



Office of the Attorney General
Washington, D. C. 20530

April 11, 2017

MEMORANDUM FOR ALL FEDERAL PROSECUTORS

FROM:

THE ATTORNEY GENERAL

SUBJECT:

Renewed Commitment to Criminal Immigration Enforcement

Charging Practices

It is a high priority of the Department of Justice to establish lawfulness in our immigration system. While dramatic progress has been made at the border in recent months, much remains to be done. It is critical that our work focus on criminal cases that will further reduce illegality. Consistent and vigorous enforcement of key laws will disrupt organizations and deter unlawful conduct. I ask that you increase your efforts in this area making the following immigration offenses higher priorities. Further guidance and support of executing this priority—including an updated memorandum on charging for all criminal cases—will be forthcoming.

8 U.S.C. § 1324 (“[b]ringing in and harboring certain aliens”) and related offenses: Each District shall consider for prosecution any case involving the unlawful transportation or harboring of aliens, or any other conduct proscribed pursuant to 8 U.S.C. § 1324. If a determination must be made regarding use of finite resources, a priority should be given to those who are bringing in three or more aliens into the United States and those who are transporting or harboring three or more aliens, as well as offenses where there are aggravating circumstances, such as those involving serious bodily injury, physical or sexual assault, or the death of any person. Priority should also be given to prosecuting any offenses under section 1327 (“aiding or assisting criminal aliens to enter”) and section 1328 (“importation of aliens for immoral purposes”).

8 U.S.C. § 1325 (“[i]mproper entry by alien”): Each District shall consider for felony prosecution under 8 U.S.C. § 1325 any case where a defendant has two or more prior misdemeanor improper entry convictions or one or more prior misdemeanor improper entry convictions with aggravating circumstances, such as a felony criminal history, gang membership or affiliation, multiple prior voluntary returns, prior removal, deportation or exclusion, or other aggravating circumstances. Each District shall also consider for felony prosecution under 8 U.S.C. § 1325 any case where a defendant knowingly enters into a marriage for the purpose of evading any provision of the immigration laws.

Regarding misdemeanor violations of 8 U.S.C. § 1325, I ask that each U.S. Attorney’s Office on the Southwest Border (i.e., District of Arizona, District of New Mexico, Southern

District of California, Southern District of Texas, and Western District of Texas) work with the U.S. Department of Homeland Security and any other appropriate agency to develop a set of guidelines for prosecuting such violations. These guidelines should aim to accomplish the goal of deterring first-time improper entrants. Each District should submit its guidelines to the Office of the Deputy Attorney General by April 24, 2017.

8 U.S.C. § 1326 (“[r]eentry of removed aliens”): Each District shall consider prosecution of 8 U.S.C. § 1326 for each illegal reentrant. Priority, however, must be given to defendants who have been convicted of an aggravated felony, have any prior criminal history indicating the defendant poses a danger to public safety, have one or more administrative or criminal immigration violations, gang membership or affiliation, or where other aggravating circumstances are present.

18 U.S.C. § 1028A (“[a]ggravated identity theft”) & 18 U.S.C. § 1546 (“[f]raud and misuse of visas, permits, and other documents”): Each District shall consider, to the extent practicable, prosecution of both aggravated identity theft under Section 1028A and document fraud under Section 1546 in relation to the immigration offenses listed above.

18 U.S.C. § 111 (“[a]ssaulting, resisting, or impeding” officers): Each District shall consider, to the extent practicable, prosecution of assault, resisting, or impeding officers under Section 111, while they are engaging in the performance of their official duties in the administrative and criminal immigration context. More information on this will follow.

Sentencing Practices

At the sentencing phase of each federal case, prosecutors should seek, to the extent practicable, judicial orders of removal and a term of supervised release that is consistent with the factors set forth in 18 U.S.C. § 3553(a). I know many of you are already seeking these measures from District Courts, and I ask that you continue this effort to achieve the results consistent with this guidance.

Border Security Coordinators

In furtherance of these objectives, I also direct every District to designate a Border Security Coordinator (“Coordinator”) by close of business on April 18, 2017. These Coordinators will be responsible for:

- overseeing the investigation and prosecution of the offenses listed above;
- attending training programs with other Coordinators regarding these offenses;
- providing legal advice and training to AUSAs regarding these offenses; and
- maintaining and routinely reporting prosecution statistics related to these offenses.

Each Coordinator will be responsible for convening meetings with representatives from the Department of Homeland Security—including Immigration and Customs Enforcement, Homeland Security Investigations, U.S. Customs and Border Protection, and United States

Citizenship and Immigration Services as well as other law enforcement partners deemed necessary to accomplish this criminal immigration enforcement effort. The Coordinator will work with this group to (1) coordinate specific immigration enforcement initiatives, emphasizing those initiatives that will have the greatest impact on public safety; (2) initiate training programs; and (3) facilitate information sharing.