

## Practice Areas

### BUSINESS

L-1 Visas

H-1B

H-1B Transfers

Visas

TN Visas (NAFTA)

Special Visas for Other Countries:

- Australia
- Chile / SingaporeE-1

E-1 Visas

E-2 Visas

PERM Labor Certification

### HOSPITALS /HEALTHCARE

H-1C Visas

H-1B Visas for Doctors

### FAMILY

Spouse / Fiancée Visas

Permanent Residence for Family  
within U.S.

Naturalization /Citizenship

### AMNESTY

## ICE Issues Guidance on Prosecutorial Discretion

June 28th, 2011 | Author: [admin](#)

On June 17, the U.S. Immigration and Customs Enforcement agency (“ICE”) published a memorandum of guidance concerning the exercise of prosecutorial discretion in the apprehension, detention and removal of aliens.

The memo highlighted a number of factors that should be considered when exercising prosecutorial discretion involving an apprehended or detained person, including but not limited to:

- The person’s length of presence in the U.S. and their time as a lawful resident;
- The manner of a person’s entry and their age at entrance;
- The person’s criminal history;
- The person’s ties to their home country or their current community;
- The person’s health status; and
- Whether the person is currently cooperating or has cooperated with federal, state or local law enforcement authorities in the accomplishment of their goals.

ICE also highlighted some factors that prosecutors should consider in deciding whether to be lenient or deferential toward a given person affected by an immigration enforcement action, including but not limited to:

- Whether the person is a veteran of the U.S. Armed forces;
- Whether the person is a minor or elderly individual;
- Whether the person is pregnant or nursing; and
- Whether the person is a victim of domestic violence or crime.

The following factors can also be considered in making a decision to prioritize a case or take an enforcement action with serious consequences against a person:

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- Whether the person poses a risk to national security;
- Whether the person is a felon, repeat offender or individual with a lengthy criminal record;
- Whether the person is part of a known gang that poses a threat to public safety; and
- Whether the person has a record of illegal entry into the country or engaging in immigration fraud.

Prosecutorial discretion can and should be exercised, said ICE, in the course of:

- Deciding whether to issue or cancel a notice of detainer;
- Deciding whether to issue, serve or cancel a Notice to Appear;
- Deciding whether to focus enforcement resources on particular conduct;
- Deciding whether to stop, question or arrest individuals for administrative violations;
- Deciding whether to detain or person or release them on bond, supervision or other condition;
- Deciding whether to seek expedited removal or other removal;
- Deciding whether to settle or dismiss a proceeding; and
- Deciding whether to agree to voluntary departure, withdrawal of an application or other action in lieu of obtaining a formal order of removal.

If you are an individual seeking counsel about obtaining citizenship or legal status for yourself or your family, you can call our offices at (847)564-0712. Feel free to check out the pertinent portion of [our Website](#) on individual and family representation as well.