

EXCLUSIVE

ICE declares millions of undocumented immigrants ineligible for bond hearings

A memo from the agency's acting director instructs officers to hold immigrants who entered the country illegally "for the duration of their removal proceedings," which can take months or years.

Updated today at 3:33 p.m. EDT

By [Maria Sacchetti](#) and [Carol D. Leonnig](#)

The Trump administration has declared that immigrants who arrived in the United States illegally are no longer eligible for a bond hearing as they fight deportation proceedings in court, according to documents reviewed by The Washington Post.

In a July 8 memo, Todd M. Lyons, acting director of Immigration and Customs Enforcement, told officers that such immigrants should be detained "for the duration of their removal proceedings," which can take months or years. Lawyers say the policy will apply to millions of immigrants who crossed the U.S.-Mexico border over the past few decades, including under the Biden administration.

In the past, immigrants residing in the U.S. interior generally have been allowed to request a bond hearing before an immigration judge. But Lyons wrote that the Trump administration's departments of Homeland Security and Justice had "revisited its legal position on detention and release authorities" and determined that such immigrants "may not be released from ICE custody." In rare exceptions immigrants may be released on parole, but that decision will be up to an immigration officer, not a judge, he wrote.

The provision is based on a section of immigration law that says unauthorized immigrants "shall be detained" after their arrest, but that has historically applied to those who recently crossed the border and not longtime residents.

Lyons, who oversees the nation's 200 immigration detention facilities, wrote that the policy is expected to face legal challenges.

The sweeping new detention policy comes days after Congress passed a spending package that will allocate \$45 billion over the next four years to lock up immigrants for civil deportation proceedings. The measure will allow ICE to roughly double the nation's immigrant detention capacity to 100,000 people a day.

Since the memos were issued last week, the American Immigration Lawyers Association said members had reported that immigrants were being denied bond hearings in more than a dozen immigration courts across the United States, including in New York, Virginia, Oregon, North Carolina, Ohio and Georgia. The Department of Justice oversees the immigration courts.

“This is their way of putting in place nationwide a method of detaining even more people,” said Greg Chen, senior director of government relations for the American Immigration Lawyers Association. “It’s requiring the detention of far more people without any real review of their individual circumstances.”

ICE said in a statement that the new policy “closes a loophole” in the nation’s immigration laws and ensures that everyone who entered the United States without permission is treated equally. Homeland Security officials said officers are enforcing the “law as it was actually written to keep America safe.” Customs and Border Protection Commissioner Rodney Scott issued similar guidance last week; that agency did not respond to questions.

Immigration hawks have long argued that detaining immigrants is necessary to quickly deport those who do not qualify for asylum or another way to stay in the United States permanently. They say detaining immigrants might also discourage people from filing frivolous claims, in hopes of being released as their cases proceed in the backlogged immigration courts.

“Detention is absolutely the best way to approach this, if you can do it. It costs a lot of money, obviously,” said Mark Krikorian, executive director for the Center for Immigration Studies, which favors enforcement. “You’re pretty much guaranteed to be able to remove the person, if there’s a negative finding, if he’s in detention.”

In its 2024 annual report, however, ICE said it detains immigrants only “when necessary” and that the vast majority of the 7.6 million people then on its docket were released pending immigration proceedings. Keeping them detained while their case is adjudicated has not been logistically possible, and advocates have raised concern for migrants’ health and welfare in civil immigration detention.

Immigrants are already subject to mandatory detention without bond if they have been convicted of murder or other serious crimes, and this year the Republican-led Congress added theft-related crimes to that list after a Georgia nursing student, Laken Riley, was killed by a man from Venezuela who had been picked up for shoplifting and not held for deportation.

Immigration lawyers say the Trump administration is expanding a legal standard typically used to hold recent arrivals at the U.S.-Mexico border to a much broader group — including immigrants who have lived in the United States for decades. Many have U.S. citizen children, lawyers say, and probably have the legal grounds to defend themselves against deportation.

ICE increasingly targets undocumented migrants with no criminal record

The Trump administration is increasingly targeting unauthorized immigrants with no criminal record as it ramps up arrests, a Washington Post analysis of U.S. Immigration and Customs Enforcement data shows.



Forcing them to remain in detention facilities often in far-flung areas such as an alligator-infested swamp in Florida or the Arizona desert would make it more difficult to fight their cases, because they will be unable to work or easily communicate with family members and lawyers to prepare their cases.

“I think some courts are going to find that this doesn’t give noncitizens sufficient due process,” said Paul Hunker, an immigration lawyer and former ICE chief counsel in the Dallas area. “They could be held indefinitely until they’re deported.”

ICE is holding about 56,000 immigrants a day as officers sweep the nation for undocumented immigrants, working overtime to fulfill Trump’s goal of deporting 1 million people in his first year. Officials have reopened family detention centers that the Biden administration shuttered because of safety concerns, stood up soft-sided facilities such as one in the Everglades, and begun deporting immigrants with little notice to alternative countries such as conflict-ridden South Sudan.

Immigration lawyers say the new ICE policy is similar to a position that several immigration judges in Tacoma, Washington, have espoused in recent years, denying hearings to anyone who crossed the border illegally.

The Northwest Immigrant Rights Project in Seattle filed a lawsuit in March on behalf of detainees challenging the policy, arguing that their refusal to consider a bond hearing violated the immigrants’ rights.

The original plaintiff in the case, Ramon Rodriguez Vazquez, has lived in Washington state since 2009, works as a farmer and is the “proud grandfather” of 10 U.S. citizens, court records show. His eight siblings are U.S. citizens who live in California.

He also owns his home, where ICE officers arrested him in February for being in the United States without permission. In April, a federal judge in Washington found that he has “no criminal history in the United States or anywhere else in the world” and ordered immigration officers to give him a bond hearing before a judge. A judge denied him bond and he has since returned to Mexico, his lawyer said.

But that decision does not apply nationwide, lawyers said.

Aaron Korthuis, a lawyer in the case, said Rodriguez is typical of the type of immigrants who now face prolonged detention as they fight deportation in immigration courts. He called the government’s new interpretation of bond hearings “flagrantly unlawful.”

“They are people who have been living here, all they’re doing is trying to make a living for their family,” Korthuis said in an interview. He said the policy “is looking to supercharge detention beyond what it already is.”

What readers are saying

The comments overwhelmingly criticize the Trump administration's decision to make undocumented immigrants ineligible for bond hearings during deportation proceedings. Many commenters describe the policy as fascist, inhumane, and a waste of taxpayer money, arguing that it benefits... [Show more](#)

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