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# NOTICE

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## **Department of Justice and the Department of Homeland Security Announce Safeguards for Unrepresented Immigration Detainees with Serious Mental Disorders or Conditions**

WASHINGTON -- The Department of Justice (DOJ) and the Department of Homeland Security (DHS) will issue today a new nationwide policy for unrepresented immigration detainees with serious mental disorders or conditions that may render them mentally incompetent to represent themselves in immigration proceedings.

The policy entails implementation of new procedural protections, including: conducting screening for serious mental disorders or conditions when individuals held for removal proceedings enter a U.S. Immigration and Customs Enforcement Health Service Corps (IHSC)-staffed immigration detention facility; working with non-IHSC-staffed immigration detention facilities to identify detainees with serious mental disorders or conditions in those facilities; the availability of competency hearings and independent psychiatric or psychological examinations; procedures that will make available qualified representatives to detainees who are deemed mentally incompetent to represent themselves in immigration proceedings; and bond hearings for detainees who were identified as having a serious mental disorder or condition that may render them mentally incompetent to represent themselves and have been held in immigration detention for at least six months.

If verifiable documentation, medical records or other forms of evidence provide indication of mental incompetency, Immigration Judges will convene a competency hearing to determine whether the detainee is competent to represent himself or herself in immigration proceedings. When an Immigration Judge is unable to make a determination of mental competency based upon evidence already presented, the Immigration Judge will be authorized to order an independent examination and psychiatric or psychological report. The competency examinations will be administered through a program run by the DOJ Executive Office for Immigration Review (EOIR) and performed by an independent medical professional.

EOIR will make available a qualified representative to unrepresented detainees who are deemed mentally incompetent to represent themselves in immigration proceedings. Additionally, detainees who were identified as having a serious mental disorder or condition that may render them mentally incompetent to represent themselves and who have been held in immigration detention for at least six months will also be afforded a bond hearing.

DOJ and DHS believe these new procedures will provide enhanced protections to unrepresented immigration detainees with serious mental disorders or conditions that may render them mentally incompetent to represent themselves in immigration proceedings, and will facilitate the conduct of those proceedings. The Government expects these new procedures to be fully operational on a national basis by the end of 2013.

*The Executive Office for Immigration Review (EOIR) is an agency within the Department of Justice. Under delegated authority from the Attorney General, immigration judges and the Board of Immigration Appeals interpret and adjudicate immigration cases according to United States immigration laws. EOIR's immigration judges conduct administrative court proceedings in immigration courts located throughout the nation. They determine whether foreign-born individuals -- whom the Department of Homeland Security (DHS) charges with violating immigration law -- should be ordered removed from the United States or should be granted relief from removal and be permitted to remain in this country. The Board of Immigration Appeals primarily reviews appeals of decisions by immigration judges. EOIR's Office of the Chief Administrative Hearing Officer adjudicates immigration-related employment cases. EOIR is committed to ensuring fairness in all of the cases it adjudicates.*