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ICE WHO WE ARE OFFICE OF THE PRINCIPAL LEGAL ADVISOR

Prosecutorial Discretion and the ICE Office of the Principal Legal Advisor (OPLA)

Prosecutorial Discretion (PD) is the longstanding authority of an agency charged with enforcing the law to decide where to focus its resources and whether or how to enforce, or not to enforce, the law against an individual. As the Department of Homeland Security's (DHS) representative before the Executive Office for Immigration Review (EOIR) in exclusion, deportation, and removal proceedings, OPLA relies upon PD and other factors to guide its decision making.

OPLA attorneys may exercise PD in proceedings before EOIR, subject to direction from their Chief Counsel and applicable guidance from DHS. In exercising such discretion, OPLA attorneys adhere to the enduring principles that apply to all of their activities: upholding the rule of law; discharging duties ethically in accordance with the law and professional standards of conduct; following the guidelines and strategic directives of senior leadership; and exercising considered judgment and doing justice in individual cases.

In the context of OPLA's role in the administration and enforcement of the immigration laws, PD arises at different stages of the removal process, takes different forms, and applies to a variety of determinations, including, for instance, agreeing to continuances, stipulating to bond, joining in noncitizen motions to the immigration court, and agreeing to dismiss cases pursuant to 8 C.F.R. § 1239.2(c).

OPLA exercises PD on a case-by-case basis considering the totality of the circumstances. In determining whether to exercise PD, OPLA may consider such factors as:

- The noncitizen's length of residence in the United States;

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- The noncitizen's or the noncitizen's family's service in the U.S. military;
- The noncitizen's family or community ties in the United States;
- Circumstances of the noncitizen's arrival in the United States and the manner of his or her entry;
- The noncitizen's prior immigration history;
- The noncitizen's work and education history in the United States;
- The noncitizen's status as a victim, witness, or plaintiff in civil or criminal proceedings; and
- Compelling humanitarian factors present in the noncitizen's case (including on the part of the noncitizen's close family members), including:
 - Serious medical condition,
 - Age,
 - Pregnancy,
 - Status as a child, and
 - Status as a primary caregiver of a seriously ill relative in the United States.

Where a noncitizen has been charged or convicted of a crime in the United States or abroad, OPLA attorneys may also consider such factors as:

- The extensiveness, seriousness, and recency of the criminal activity;
- Indicia of rehabilitation;
- Extenuating circumstances involving the offense or conviction;
- The time and length of the sentence imposed, if any;
- The length of time since the offense or conviction occurred; and
- Whether subsequent criminal activity supports a determination that the noncitizen poses a threat to public safety.

These factors are not intended to be dispositive or exhaustive, as PD is inherently case-specific. The more forthcoming a noncitizen is in submitting information related to his or her request for PD (including information detailing both the equities in the case and potentially negative considerations), the more readily OPLA attorneys will be able to assess the totality of the circumstances and make informed discretionary judgments.

Submitting a PD Request to OPLA

While OPLA attorneys routinely examine the cases to which they are assigned to determine whether the exercise of PD may be warranted, generally speaking, a noncitizen should make an affirmative request to OPLA if he or she seeks to receive a favorable exercise of PD. To ensure noncitizens understand this process, OPLA works with the ICE Office of Partnership and Engagement to schedule virtual town halls around the country for stakeholders to discuss OPLA's PD guidance, address questions, and provide local standard operating procedures (SOPs) for noncitizens to submit requests for PD to each OPLA field location.

The SOPs developed for each OPLA field location will include a local email address for submission of PD requests. The SOPs will also include details about what should be included in a PD submission, including:

- The type of PD sought (joint motion to dismiss, continuance, stipulation for relief, bond reduction, etc.);
- The reason(s) why PD may be warranted; and

- Supporting documentation to aid in evaluating the case, including a comprehensive list of any criminal history with arrests and convictions.

The OPLA field location will convey its position on any PD request back to the requester. If the Chief Counsel intends to agree to the PD request, depending on the type of PD exercised and where appropriate, the field location may provide the requester a motion to sign for filing.

For unrepresented noncitizens, OPLA will not require any prescribed format for PD requests. OPLA welcomes assistance from the private immigration bar and pro bono groups to unrepresented noncitizens in the submission of PD requests.

There is no application fee associated with requesting that OPLA consider PD in a specific case. Attempts to charge an application fee for this purpose could be an indicator of an unfair business practice. An individual can report evidence of unfair business practices to local licensing authorities, including the relevant state bar.

OPLA Field Location Map and PD Email Addresses:

Below, please find a listing of the relevant email addresses that can be used when submitting a PD request to OPLA. Some OPLA field locations may prefer to receive PD requests via ICE eService. Both attorneys and pro se noncitizens can register for ICE eService here. If you have questions about how to submit a PD request, please contact your local OPLA office.

Main Field Location	Sub-Office	Email Address for PD Requests
Atlanta		ICE-OPLA-ATL-PD@ice.dhs.gov
	Charlotte	ICE-OPLA-ATL-CLT-PD@ice.dhs.gov
	Stewart	ICE-OPLA-ATL-SDC-PD@ice.dhs.gov
	Summit	ICE-OPLA-ATL-SFB-PD@ice.dhs.gov
Baltimore		ICE-OPLA-BAL-PD@ice.dhs.gov
Boston		ICE-OPLA-BOS-PD@ice.dhs.gov
	Hartford	ICE-OPLA-BOS-HAR-PD@ice.dhs.gov
Buffalo		ICE-OPLA-BUF-PD@ice.dhs.gov
	Batavia	ICE-OPLA-BUF-BTV-PD@ice.dhs.gov
Chicago		ICE-OPLA-CHI-PD@ice.dhs.gov
	Kansas City	ICE-OPLA-CHI-KAN-PD@ice.dhs.gov
Dallas		ICE-OPLA-DAL-PD@ice.dhs.gov

Main Field Location	Sub-Office	Email Address for PD Requests
Denver		ICE-OPLA-DEN-PD@ice.dhs.gov
	Salt Lake City	ICE-OPLA-DEN-SLC-PD@ice.dhs.gov
Detroit		ICE-OPLA-DET-PD@ice.dhs.gov
	Cleveland	ICE-OPLA-DET-CLE-PD@ice.dhs.gov
El Paso		ICE-OPLA-ELP-PD@ice.dhs.gov
Honolulu		ICE-OPLA-HHW-PD@ice.dhs.gov
Houston		ICE-OPLA-HOU-PD@ice.dhs.gov
	Conroe	ICE-OPLA-HOU-CON-PD@ice.dhs.gov
Los Angeles		ICE-OPLA-LOS-PD@ice.dhs.gov
	Adelanto	ICE-OPLA-LOS-ADE-PD@ice.dhs.gov
	Las Vegas	ICE-OPLA-LOS-LVG-PD@ice.dhs.gov
	North Los Angeles	ICE-OPLA-LOS-NLA-PD@ice.dhs.gov
	Van Nuys	ICE-OPLA-LOS-VNS-PD@ice.dhs.gov
Miami		ICE-OPLA-MIA-PD@ice.dhs.gov
	Broward Transitional Center	ICE-OPLA-MIA-BTC-PD@ice.dhs.gov
	Krome	ICE-OPLA-MIA-KSPC-PD@ice.dhs.gov
	Puerto Rico & the U.S. Virgin Islands	ICE-OPLA-MIA-PR-VI-PD@ice.dhs.gov
Minneapolis-St. Paul		ICE-OPLA-SPM-PD@ice.dhs.gov
New Orleans		ICE-OPLA-NOL-PD@ice.dhs.gov
	Jena	ICE-OPLA-NOL-JNA-PD@ice.dhs.gov
	Memphis	ICE-OPLA-NOL-MEM-PD@ice.dhs.gov
	Oakdale	ICE-OPLA-NOL-OAK-PD@ice.dhs.gov

Main Field Location	Sub-Office	Email Address for PD Requests
New York City		ICE-OPLA-NYC-PD@ice.dhs.gov
	Hudson Valley	ICE-OPLA-NYC-IHV-PD@ice.dhs.gov
	Varick	ICE-OPLA-NYC-VRK-PD@ice.dhs.gov
Newark		ICE-OPLA-NEW-PD@ice.dhs.gov
	Elizabeth	ICE-OPLA-NEW-ELZ-PD@ice.dhs.gov
Orlando		ICE-OPLA-ORL-PD@ice.dhs.gov
Philadelphia		ICE-OPLA-PHI-PD@ice.dhs.gov
	York	ICE-OPLA-PHI-YRK-PD@ice.dhs.gov
Phoenix		ICE-OPLA-PHO-PD@ice.dhs.gov
	Eloy	ICE-OPLA-PHO-EDC-PD@ice.dhs.gov
	Florence	ICE-OPLA-PHO-FLO-PD@ice.dhs.gov
	Tucson	ICE-OPLA-PHO-TUC-PD@ice.dhs.gov
San Antonio		ICE-OPLA-SNA-PD@ice.dhs.gov
	Harlingen	ICE-OPLA-SNA-HLG-PD@ice.dhs.gov
	Pearsall	ICE-OPLA-SNA-STIPC-PD@ice.dhs.gov
	Port Isabel	ICE-OPLA-SNA-PIDC-PD@ice.dhs.gov
San Diego		ICE-OPLA-SND-PD@ice.dhs.gov
	El Centro	ICE-OPLA-SND-ELC-PD@ice.dhs.gov
	Otay Mesa	ICE-OPLA-SND-OTM-PD@ice.dhs.gov

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Main Field Location	Sub-Office	Email Address for PD Requests
San Francisco		ICE-OPLA-SFR-PD@ice.dhs.gov
	Sacramento	ICE-OPLA-SFR-SAC-PD@ice.dhs.gov
Seattle		ICE-OPLA-SEA-PD@ice.dhs.gov
	Portland	ICE-OPLA-SEA-POO-PD@ice.dhs.gov
	Tacoma	ICE-OPLA-SEA-TAC-PD@ice.dhs.gov
Washington, D.C.		ICE-OPLA-WAS-PD@ice.dhs.gov

Additional Information and Resources

- *Interim Guidance: Civil Immigration Enforcement and Removal Priorities* (Feb. 18, 2021).
- *Interim Guidance to OPLA Attorneys Regarding Civil Immigration Enforcement and Removal Policies and Priorities* (May 27, 2021) (redacted for public release).
- ICE ERO Case Review Site for Individuals in Custody and/or with Final Orders of Removal.

Updated: 06/11/2021

ADDRESS

 500 12th St SW
Washington, DC 20536

 Report Crimes: Call [1-866-DHS-2-ICE](tel:1-866-DHS-2-ICE)

RELATED INFORMATION

[Claims Under the Federal Tort Claims Act](#)

[Tool Kit for Prosecutors](#)

 [Interim Guidance to OPLA Attorneys Regarding Civil Immigration Enforcement and Removal Policies and Priorities](#)

CONTACT US


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