

DHS Victim Policy, Guidance, and Legal Memorandum

DHS Broadcast Message on New 384 Class of Admission Code (December 21, 2010)

This DHS Broadcast informs DHS officials "to become familiar with a new code in the Central Index System (CIS). The new Class of Admission (COA) code "384" was created to alert DHS personnel that the individual is protected by VAWA confidentiality provisions. Information about the location, status, or other identifying information of any individual with the code "384" may not be released. This memo describes the new DHS computerized system designed to notify all DHS officers, including enforcement officials, about persons that are to be provided VAWA confidentiality protection. The "384" flag signifies that the individual has a pending or approved VAWA confidentiality-protected case. This system will help stop removal of victims with pending and approved VAWA, T- and U-visa cases.

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/message-to-DHS-384-COA-Final-12.21.10.pdf/view>

John Morton, Prosecutorial Discretion: Certain Victims, Witnesses and Plaintiffs Memo (June 17, 2011)

This memo discusses the ICE policy of prosecutorial discretion in cases involving victims and witnesses of crimes such as domestic violence and persons making a non-frivolous effort to stand up for their civil rights and liberties. It states that, except for extraordinary circumstances, it is against ICE policy to conduct removal proceedings against a direct witness or victim of a crime. In order to avoid deterring individuals from reporting crimes and asserting their rights, it encourages the exercise of prosecutorial discretion on a case-by-case basis, especially when involving factors outlined in the TVPA and VAWA such as domestic violence, human trafficking, and other serious crimes. Furthermore, the memo notes that victims of trafficking, domestic violence and other crimes who have filed for immigrant relief are now "flagged" in the Central Index System (CIS).

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/Morton-CertainVictimsWitnessesandPlaintiffs-Memo-06-17-2011.pdf/view>

Vincent Memo: Guidance Regarding U Nonimmigrant Status (U visa) Applicants in Removal Proceedings or with Final Orders of Deportation or Removal (September 25, 2009)

This memo outlines the proper procedures to follow when dealing with a U-visa applicant currently in removal proceedings or subject to a final order of removal. It discusses the appropriateness – and inappropriateness – of a *prima facie* determination of the applicant's eligibility for U-visa status in given contexts, and it asserts the importance of humanitarian

factors in assessing whether to grant an applicant's request for a stay of removal. Finally, the memo outlines certain situations in which termination of removal proceedings against an applicant would be proper.

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/Vincent-Memo-Guidance-Regarding-U-Nonimmigrant-Status.pdf/view>

Jeh Johnson: Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants (November 20, 2014)¹

This memo provides department wide guidance to ICE, CBP, and USCIS to clarify current DHS enforcement priorities. It discusses the background of prosecutorial discretion in immigration law and sets out the following civil immigration enforcement priorities: priority 1, threats to national security, border security, and public safety; priority 2, misdemeanants and new immigration violators; priority 3, other immigration violations (including those with a final order of removal except when they qualify for asylum or another form of immigration relief). This memo also discusses detention priorities and identifies those suffering from serious physical or mental illness, who are disabled, elderly, pregnant, or nursing, who demonstrate that they are primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest, as a low priority for detention.

<http://niwaplibrary.wcl.american.edu/pubs/dhspoliciesforapprehensiondetentionandremoval112014/>

¹ This memo rescinded and superseded previous DHS memos: John Morton, Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens, March 2, 2011; John Morton, Exercising Prosecutorial Discretion Consistent with the Civil Enforcement Priorities of the Agency for the Apprehension, Detention and Removal of Aliens, June 17, 2011; Peter Vincent, Case-by-Case Review of Incoming and Certain Pending Cases, November 17, 2011; Civil Immigration Enforcement: Guidance on the Use of Detainers in the Federal, State, Local, and Tribal Criminal Justice Systems, December 21, 2012; National Fugitive Operations Program: Priorities, Goals, and Expectations, December 8, 2009.