**Questions Regarding the Doyle Memo**

**Answers are in blue below**

1. I have a question for Kerry Doyle and Paul Hunker when they do the presentation: Are they planning to file Motions to Terminate on the cases that were Admin Closed under the Obama Admin? General rule is to give priority to those cases that are actively pending and starting with the Individual Hearings & MCH coming up. Right now, administratively closed cases are very low priority, but you can make that request if you would like.
2. Are cases with weak relief in Immigration Court able to be dismissed even with no outside collateral relief available to the Respondent? Yes, if the case is a non-enforcement priority case as outlined in the Mayorkas & Doyle Memos.
3. If the ACC refuses to join a motion to dismiss/admin close/etc., is there a mechanism to have a second review of the PD request? Yes, but note that there is no right of review. Make your request to Judson Davis with supporting documentation.
4. Would OCC join to dismiss on a case simply because someone not being a threat to national security, not being a threat to public safety, nor a threat to border security (meaning persons arriving in the U.S. 11/1/2020 or before) EWI or after that date with admission? Yes, “non-priority is non-priority”.
5. Would OCC join to dismiss where a parent(s) in removal proceedings has children where some or all are USC or LPR? Would the answer change if any or all children obtained LPR status via SIJS? Yes, if it’s not a priority enforcement case.
6. Would OCC join to dismiss where a person in removal proceeding has moderate - heavy medical conditions. Some examples: pacemaker, blind, severe blood pressure, or diabetes Someone in removal proceedings with arrests but no convictions. Yes, we might. “Paint us a picture” of your case. Mitigating factors will make your case, but we have to be presented with those factors. OCC will consider joining in enforcement priority cases where there are mitigating circumstances.
7. I had a question related to how "threat to border security" will be applied to UIC per the PD memo. My organization provides legal services to detained and released UIC. Some of the UIC are now adults. We wanted to know how Dallas OPLA will interpret the memo's "threat to border security" as it relates to UIC's who crossed the border as minors, dependent on the guides, did not know how to locate the bridge in order to cross through a port of entry. Will this finding be applied if the crossing occurred when the individual was a minor but is now an adult? Will the finding be limited to those who crossed after  Nov. 1, 2020 or will it also apply to those who crossed before Nov. 1, 2020. It’s on a case-by-case basis. OPLA is more likely to join in dismissal if there is relief that can be pursued with USCIS. Strong mitigating factors are I-360 pending or approved, I-589, etc.
8. Can you please ask about admin close/termination for clients caught crossing the border, but prior to the 11/2020 cut off date - am I correct in understanding that these cases are not a priority and will be treated similarly to clients who crossed the border prior to 11/2020 and were NOT caught? Yes.
9. For cases where someone was caught crossing after 11/2020, what are some circumstances in which PD might still be granted? If there are mitigating circumstances.
10. Will there be standard guidelines to follow or will each PD grant be on a case-by-case basis? On a case-by-case basis. Currently reviewing cases that are about to come up and then moving beyond those.
11. How will DWIs be categorized, both recent and older ones as well as convictions vs arrest/pending cases? No bright line rule here. Generally, help OCC by providing proofs of rehabilitation, etc. An old DWI & proof of rehab will likely get PD versus a more recent DWI conviction.
12. Should Respondent's counsel affirmatively file PD requests? Or will OPLA be going through cases and doing independent reviews and then reaching out? Both. Dallas OPLA SOP on webpage. If case is assigned to an attorney, then reach out to that attorney.
13. Is there a specific template OPLA wants us to use, and, if so, will they provide us that template? Yes, it will be shared with SOP. Reatta Forte will provide those.
14. Any idea on how long this memo is expected to remain in effect as is? Can we expect any changes or brand new memos soon? This is the permanent PD Memo, however Ms. Doyle is looking for feedback to see where it might need to be tweaked.
15. What needs to be included in PD requests and when should they be requested? See webpage guidance. Generally, subject line on email needs to have date/type of hearing and body of email should include arrests, convictions, type of PD sought, is it an enforcement priority, and mitigating factors.
16. Any specific way former/current DACA and TPS Respondents will be treated/considered? Or people with lawful entries who would otherwise be AOS eligible, but just don't have the spouse or child yet? Case-by-case review, but if it’s DACA or TPS probably not an enforcement priority.
17. Any definitive convictions and/or pending crimes that will be considered a threat to public safety? Any that definitively won't be? Case-by-case review so make your case.
18. Will ICE consider granting DED on dismissed cases in order to allow for EADs? Or, is there something that can be done to maintain an EAD? Ask USCIS. OPLA has no authority to issue EADs. “We are communicating with USCIS on this issue.”
19. Can Respondent/Counsel oppose the termination in order to keep the Respondent EAD eligible? Sure.
20. Will OPLA consider Admin Closing for a period of time (2-3 years) in order for the Respondent to be eligible to renew their EAD? We prefer dismissal, but will consider Admin Closing if there is other relief available.
21. When making a determination as to whether a non citizen poses a 'Threat to Border Security', is it accurate that no distinction is to be made between those who attempt to sneak into the United States without attempting any contact with authorities and those who present themselves to Border Patrol officers at a point of entry seeking asylum without entry documents?
22. The Memo appears to state that OPLA officers are to unilaterally terminate proceedings for those determined to be 'not priorities for enforcement'. How would a non citizen who has been determined to be a non priority make his/her desire to have his/her case heard by an immigration an immigration Judge? In other words, what if they don't want out?
23. The Memo appears to authorize OPLA officers to make decisions on NTAs issued by other officers. As the memo states, this goes counter to the previous practice of insisting the officer who made the original determination (or at minimum the same agency who made the original determination) be the one to make any amendments. If OPLA can cancel NTAs issued by other agencies under the auspices of Prosecutorial Discretion, will OPLA be permitted to make other adjustments to determinations made by other agencies. For example, the decision to grant parole? No. There is a presumption that any NTA issued after the Mayorkas Memo is in-line with the enforcement priorities. OPLA has authority to request NTA not be filed and canceled (ERO would have to cancel the NTA). Parole is not within the authority of OPLA.
24. I-589 dismissed in court, is there any bar or obstacle to filing the I-589 with USCIS? Is there an exception to the 1-year rule or are we going to end up back in court again? We don’t see an issue with filing the I-589 again with USCIS.

Here are some general notes taken that were outside of the specific questions submitted:

* In cases where there is a statutory right to IJ review (USCIS denied AOS or I-589 referral) they will not unilaterally move to dismiss.
* If the case can lead to relief, OPLA encourages you to seek that relief versus termination.
* If you have a request for PD pending, do NOT resubmit your request.
* If you had a request for PD denied pre-Memo you can resubmit your request.
* Request PD as early as possible, do not wait until right before the hearing or after the hearing.
* TA can make a PD determination but prefer to be asked before the day of the hearing.
* “Floating” NTAs are not a priority, but they’ll get to them. NTA issued and filed but no hearing set = floating NTA.

**Principle Legal Advisor Doyle**:

* Memo empowers staff attorneys to dismiss cases
* Memo provides durable solutions
* Memo promotes weighing pros/cons & mitigating factors
* Non-priority cases will be have unilateral move to dismiss. No managerial review.
* Priority cases might get PD in a different manner – stipulations, etc. Can request dismissal if there mitigating factors. These cases require managerial review.
* PD is not a right or an application. It is solely within the prosecutor’s discretion.
* If your case is a priority case or has issues, be upfront about it and state your case for PD.
* You have right to ask for review of priority determination and it will have managerial review.

Non-priority cases:

* File motions proactively
* Be thorough on request made to OCC
* If you want Admin Closure – “make your case” - wanting an EAD is not enough of a justification for Admin Closure. But, single parent who is going to lose their insurance coverage and child has medical needs may get you what you want.
* There are ongoing communications with USCIS regarding the EAD issue.
* Defensive I-589 can be refiled, but not clear if USCIS filed will fall under the “last filed, first out” policy. (It’s under discussion)
* They’ve reminded EOIR that respondent has 10-days to respond to Motion to Dismiss.
* Pro Se – OPLA staff have been encourage to allow them a continuance to get counsel.
* Bond/Detained cases are being reviewed for PD
* Motions to Reopen – focusing on eliminating cases right now – open to conversation about this.