

# U.S. Sen. Johnson: Joins Sen. Rick Scott, Colleagues in letter to DHS: Enforce the law, stop dismantling legal immigration process

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**WASHINGTON** – On Tuesday, U.S. Sen. Ron Johnson (R-Wis.), member of the Homeland Security and Governmental Affairs Committee, joined Sen. Rick Scott (R-Fla.), Sen. Josh Hawley (R-Mo.), and Sen. Rand Paul (R-Ky.) in a letter to Department of Homeland Security (DHS) Secretary Alejandro Mayorkas demanding information on the Doyle Memorandum and the department’s continued dismantling of the U.S. legal immigration process. The Doyle Memorandum, issued by Principal Legal Advisor Kerry E. Doyle from the U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor on April 3, 2022, advises ICE attorneys to follow new guidance that circumvents established immigration processes and could lead to the mass dismissal of deportation cases before these cases come before a judge. The memorandum comes as President Biden’s failed border policies have created a historic humanitarian and national security crisis at America’s southern border, with more than 2 million illegal crossings in 2021 alone.

“Turning a blind eye to willful and continued violations of the immigration laws that your agency is statutorily charged with enforcing is undeniably an abuse of such discretion that will encourage further illegal immigration and embolden criminal aliens already unlawfully present in our communities,” **said the senators.**

The full text of the letter can be found [here](#) and below.

May 24, 2022

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
U.S. Department of Homeland Security

Dear Secretary Mayorkas:

The crisis created by the Biden administration on the United States' southern border is raging like never before. Not only has President Biden ordered the dismantlement of successful border policies implemented under the last administration, resulting in record-high illegal border crossings in 2021, but deportations under the Biden administration have also dropped to the lowest levels in U.S. Immigration and Customs Enforcement (ICE) history[1]. During FY 2021, ICE recorded only 59,011 deportations, compared with 185,884 deportations in FY 2020, and 267,258 illegal aliens removed in FY 2019. The Biden administration's repeated actions to incentivize illegal immigration by refusing to fully enforce our laws and secure our southern border are nothing short of a dereliction of its duty to the American people.

As part of our fight to hold this administration accountable for its reckless failure to uphold our nation's laws and secure the border, we write today in reference to and with grave concern for the April 3, 2022, ICE memorandum directed to all Office of the Principal Legal Advisor (OPLA) attorneys entitled Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion ("Doyle Memorandum"). This memorandum alarmingly

instructs ICE prosecutors to consider dismissing older cases of illegal aliens who are deemed to not pose public safety threats, rather than continuing enforcement actions against those individuals who are unlawfully present in the United States. This misguided policy prioritizes artificially lowering the backlog of immigration court cases above enforcing our immigration laws enacted by Congress, and represents a gross abuse of prosecutorial discretion.

The recently issued Doyle Memorandum will only worsen the already historic and deadly crisis on our southern border. At the end of the first quarter of 2022, the Executive Office for Immigration Review reported a backlog of 1,503,931 pending cases.[2] Under the guise of exercising “prosecutorial discretion,” the Doyle Memorandum proposes the mass dismissal of these pending deportation cases against aliens who are unlawfully present in the United States and otherwise subject to removal for violating our immigration laws. Turning a blind eye to willful and continued violations of the immigration laws that your agency is statutorily charged with enforcing is undeniably an abuse of such discretion that will encourage further illegal immigration and embolden criminal aliens already unlawfully present in our communities.

As members of the U.S. Senate Committee on Homeland Security and Governmental Affairs, which is dutifully charged with oversight of your agency, we request the following:

1. Please provide an un-redacted version of the April 3, 2022, memorandum entitled Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion (“Doyle Memorandum”).
  - a. Provide any related records and materials that pertain to the internal consideration and drafting of the Doyle Memorandum, including emails, notes, memoranda, and text messages.
2. Regarding the application and operation of the Doyle Memorandum:

a. Please explain all objective and subjective metrics to be used in identifying pending deportation cases as “nonpriority,” and thus subject to “non-filing” of a Notice to Appear, summary dismissal, or administrative closure.

i. Will “nonpriority” cases include individuals who have been previously deported or removed from the United States?

ii. Will “nonpriority” cases include individuals who have one or more prior failures to appear at immigration court proceedings, or who have a history of absconding from immigration detention or removal orders?

iii. Will “nonpriority” cases include individuals who have been convicted of one or more serious misdemeanors or felonies?

b. Please explain the legal effect upon the immigration status of a deportable alien whose case is dismissed or administratively closed.

i. Does dismissal or administrative closure confer upon the alien a lawful immigration status?

1. If so, how long is such lawful presence valid?

2. If not, does the individual remain in a deportable status?

ii. Does dismissal or administrative closure prevent a future removal case from being prosecuted against the alien?

c. Will ICE maintain a means to identify and track individuals whose cases are subject to “non-filing” of a Notice to Appear, summary dismissal, or administrative closure?

i. Are such individuals required to regularly report to ICE to ensure the agency maintains accurate location and contact information for each individual?

ii. Are such individuals subject to any geographic restrictions to limit their movements within the United States until they attain a lawful immigration status?



Please respond in an expeditious manner, but no later than July 7, 2022.

Sincerely,