

The New York Times

Once Routine, Immigration Check-Ins Are Now High Stakes

By **Liz Robbins**

April 11, 2017

For years, it was an uneventful ritual. Unauthorized immigrants who weren't considered a priority for deportation would meet with an Immigration and Customs Enforcement officer and be told simply, "See you next year."

The deportation officers, as they are known, were employing prosecutorial discretion, which let them free up resources and detention center space to focus on the deportation of convicted criminals.

Now, under President Trump, the stakes of these meetings have changed. What was routine is now roulette.

Mr. Trump issued an executive order in January broadening the definition of deportable offenses to include all immigrants living in the country illegally. It has affected all levels of enforcement, including the check-in where people wait to go before an immigration judge or appear with pending appeals and petitions or final orders of removal.

Nobody wants to be the next Guadalupe García de Rayos, the Arizona woman who was deported to Mexico after her routine check-in with ICE officials in February. She had been checking in annually since she was caught using a fake Social Security number in 2008.

"Every immigration lawyer in the U.S. has this uncertainty with clients now," said Kerry Bretz, a veteran New York lawyer. Previously, he said, he told his clients: "Don't worry about it. You're going to walk in, you're going to walk out, you're going to renew your work authorization and get on with your life."

Now, he said, it's his ethical duty to warn clients before a check-in to get their affairs in order. "Because you might not come out," he said.



Supporters of Mr. Ragbir at a rally in Manhattan on March 9. Mr Ragbir came from Trinidad and Tobago in 1991 and was ordered deported after being convicted of wire fraud in 2000.

Kevin Hagen for The New York Times

Meredith Kalman, a lawyer for Mr. Bretz’s firm, said that as she was leaving a check-in last month in Manhattan, an officer gave her this warning: “It’s a whole new world, Counselor.”

According to Ms. Kalman, the officer told her during the meeting, “I’m sorry, I’m getting pressure because my title is deportation officer — my job is to deport people.”

Immigration agency officials insist that they still focus on the deportation of people who were convicted of crimes and pose a threat to their community. However, Rachael Yong Yow, a spokeswoman for the ICE New York field office, said, “All of those in violation of the immigration laws may be subject to immigration arrest, detention and, if found removable by final order, removal from the United States.”

That is what should be happening, said Daniel Stein, the president of the Federation for American Immigration Reform, which supports stricter immigration controls. “If you are here and removable, you are living on borrowed time,” he said.

Mr. Stein said prosecutorial discretion, generally used in criminal law, should not technically cover ICE check-ins since ICE was not giving people legal status to stay in the country at these meetings, only granting them an administrative delay.

Cheryl R. David, a New York immigration lawyer, sees the chances for such a delay dwindling. “There’s definitely been a culture shift,” she said.

“ICE is more inclined to enforce, from their perspective, the immigration law,” Ms. David added, “and if you have a final order of removal, you’re going to have to try and rectify it.”

Or else, she said, deportation will follow.

There seems to be no consistent policy from one field office to the next, lawyers say. The immigration agency was not immediately able to provide statistics regarding those who were detained or deported as a result of their check-ins, or how the frequency of those check-ins had changed.

Last month, Mr. Bretz accompanied a client, a 49-year-old real estate business owner from the former Soviet Union, to his check-in in Manhattan, bringing a thick file of testimonials from his client’s associates along with pictures of his children. Mr. Bretz said that his client had no criminal record, and that attempts to rectify what he claimed was an immigration officer’s mistake in adjusting his status more than 20 years earlier had failed.

For the seventh straight year, the man was told that he could come back in a year.

Another lawyer in Mr. Bretz’s firm, Tiffany Javier, had the opposite experience in Hartford. Her client, a 44-year-old man from Kenya, had arrived in 1993 on a visa but had overstayed. He became a nurse, he paid taxes, and he was raising a stepson with his second wife.

But years earlier, a judge had rejected his request for a green card after he married his first wife, suspecting that the marriage was fraudulent. He had been checking in quarterly, until February, when he was given a month to buy his own ticket back to Kenya. He left in mid-March.

The experience led Ms. Javier to believe that now, prosecutorial discretion was “out the window.” She said some immigration officers “feel emboldened where they can pretty much do what they want.”

The uncertain climate has led to a new trend: spirited protests by advocates, clergy and city officials surrounding a check-in.

In March in Newark, a 59-year-old man who had come in illegally from Mexico in 1991 arrived for a check-in with an entourage that included Senator Robert Menendez, a Democrat from New Jersey, and Cardinal Joseph W. Tobin of the Newark Archdiocese. Cardinal Tobin, an outspoken defender of immigrant’s rights, gave a brief speech imploring the ICE officials who would decide the man’s fate to “not only see his face, but see ours as well.”

Catalino Guerrero, center, walked into his ICE check-in in Newark on March 10, surrounded by supporters including Senator Robert Menendez, left, and Cardinal Joseph W. Tobin, center right.
Julio Cortez/Associated Press

The man, Catalino Guerrero, had been checking in annually since 2011 because an asylum application someone had filed by mistake had been rejected. He had suffered a stroke, and because of his health was granted a stay of removal. This time, he was told to return in three months while his lawyers pursued another avenue for him to stay in the country.

At another protest outside the Jacob K. Javits Federal Building in Lower Manhattan, more than 100 advocates from the New Sanctuary Movement of New York were rallying around their executive director, Ravi Ragbir, who was fighting his own deportation. Mr. Ragbir, 56, came from Trinidad and Tobago in 1991 and had been a lawful permanent resident when he was convicted of wire fraud in 2000. After he served his sentence, he was ordered deported and detained by immigration officials.

In 2011, the New York field office of ICE granted him a stay of removal, which he most recently renewed until 2018.

On March 9, an ICE officer ordered him to return in a month with proof that he had applied for travel documents with Trinidad and Tobago's consulate in New York. He did that, and on Thursday, the enforcement agency did exercise discretion — allowing Mr. Ragbir to check in in

January 2018.

In the ninth-floor waiting room of the federal building in Manhattan, where ICE check-ins take place, the worry among people of all ages and nationalities was palpable last month. Two televisions were turned to CNN; Mr. Trump flashed on the screen. From one of the four unmarked doors — no one knew where to look — an ICE officer would emerge and call a name.

Ramesh Palaniandi, a legal permanent resident from Guyana who had served a brief sentence for burglary, went in that day, but did not re-emerge. He was taken to a detention center after his ICE check-in, leaving his crying wife, Janice Hoseine, behind. A month later he was released with his case still pending.

But in Latham, N.Y., at the federal immigration office in the Hudson Valley, one lawyer was heartened by the treatment of his client's case. Maria Martínez-Chacón, a native of El Salvador, has been under an order of supervision since February, when ICE picked up her husband, Ramiro, for having re-entered the country illegally.

She has two children who are United States citizens, and was told to return on April 19. According to her lawyer, Nicholas E. Tishler, Ms. Martínez-Chacón has a good case for asylum.

“The people I have come into contact with so far have exercised their discretion in a humane manner,” Mr. Tishler said, “and I hope it continues.”

Jacey Fortin contributed reporting.

A version of this article appears in print on April 12, 2017, on Page A18 of the New York edition with the headline: Migrant Check-Ins Were Routine. Now They Can Upend Lives.