



HOT TOPICS: PROSECUTORIAL DISCRETION IS BACK

Erica Schommer
St. Mary's University School of Law
Immigration & Human Rights Clinic

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MATTER OF A-B- III, 28 I&N DEC. 307 (A.G. 2021)

- Vacates *A-B- I*, 27 I&N Dec. 316 (A.G. 2018) and *A-B- II*, 28 I&N Dec. 199 (A.G. 2021)
- Reinstates *Matter of A-R-C-G-*, 26 I&N Dec. 288 (BIA 2014) (granting asylum based on membership in PSG of “married women in Guatemala who are unable to leave their relationship”)
- Commits to issuing regulations regarding dv cases

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MATTER OF L-E-A-III, 28 I&N DEC. 304 (A.G. 2021)

- Vacates *L-E-A- II*, 27 I&N Dec. 581 (A.G. 2019)
- Reinstates *L-E-A- I*, 27 I. & N. Dec. 40 (BIA 2017)
- Announces forthcoming regulations regarding family-based PSGs

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PD UNDER BIDEN ADMINISTRATION

- Executive Order issued by President Biden on 1/21/2021
- Acting DHS Secretary David Pekoske issued a memo on January 20, 2021, which imposed a 100-day moratorium on removals - later enjoined after the State of Texas and others sued
- Tae Johnson, Acting Director of ICE, issued interim PD guidance on 2/18/2021
- John D. Trasviña, Principal Legal Advisor, ICE, issued PD Memo on 5/27/2021
- ICE directive regarding victim-centered-approach issued on 8/10/2021
- DHS Secretary Mayorkas issued a memo on 9/29/2021, which takes effect on 11/29/2021

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NEW ICE ENFORCEMENT MEMO

- Johnson memo instructs that its interim priorities “shall be applied” to all civil enforcement and removal decisions including:
 - Whether to issue a detainer, or pick someone up on a detainer;
 - Whether to issue, reissue, serve, file, or cancel a Notice to Appear;
 - Whether to focus resources only on administrative violations or conduct;
 - Whether to stop, question, or arrest a noncitizen for immigration violations;
 - Whether to detain or release from custody subject to conditions;
 - Whether to grant deferred action or parole; and
 - When and under what circumstances to execute final orders of removal.
- Memo also states ICE has “the responsibility to ensure that eligible noncitizens are able to pursue relief from removal”

ICE’S NEW ENFORCEMENT PRIORITIES

Johnson memo outlines three categories of presumed priorities:

Category 1: National Security

Category 2: Border Security

Category 3: Public Safety

Also available as part of the eCourse

[2021 A Practical Guide to Immigration Removal Proceedings eConference](#)

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