

Why can't illegal immigrants turn themselves in?

One of the most curious policy changes during the Bush administration was to stop allowing illegal immigrants to turn themselves in while at the same time stepping up immigration raids. There is no indication that there is an official, nation-wide policy of Immigration and Customs Enforcement (ICE) disallowing immigrants an opportunity to surrender; rather, it seems to be a decision made by each local ICE office. However, according to the attorneys interviewed for this article, with very rare exception, almost all of the local offices have adopted a policy of not allowing non-criminal illegal immigrants to voluntarily place themselves in deportation process, except in the most extraordinary of circumstances. At the same time, a report publicized by ICE indicates that 'administrative arrests' from workplace enforcement activities have increased more than ten-fold over the past seven years.<sup>1</sup>

You might wonder why an illegal immigrant would ever actually *want* the government to commence deportation proceedings. Actually, it used to be a relatively common occurrence. There is a type of immigration relief called Cancellation of Removal – sometimes just called Cancellation for short – that must be made in front of a judge. In a Cancellation application the alien must prove he's been here at least ten years, that he's been a person of good moral character during that time, and that it would be an exceptional and extremely unusual hardship to his US citizen or permanent resident spouse, parent or child if the alien were deported. Cancellation is the immigration equivalent of throwing yourself on the mercy of the court. You lose, you leave in handcuffs. Since Cancellation is a defense against deportation, the government must be attempting to deport the alien in order for him to apply. When asked how often attorneys used to ask for their clients to be placed in deportation proceedings prior to the change in policy, one New York City immigration attorney replied, "All the time."<sup>2</sup>

Why on earth did the government stop letting people turn themselves in? One attorney theorized that the government does not have the resources to allow non-criminal illegal immigrants to surrender. But when one considers the cost of apprehending a non-criminal immigrant against his will in an employment raid, it is impossible to defend a position that the policy is a matter of cost. Hard numbers for the cost of apprehending immigrants are very difficult to obtain. According to one Washington 'think tank,' the cost per immigrant apprehension has ranged from \$17,603 to \$70,000.<sup>3</sup> These estimates are for the apprehension of the immigrant only, and do not include the costs of detention, hearings or actual deportation. While the estimates presented by the 'think tank' are a matter of some debate, ICE admitted that in a single raid in Iowa in 2008, ICE spent over five million dollars to apprehend under 400 people, at a cost of over \$13,000 per person.<sup>4</sup> Whether it costs \$13,000 or \$70,000 or \$10 to apprehend someone, this is money that is not spent when an immigrant surrenders.

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<sup>1</sup> ICE Fiscal Year 2008 Annual Report, [http://www.ice.gov/doclib/pi/reports/ice\\_annual\\_report/pdf/ice08ar\\_final.pdf](http://www.ice.gov/doclib/pi/reports/ice_annual_report/pdf/ice08ar_final.pdf)

<sup>2</sup> That attorney did note, however, that the practice was more attractive under the old Suspension of Deportation rules that preceded Cancellation of Removal.

<sup>3</sup> Center for American Progress, *Deporting the Undocumented, a Cost Assessment*, pg 7, [www.americanprogress.org/kf/deporting\\_the\\_undocumented.pdf](http://www.americanprogress.org/kf/deporting_the_undocumented.pdf).

<sup>4</sup> Cost for May raid in Postville tops \$5 million, Sioux City Journal, October 14, 2008, [http://www.siouxcityjournal.com/articles/2008/10/14/news/latest\\_news/0c22272ef4df8b39862574e200452845.txt](http://www.siouxcityjournal.com/articles/2008/10/14/news/latest_news/0c22272ef4df8b39862574e200452845.txt)

When asked about the ‘no surrender’ policy, an attorney in Denver, CO stated, “In Denver, the position of ICE is that it is not their mission to assist individuals who want to apply for benefits.” The problem with this position (presuming, arguendo, that the attorney is correct in identifying the position of his local ICE office) is that the immigrant is not asking for ICE’s assistance in applying for benefits. ICE is only being asked to place a confessed illegal immigrant in deportation proceedings. If that is not ICE’s mission, then what is?

The workplace raids are already a matter of controversy in the way they are carried out.<sup>5</sup> ICE officials respond to the controversy by stating that they are simply enforcing laws created by Congress.<sup>6</sup> However, they are not simply enforcing the law. If they refuse to commence deportation proceedings on an individual who presents himself for surrender for the reason that they think a judge may grant relief available under federal law, then they are selectively enforcing the law in a manner inconsistent with Congress’ intent. They are selecting to conduct expensive, controversial workplace raids and they are selecting not to allow peaceful, less expensive surrender. This does not serve the interests of justice nor the interests of the taxpayer.

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<sup>5</sup> Group wants workplace raids halted, The Post and Courier, November 12, 2008  
[http://www.charleston.net/news/2008/nov/12/group\\_wants\\_workplace\\_raids\\_halted61298/](http://www.charleston.net/news/2008/nov/12/group_wants_workplace_raids_halted61298/)

<sup>6</sup> Id