any additional guidance from CIS HQ on this issue. However, there are rumors that CIS might be issuing additional guidance that will fill some of the gaps in the NTA guidance memo.
- In the absence of additional guidance from CIS HQ, Denver CIS will most likely not be issuing NTAs upon request. However, you can forward your request for an NTA to Mary Mischke. Please either mail your request to Mary Mischke, Field Office Director, or fax your request to 720-852-6838. The NTA memo states that a non-citizen may request NTA issuance to renew an application for adjustment of status or in certain cases a denied N-400. The request must be made in writing. However, CIS retains the discretion to deny a request and CIS should consider ICE actions and determinations when making an NTA issuance decision.
- Denver CIS have raised concerns with CIS HQ regarding the NTA memo. Colorado AILA CIS Liaison raised the similar concerns at the liaison meeting.
- ***Fraud Cases:*** CIS will issue NTAs in fraud cases when a Statement of Findings (SOF) substantiating fraud is part of the record. FDNS conducts the fraud investigation and issues the SOF. If a criminal investigation is conducted and fraud is found, and a criminal prosecution is initiated, then ICE will determine whether an NTA will be issued.

- ***Criminal Cases:*** the NTA memo distinguishes between egregious public safety cases (EPS) and non-egregious public safety criminal cases (non-EPS). In both types of cases, ICE will make the determination about whether to issue an NTA based on the prosecutorial discretion guidelines. In EPS cases, CIS will suspend adjudication of the case for 60 days while ICE decides whether to issue an NTA. ICE may issue an NTA or decline to issue an NTA, at which time CIS can resume adjudication of the case. If the case is approvable, CIS will consult with ICE prior to adjudication. CIS will inform ICE of the decision in the case. In non-EPS cases, CIS will complete adjudication of the case and then refer it to ICE to determine if an NTA will be issued. CIS will not issue an NTA if ICE declines to issue an NTA.
- ***NSEERS Cases:*** CIS will refer all cases in which an application is denied based on an NSEERS violation to ICE for possible NTA issuance.
- ***N-400 cases involving non-EPS crimes*** when the applicant is deportable but remains eligible to naturalize: the CIS ISO makes a written recommendation on the issuance of an NTA based on the totality of the circumstances including such factors as: severity of the crime, time since the crime was committed, other criminal conduct, reformation, immigration history including method of entry, length of presence in the US, and prior immigration violations, and contributions to society including pursuit of educations and military service. Then the N-400 NTA review board makes the final determination on NTA issuance. In Denver, the review board has not yet been established. It will probably include Mary Mischke, Denver CIS District Director; Doug Bow, Denver CIS District Counsel; someone from ICE; and possibly Officer Sondag, Denver CIS Senior ISO. If the panel can't agree on whether to issue an NTA, then the matter should be referred to the CIS Office of Chief Counsel at HQ.
- The NTA memo states that CIS will receive notice from ICE before a ICE attorney exercises prosecutorial discretion and dismisses, suspends, or closes a case.
- Denver CIS stated that the new NTA guidance memo substantially changes the way Denver CIS adjudicates cases. Denver CIS also stated that other District Offices throughout the country may not be as impacted by the memo because some offices have already been following similar procedures.
- When Denver CIS issues a denial, they are not issuing voluntary departure orders. **If any member receives a denial containing voluntary departure language, please forward a redacted version to the CIS liaison committee**, so that Denver CIS may be made aware of this issue. It is the liaison committee's understanding that Denver CIS may be using an old template for the denials that is not up-to-date or accurate.

Denver CIS liaison continues to coordinate with AILA national, as well as CIS liaison in Baltimore to identify and flesh out PD issues that are CIS related. We will provide information to the chapter as it becomes available.

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Counsel for Respondent(s)
Law Firm (If Applicable)
Address 1
Address 2

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT – LOCATION

_____	)	NON-DETAINED
In the Matter of:)	
)	
John Smith	)	File No(s).: A000 000 000
Jane Smith	)	A111 111 111
)	
In Removal Proceedings)	
_____)	

JOINT MOTION TO ADMINISTRATIVELY CLOSE PROCEEDINGS

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT – LOCATION

_____	)	DETAINED / NON-DETAINED
In the Matter of:)	
)	
John Smith	)	File No(s): A000 000 000
Jane Smith	)	A111 111 111
)	
In Removal Proceedings	)	Master Calendar: Month 00, 20--
_____	)	Immigration Judge: Last Name

JOINT MOTION TO ADMINISTRATIVELY CLOSE PROCEEDINGS

The U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (Department), and the respondent(s), by and through their respective undersigned counsel, jointly move the Immigration Judge to administratively close the instant proceedings in the above-captioned matter(s).

As the Board of Immigration Appeals has explained, administrative closure is “merely an administrative convenience” that “allows the removal of cases from the immigration judge’s calendar,” but “does not result in a final order.” *Matter of Lopez-Barrios*, 20 I&N Dec. 203, 204 (BIA 1990). Moreover, both parties—i.e., the Department and respondent—must consent to administrative closure. *See id.* At any time when either party wishes to place a matter back on the docket for active consideration, that party may file a motion to recalendar. *See, e.g., Matter of Wang*, 23 I&N Dec. 924, 925 (BIA 2006); *Matter of Cervantes-Torres*, 21 I&N Dec. 351, 352 (BIA 1996).

In the instant matter, the parties have concluded that it is in their best interest that proceedings be administratively closed. Should either party wish to withdraw their consent to

administrative closure, that party will file a motion to recalendar with this Court. Moreover, notwithstanding any administrative closure of these proceedings, the respondent(s) acknowledge(s) his/her/their obligation to timely notify the Department and Immigration Court of each change of address and new address, consistent with section 265 of the Immigration and Nationality Act and 8 C.F.R. § 1003.15(d)(2).

Based upon the foregoing, the parties request that the Immigration Judge grant this joint motion to administratively close proceedings. Attached, for the Immigration Judge's convenience, is a proposed order relating to this motion.

Respectfully submitted,

On behalf of
U.S. Immigration and Customs Enforcement,
U.S. Department of Homeland Security

Name #3
Assistant Chief Counsel/Senior Attorney
1234 Center Street
Anytown, ST 99999

Date: _____

On behalf of the respondent(s),

Counsel for Respondent(s)
Law Firm (If Applicable)
Address 1
Address 2

Date: _____

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT – LOCATION

_____	)	NON-DETAINED
In the Matter of:)	
John Smith)	
Jane Smith	)	File No(s): A000 000 000
	)	A111 111 111
In Removal Proceedings)	
_____	)	Master Calendar: Month 00, 20--
	)	Immigration Judge: Last Name

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the Joint Motion to Administratively Close Proceedings, the Court states the following:

1. The parties have agreed to administrative closure of the instant proceedings.
2. Other: _____.

THEREFORE, it is HEREBY ORDERED that the motion be:

☐ **GRANTED.** These proceedings are hereby administratively closed upon the joint consent and motion of the parties. Proceedings may be recalendared at any time upon either party's motion, and this order does not constitute a final judgment rendered on the merits of these proceedings.

☐ **DENIED.** _____

Immigration Judge

Date: _____

Certificate of Service

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Date: _____ By: Court Staff _____