



U.S. Immigration and Customs Enforcement

OPLA Minneapolis/St. Paul Standard Operating Procedures for Stakeholders for Implementation of Prosecutorial Discretion, April 14, 2022

This memorandum briefly outlines OPLA Minneapolis/St. Paul's¹ standard operating procedure (SOP) implementing Principal Legal Advisor (PLA) Kerry Doyle's memorandum entitled, *Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion* ([Doyle Memorandum](#)) dated April 3, 2022. On April 25, 2022, the Doyle Memorandum will take effect, and all prior OPLA prosecutorial discretion (PD) guidance will be rescinded.

All requests for PD to be considered by OPLA Minneapolis/St. Paul are to be sent to the PD mailbox (ICE-OPLA-SPM-PD@ice.dhs.gov).² The PD mailbox is monitored exclusively by the Chief Counsel or Deputy Chief Counsel (management) throughout each workday.

General questions regarding PD are to be sent to the ICE Community Relations Officer, who will provide a response following consultation with the Chief Counsel. Case-specific PD requests are to be sent to the OPLA Minneapolis/St. Paul PD mailbox.

Affirmative requests for PD should be emailed to the PD mailbox above. If the decision is to exercise PD in such cases, the requestor will be sent an email from the ACC or manager attesting to non-opposition to a motion to dismiss in the exercise of DHS's PD authority. If the decision is to decline to exercise PD, the requestor will be informed of the decision by email or telephone.

Unrepresented noncitizens who appear eligible for a form of PD will be identified through A-file review prior to his or her master calendar or individual hearing. At the hearing, the Assistant Chief Counsel (ACC) will inform the immigration judge (IJ) that the case is amenable to PD;

¹ The OPLA Minneapolis/St. Paul field location includes offices in both Minneapolis, St. Paul and Omaha, Nebraska.

² Those engaging in email exchange with OPLA's PD email addresses acknowledge and agree to a limited waiver of data security that shall only attach to the electronic service and transmittal of documents that may contain sensitive personally identifiable information (SPII). Senders to the email addresses should be aware, however, that ICE cannot ensure that information transmitted outside of the DHS network will remain secure during transmission. This waiver applies to both your receipt of information transmitted by ICE and the transmission of information from you to ICE. Please also be advised that (1) from the time information leaves the DHS network until receipt by your email system and (2) during the time that information is being transmitted by your email system to the DHS network, the information contained within the email, including but not limited to SPII, is not necessarily secure against interception. You are strongly encouraged to encrypt any documents containing SPII prior to sending it to OPLA via email and to send passwords under separate email. By participating in use of the PD email addresses, you expressly agree to assume the risk that SPII may be intercepted during transmission to or from the DHS network and, as a result, be obtained by or disclosed to third-parties.

that dismissal of proceedings is appropriate; and that the noncitizen should be given an opportunity to seek counsel and consider whether to agree to dismissal.³

All OPLA attorneys will review cases on his or her docket and will affirmatively file motions to dismiss in non-priority cases, following a criminal background check. ACCs will not affirmatively file a motion to dismiss a case where the noncitizen has a statutory right to review an application or petition by an IJ unless the noncitizen agrees. While the preferred action in exercising discretion in non-priority cases is dismissal, the ACC will also evaluate a noncitizen's request for administrative closure in the alternative and will generally agree.

ACCs may exercise discretion in their assigned cases with respect to stipulating to the relief sought, dismissing proceedings, agreeing to administrative closure, and/or waiving appeal. Whether an ACC will appear in Immigration Court to represent DHS on any given case will be discussed and approved beforehand by management, consistent with any guidance implemented for an attorney's nonappearance.

³ In the event the noncitizen wishes administrative closure instead of dismissal, the ACC will acquiesce.