

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No: _____

In the Matter of: _____

Respondent: _____ currently residing at: _____

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☒ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☐ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that:

- 1) You are not a citizen or national of the United States.
- 2) You are a native of _____ and a citizen of _____.
- 3) You entered the United States at or near BALTIMORE, MD (IA) on or about August _____.
- 4) You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 212 (a) (6) (A)(i) of the Immigration and Nationality Act (Act), as amended, as an alien present in the United States without being admitted or paroled, or who has arrived in the United States at any time or place other than designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 C.F.R. 208.300(c)(2) ☐ 8 C.F.R. 235.3(b)(5)(iv)

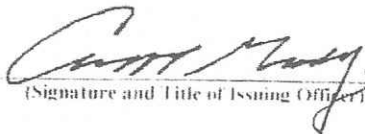
YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

120 MONTGOMERY ST., SUITE 800, SAN FRANCISCO, CA 94104-0000

(Complete Address of Immigration Court, including Room Number, if any)

on **NOV 24 2009** at **9:30am** to show why you should not be removed from the United States based on
(Date) (Time)

the charge(s) set forth above.


(Signature and Title of Issuing Officer)

**Supervisory
Asylum Officer**

Date: **OCT 22 2009**

SAN FRANCISCO, CA
(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the USCIS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(Signature of Respondent)

Before:

Date: _____

(Signature and Title of USCIS Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on OCT 22 2009 in the following manner and in compliance with section 239(a)(1)(F) of the Act:
(Date)

☐ in person

☒ by certified mail return receipt requested

☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organizations and attorneys which provide free legal services.

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Talafua Jantoc
Immigration Analyst, ZSF

(Signature of Respondent if Personally Served)

(Signature and Title of Officer)

In: ☒ Removal proceedings under section 240 of the Immigration and Nationality Act
☐ Deportation proceedings commenced prior to April 1, 1997 under former section 242 of the Immigration and Nationality Act

In the Matter of:

Alien/Respondent: [REDACTED]

File No: [REDACTED] Address: [REDACTED]

There is/are hereby lodged against you the charge(s) that you are subject to being taken into custody and deported or removed from the United States pursuant to the following provision(s) of law:

Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than designated by the Attorney General.

In support of the charge(s) there is submitted the following factual allegation(s) ☐ in addition to ☒ in lieu of those set forth in the original charging document:

1. You are not a native and citizen of the United States;
2. You are a native of _____ and a citizen of _____
3. You entered the United States at or near an unknown location on or about an unknown date;
4. You were not then admitted or paroled by an Immigration Officer.

Date:

9-1-2010

[Signature]
(Signature of Service Counsel)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have the opportunity to present evidence on your behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Certificate of Service

This charging document was served on the respondent by me on 9/1/2010, in the following manner and in

compliance with section 239(a)(1)(F) of the Act:

☐ in person ☐ by certified mail, return receipt requested ☒ by regular mail
to: Abdelghani Mahmoudia, 640 Turk St., Apt. 9, San Francisco, CA 94102.

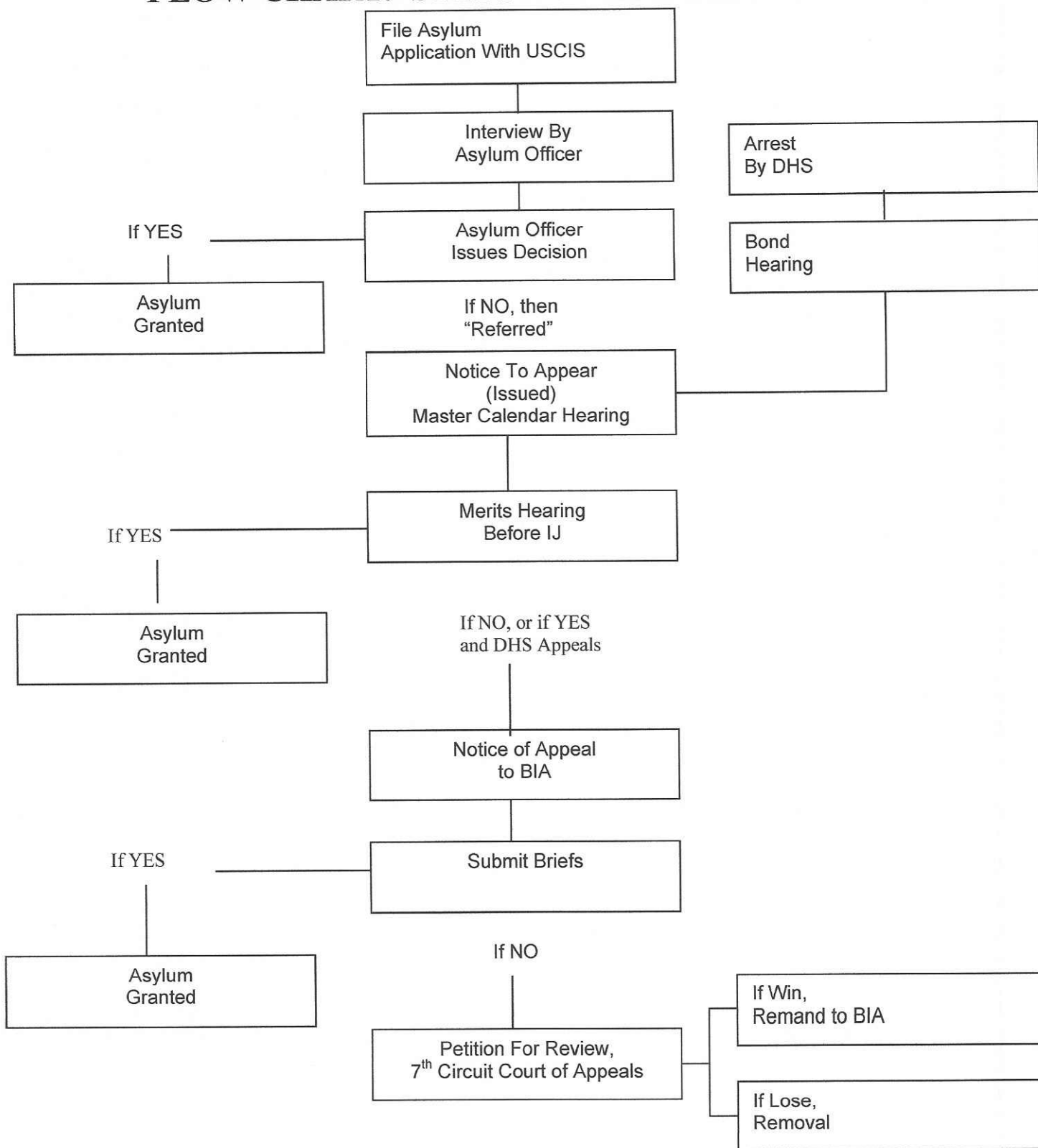
(Alien's address)

☐ The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

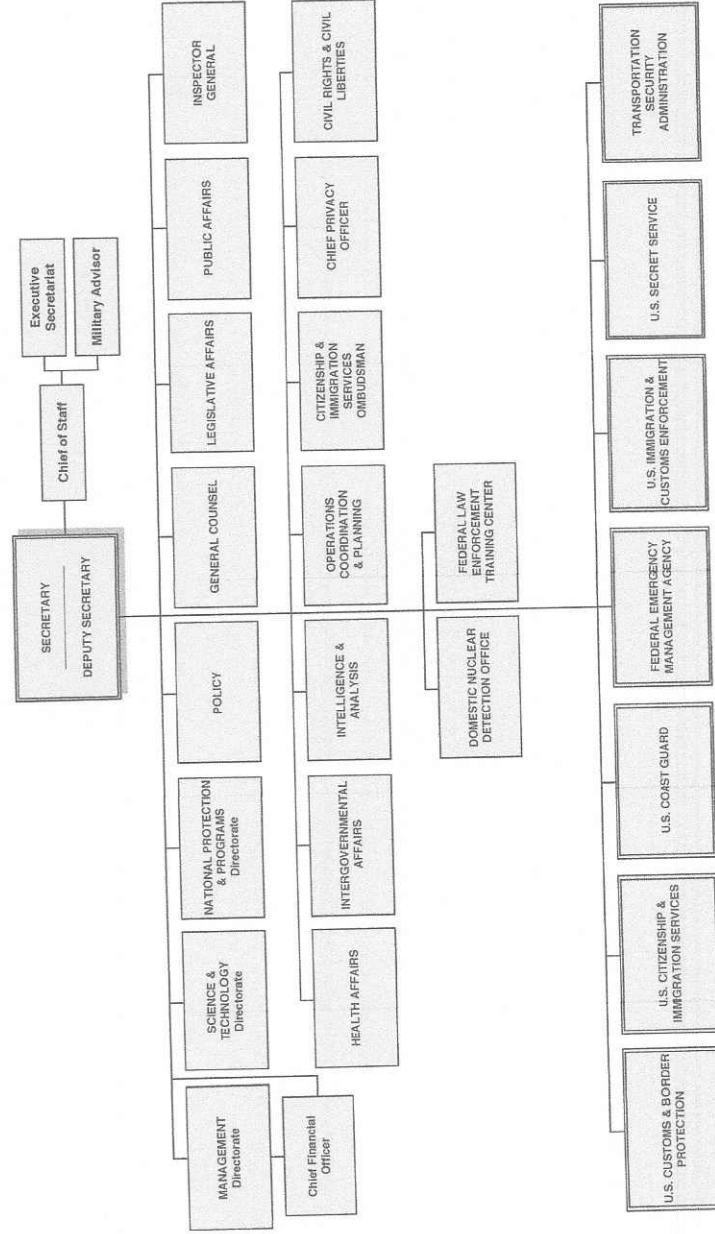
(Signature and Title of Officer)

FLOW CHART: STEPS IN THE ASYLUM PROCESS



DHS ORGANIZATION

U.S. DEPARTMENT OF HOMELAND SECURITY



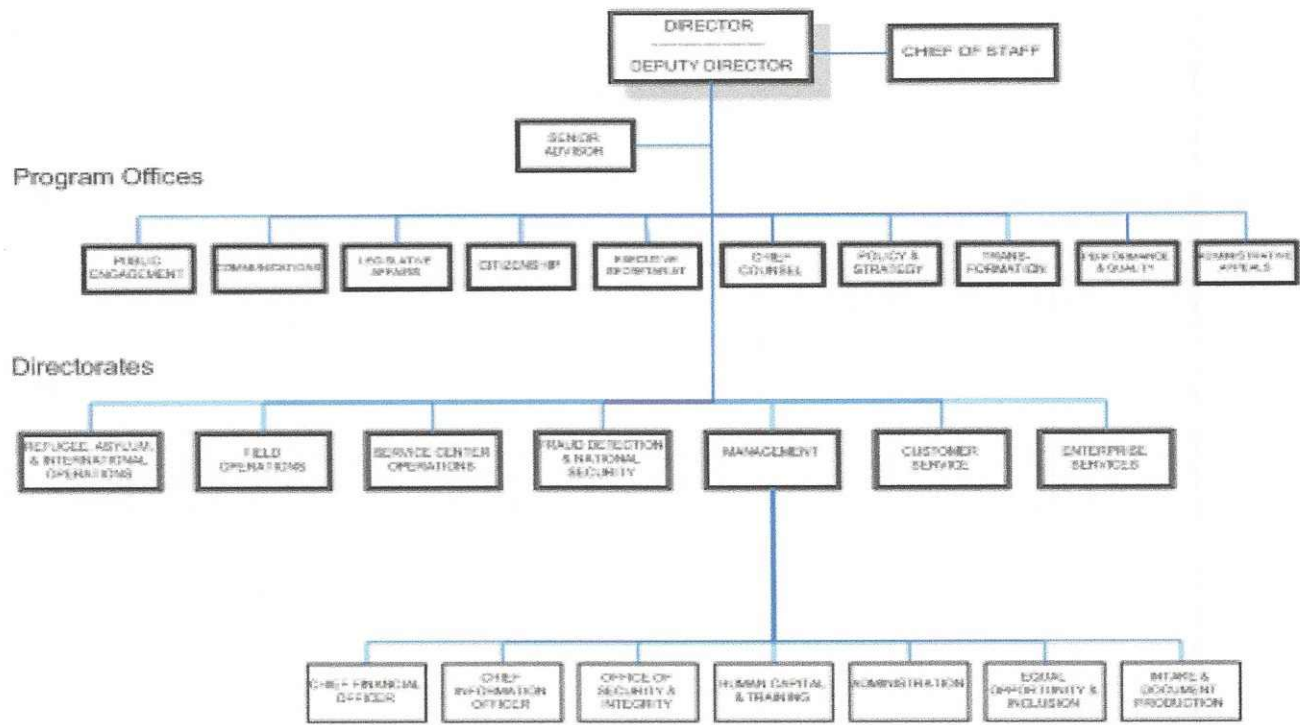


U.S. Citizenship and Immigration Services

USCIS Organizational Chart

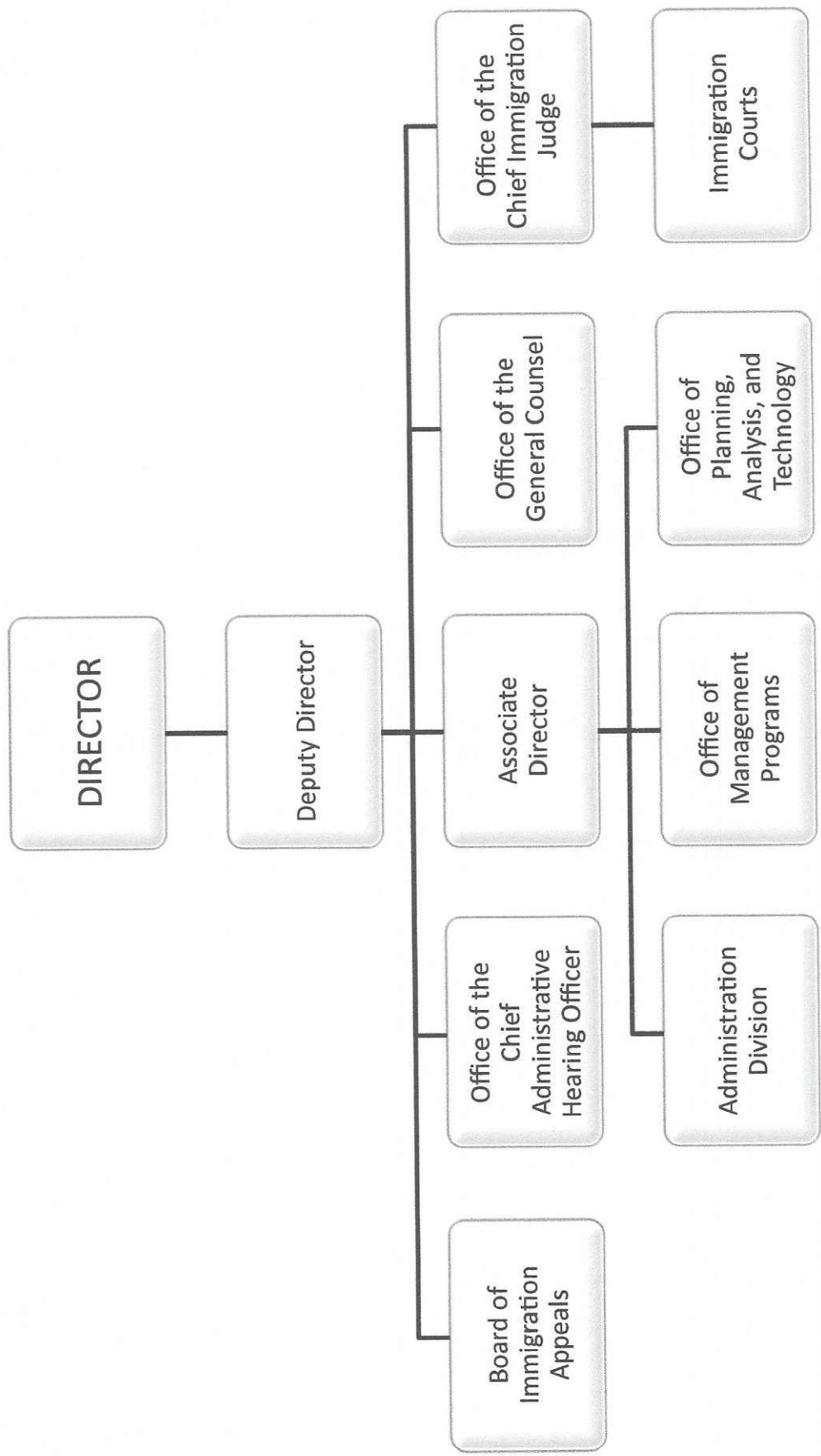
USCIS Organizational Chart

USCIS Organizational Chart
Effective 01/06/10



Plug-ins

EOIR ORGANIZATION



INTAKE QUESTIONNAIRE

Today's Date: ____/____/____

INS file A# ____ - ____ - ____

Date of last entry to USA: ____/____/____
(Month/Day/Year)

Place of Entry: ____ Visa: ____
(City&State)

Date of first entry to USA: ____/____/____

Place of Entry: ____ Visa: ____

Last Name: ____ First Name: ____ Middle Initial: ____

Birth Date: ____/____/____ Soc.Sec.# # ____ - ____ - ____ CA ID/DL# ____

Birthplace: ____ Current Nationality: ____
(City, Province or State, Country)

US Home Address: ____
(Street Number, Room or Apartment Number, City, State, Country, Zip)

US Home Telephone: () ____ Fax: () ____

Cell: () ____ Email: ____

Family or Friend: ____ Contact: ____

Home Country Information

Home Country Telephone: 011 ____ Marital Status: ____ Number of Children ____
(Married/Single/Divorced/Widowed)

Spouse's Last Name: ____ First Name: ____

Birthplace: ____ Birth Date: ____/____/____
(City, Province or State, Country) (Month/Day/Year)

Employment Information

Employer's Name: ____

Employer's Address: ____

Job Title: ____ Work Days & Hours: ____

Work Phone: () ____ Work Fax: () ____

Family Members with US Citizenship

Family Relationship: ____
(Wife, Child, Etc)

Last Name: ____ First Name: ____

Family Relationship: ____
(Wife, Child, Etc)

Last Name: ____ First Name: ____
(continue on reverse for additional family members)

Family Members with Lawful Permanent Residence (green card)

Family Relationship: ____
(Wife, Child, Etc)

Last Name: ____ First Name: ____
(continue on reverse for additional family members)

Family that have lived in the US (circle one): Parent Grandparent/Maternal Parent Grandparent/Paternal

How did you hear about US? (circle one): Newspaper/Yellow Pages/TV/Radio/Friend/Other ____

CUSTODY HEARING CHECKLIST

☐ DEPORT ☐ VOLUNTARY DEPARTURE ☐ BOND REDETERMINATION ☐ EXCLUSION

INITIAL BOND \$ _____ FUNDS AVAIL \$ _____ PROPOSED \$ _____

Last Names/Apellidos _____ First Name/Nombre _____ INS A# _____

Address/Dirección _____ City/Ciudad _____ State/Estado _____ Telephone/Teléfono _____

Date of Birth/Fecha Nacimiento _____ Age/Edad _____ Country of Birth/País de Nacimiento _____

IMMIGRATION HISTORY

Has or had Lawful Permanent Resident (green card) status/Mica ahora o antes? ☐ No ☐ Yes/Si
In deportation proceedings before/Audiencia anterior ante juez de inmigración? ☐ No ☐ Yes/Si

Has or had Temporary Resident (amnesty) status/Permiso ahora o antes? ☐ No ☐ Yes/Si
Ever filed for leaglization/Ha solicitado la amnistía? ☐ No ☐ Yes/Si

LAST entry to the United States/Última entrada a los estados unidos: Date/fecha ____/____/____
Place/Lugar: _____ Manner/Forma: ☐ With/Con visa ☐ without/sin visa; mojado

FIRST entry to the United States/Última entrada a los estados unidos: Date/fecha ____/____/____
Place/Lugar: _____ Manner/Forma: ☐ With/Con visa ☐ without/sin visa; mojado

FAMILY SITUATION

Marital Status: ☐ single; div/soltero ☐ married/casado ☐ common law/accompañado
Spouse's INS Status: ☐ undocumented/sin papeles ☐ PermRes/Mica ☐ Citizen/Ciudadana

Children/Hijos: ☐ no ☐ Yes/Si How many/cuántos ____
Children's INS Status: ☐ undocumented/sin papeles ☐ PermRes/Mica ☐ Citizen/Ciudadana

Parent or grandparent Born in US/Padre o madre o abuelo/a nacido en los esados unidos? ☐ No ☐ Yes
Siblings/hermanos: ☐ undocumented/sin papeles ☐ PermRes/Mica ☐ Citizen/Ciudadana

CRIMINAL HISTORY

Arrest(s) on criminal charges/arrestado por cargas criminales? ☐ No ☐ Yes/Si #/Numero ____
Criminal conviction(s)/Condenas criminales? ☐ No ☐ Yes/Si #/Numero ____
Drug conviction/Condena por drogas? ☐ No ☐ Yes/Si
More than 180 days in jail/Mas de 180 días en la carcel? ☐ No ☐ Yes/Si
On probation or parole at this time/En probación o parole ahora? ☐ No ☐ Yes/Si

EMPLOYMENT HISTORY

Presently employed or have a job to return to/tiene un trabajo actual o uno a que puede volver? ☐ No ☐ Yes
Employer Name/Supervisor & Company/Patron y Empresa: _____

Address/Dirección _____ City/Ciudad _____ State/Estado _____ Telephone/Teléfono _____
Start date/fecha que empezó: ____/____/____ Yrs/Años ____ INS authorized/autorizado: ☐ No ☐ Yes

Ever received welfare (AFDC, GA)/ha recibido dinero del gobierno? ☐ No ☐ Yes; When/cuando? ____

IMMIGRATION CONSEQUENCES OF CONVICTIONS SUMMARY CHECKLIST*

GROUND FOR DEPORTATION [apply to lawfully admitted noncitizens, such as a lawful permanent resident [LPR] – greencard holder]	GROUND OF INADMISSIBILITY [apply to noncitizens seeking lawful admission, including LPRs who travel out of US]	INELIGIBILITY FOR U.S. CITIZENSHIP
Aggravated Felony conviction ➤ <i>Consequences</i> (in addition to deportability): <ul style="list-style-type: none">♦ Ineligibility for most waivers of removal♦ Ineligibility for voluntary departure♦ Permanent inadmissibility after removal♦ Subjects client to up to 20 years of prison if s/he illegally reenters the U.S. after removal ➤ <i>Crimes covered</i> (possibly even if not a felony): <ul style="list-style-type: none">♦ Murder♦ Rape♦ Sexual Abuse of a Minor♦ Drug Trafficking [probably includes any felony controlled substance offense; may include misdemeanor marijuana sale offenses and 2nd misdemeanor possession offenses]♦ Firearm Trafficking♦ Crime of Violence + 1 year sentence**♦ Theft or Burglary + 1 year sentence**♦ Fraud or tax evasion + loss to victim(s) > \$10,000♦ Prostitution business offenses♦ Commercial bribery, counterfeiting, or forgery + 1 year sentence**♦ Obstruction of justice offenses + 1 year sentence**♦ Certain bail-jumping offenses♦ Various federal criminal offenses and possibly state analogues [money laundering, various federal firearms offenses, alien smuggling, etc.]♦ Attempt or conspiracy to commit any of the above	Conviction or <i>admitted commission</i> of a Controlled Substance Offense , or DHS (formerly INS) has reason to believe individual is a drug trafficker ➤ No 212(h) waiver possibility (except for a single offense of simple possession of 30g or less of marijuana) Conviction or <i>admitted commission</i> of a Crime Involving Moral Turpitude [CIMT] ➤ This category covers a broad range of crimes, including: <ul style="list-style-type: none">♦ Crimes with an <i>intent to steal or defraud</i> as an element [e.g., theft, forgery]♦ Crimes in which <i>bodily harm</i> is caused or threatened by an intentional act, or <i>serious bodily harm</i> is caused or threatened by a reckless act [e.g., murder, rape, some manslaughter/assault crimes]♦ Most sex offenses ➤ <i>Petty Offense Exception</i> —for one CIMT if the client has no other CIMT + the offense is not punishable > 1 year (e.g., in New York can't be a felony) + does not involve a prison sentence > 6 months Prostitution and Commercialized Vice Conviction of 2 or more offenses of any type + aggregate prison sentence of 5 years	Certain convictions or admissions of crime will statutorily bar a finding of good moral character for up to 5 years: ➤ Controlled Substance Offense [except in case 30g of marijuana] ➤ Crime Involving Moral Turpitude ➤ 2 or more offenses of any type + aggregate prison sentence of 5 years ➤ 2 gambling offenses ➤ Confinement to a jail for an aggregate period of 180 days Aggravated felony may bar a finding of moral character forever, and thus may make your client <i>permanently</i> ineligible for citizenship
Controlled Substance conviction ➤ EXCEPT a single offense of simple possession of 30g or less of marijuana		
Crime Involving Moral Turpitude [CIMT] conviction ➤ For crimes included, see Grounds of Inadmissibility ➤ An LPR is deportable for 1 CIMT committed within 5 years of admission into the U.S. and for which a sentence of 1 year or longer may be imposed ➤ An LPR is deportable for 2 CIMT committed at any time “not arising out of a single scheme”	INELIGIBILITY FOR LPR CANCELLATION OF REMOVAL ➤ Aggravated Felony Conviction ➤ Offense covered under Ground of Inadmissibility when committed within the first 7 years of residence after admission in the U.S.	
Firearm or Destructive Device conviction	INELIGIBILITY FOR ASYLUM OR WITHHOLDING OF REMOVAL BASED ON THREAT TO LIFE OR FREEDOM IN COUNTRY OF REMOVAL “Particularly serious crimes” make noncitizens ineligible for asylum and withholding. They include: ➤ Aggravated felonies <ul style="list-style-type: none">♦ All will bar asylum♦ Aggravated felonies with aggregate 5 year sentence of imprisonment will bar withholding♦ Aggravated felonies involving unlawful trafficking in controlled substances will presumptively bar withholding ➤ Other serious crimes—no statutory definition [For sample case law determinations, see Appendix F in NYSDA Immigration Manual]	
Domestic Violence conviction or other domestic offenses, including: ➤ Crime of domestic violence ➤ Stalking ➤ Child abuse, neglect or abandonment ➤ Violation of order of protection (criminal or civil)		
CONVICTION DEFINED “A formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where: (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, AND (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.” THUS: <ul style="list-style-type: none">♦ A drug treatment or domestic violence counseling alternative to incarceration disposition could be considered a conviction for immigration purposes if a guilty plea is taken (even if the guilty plea is or might later be vacated)♦ A deferred adjudication disposition without a guilty plea (e.g., NY ACD) will not be considered a conviction♦ A youthful offender adjudication will not be considered a conviction if analogous to a federal juvenile delinquency disposition (e.g., NY YO)		

*This summary checklist was originally prepared by former NYSDA Immigrant Defense Project Staff Attorney Sejal Zota. Because this checklist is frequently updated, please visit our Internet site at <<http://www.nysda.org>> (Click on Immigrant Defense Project page) for the most up-to-date version.

**The 1-year requirement refers to an actual or suspended prison sentence of 1 year or more [A New York straight probation or conditional discharge without a suspended sentence is not considered a part of the prison sentence for immigration purposes.] (5/03)

2010FOIA4519.000011

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form G-639, Freedom of Information/Privacy Act Request

NOTE: Use of this form is optional. Any written format for a Freedom of Information or Privacy Act request is acceptable.

START HERE - Type or print in black ink. Read instructions before completing this form.

1. Type of Request (Check appropriate box. **NOTE:** If you are filing this request for records on behalf of another individual, please respond to Number 1 as it would apply to that individual.)

- ☐ Freedom of Information Act (FOIA): I am not a U.S. citizen/Lawful Permanent Resident and I am requesting my own records.
- ☐ Freedom of Information Act (FOIA): I am a U.S. citizen/Lawful Permanent Resident and I am requesting documents other than my own records.
- ☐ Privacy Act (PA): I am a U.S. citizen/Lawful Permanent Resident and I am requesting my own records.
- ☐ Amendment of Record (PA only): I am a U.S. citizen/Lawful Permanent Resident and I am requesting amendment of my own records.
- ☐ Other: _____

2. Description of Record(s) Requested:

NOTE: While you are not required to respond to all items in Number 2, failure to provide complete and specific information as requested may result in a delay in processing or an inability to locate the record(s) or information requested.

☐ Complete Alien File (A-File)

☐ Other (please specify): _____

Purpose: (Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)

Family Name (Last Name)		Given Name (First Name)	
Middle Name			
Other Names Used (if any)		Name at time of entry into the U.S.	
I-94 Admission #			
Alien Registration Number (A#)	Petition or Claim Receipt #	Country of Birth	Date of Birth (mm/dd/yyyy)

Names of other family members that may appear on requested record(s) (i.e., spouse, daughter, son):

Family Member's Name: Given Name (First Name)		Middle Name	Family Name (Last Name)	Relationship
Father's Name: Given Name (First Name)		Middle Name	Family Name (Last Name)	
Mother's Name: Given Name (First Name)		Middle Name	Family Name (Last Name, including Maiden Name)	
Country of Origin (Place of Departure)		Port of Entry Into the U.S.		Date of Entry (mm/dd/yyyy)
Manner of Entry (Air, Sea, Land)		Mode of Travel (Name of Carrier)		

3. Subject of Record Consent to Release Information (Must be signed by the subject of record(s) requested.)

By my signature, I consent to allow USCIS to release to the requester named in Number 5 (Check applicable box):

- ☐ All of my records ☐ A portion of my records (If a portion, specify below what part, i.e., copy of application.)

Print Name of Subject of Record _____

Signature of Subject of Record _____

Date (mm/dd/yyyy) _____

- ☐ Deceased Subject - Proof of death must be attached (Obituary, Death Certificate, or other proof of death required)

4. Verification of Identity (Required; Fill out all that apply.)

Name of Subject of Record (First, Middle, Last)		Daytime Telephone	E-mail Address
Address (Street Number and Name)		Apt. Number	
City	State	Zip Code	
Date of Birth (mm/dd/yyyy)	Place of Birth		

The Subject of Record must provide a signature under either a Notarized Affidavit of Identity or a Sworn Declaration Under Penalty of Perjury:

- ☐ Notarized Affidavit of Identity

Signature of Subject of Record _____

Date (mm/dd/yyyy) _____

Subscribed and sworn to before me this _____ day of _____ Telephone No. _____

Signature of Notary _____ My Commission Expires on _____

OR

- ☐ Sworn Declaration Under Penalty of Perjury

Executed outside the United States

If executed outside the United States: "I declare (certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

Signature of Subject of Record _____

Executed in the United States

If executed within the United States, its territories, possessions, or commonwealths: "I declare (certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

Signature of Subject of Record _____

5. Requester Information

By my signature, I consent to pay all costs incurred for search, duplication and review of materials up to \$25 (See instructions)

Signature of Requester: _____

Name of Requester (Fill out if different from the Subject of Record.)		Daytime Telephone	E-mail Address
Address (Street Number and Name)		Apt. Number	
City	State	Zip Code	

APPLICANT INFORMATION FORM**PRIVACY ACT STATEMENT**

The FBI's acquisition, retention, and sharing of information submitted on this form is generally authorized under 28 USC 534 and 28 CFR 16.30-16.34. The purpose for requesting this information from you is to provide the FBI with a minimum of identifying data to permit an accurate and timely search of criminal history identification records. Providing this information (including your Social Security Account Number) is voluntary; however, failure to provide the information may affect the completion of your request. The information reported on this form may be disclosed pursuant to your consent, and may also be disclosed by the FBI without your consent pursuant to the Privacy Act of 1974 and all applicable routine uses. Under the Paperwork Reduction Act, you are not required to complete this form unless it contains a valid OMB control number. The form takes approximately 3 minutes to complete.

Applicant Information * Denotes Required Fields

*Last Name
 *First Name
 Middle Name 1
 Middle Name 2

*Date of Birth
 Last Four Digits of Social Security Number

Applicant Home Address

*Address
 *City *State
 *Postal (Zip) Code
 *Country

Phone Number
 E-Mail

U.S. Citizen or Legal Permanent Resident Yes ☐ No ☐
 Country of Citizenship: Country of Residence:

Mail Results to Address

C/O ATTN
 Address
 City State
 Postal (Zip) Code Country
 Phone Number (if different from above)

Payment Enclosed (please check appropriate box)

☐ CASHIER'S CHECK ☐ MONEY ORDER ☐ CREDIT CARD FORM

Number of Copies X \$18 per Copy = Total Payment of \$ Enclosed

Reason for Request

*APPLICANT SIGNATURE DATE

You may request a copy of your own identification record to review it or obtain a change, correction, or an update to the record.

Did You Remember To.....?

Please review and check the boxes below to ensure that you have included everything needed to process your request.

- ☐ Include a **completed** application form.
- ☐ Sign your application. *Note: If the request is for a couple, family, etc., all must sign the application.*
- ☐ Include a **completed** fingerprint card. A completed fingerprint card includes the following:
 - ☐ 1. Name
 - ☐ 2. Date of Birth
 - ☐ 3. Descriptive Data
 - ☐ 4. All 10 rolled fingerprint impressions.
 - ☐ 5. The plain impressions, including thumbs of both hands.
 - ☐ 6. Current fingerprint card—no older than 18 months.

- ☐ Include a cashier's check*, money order, or credit card payment for **\$18.00** per request.

Note: This amount must be exact.

- ☐ If paying by cashier's check or money order, make it payable to the Treasury of the United States.
- ☐ If using a credit card, please ensure our credit card form is filled out completely.

You must include the expiration date of the credit card that you are using.

NOTE: Cash or Personal/Business Checks are Not an Accepted Form of Payment.

- ☐ Include your contact information (for example, e-mail address, and telephone number) in case we need to contact you.

* A cashier's check is drawn by a bank on its own funds and signed by the bank's cashier.

VOLUNTARY DEPARTURE CHEAT SHEET – REMOVAL PROCEEDINGS
(See INA § 240B; 8 CFR § 1240.26)

	240B(a) VD (up to 120 days)	240B(b) VD (up to 60 days)
MAXIMUM PERIOD	120 days	60 days
ARRIVING ALIENS/PHYSICAL PRESENCE BAR?	R may not be an arriving alien (but there is no required period of physical presence).	R must have been physically present in the U.S. for at least one year immediately preceding service of the NTA (potentially may include some arriving aliens).
TIMING OF REQUEST	R must make request for VD prior to or at master calendar hearing at which case is initially scheduled for a merits hearing.	R may make request up until conclusion of proceedings.
STAGE OF PROCEEDINGS	Proceedings must not have progressed beyond 30 days after the master calendar hearing at which the case was initially scheduled for a merits hearing.	R may make request up until conclusion of proceedings.
PLEADING AND APPEAL REQUIREMENTS	R must concede removability, must forego all additional requests for relief, and must waive appeal of all issues.	R may contest removability, litigate additional requests for relief, and reserve appeal on all issues.
DEPARTURE AT OWN EXPENSE	Not necessarily. See <u>Matter of Arguelles</u> , 22 I&N Dec. 811, 817 (BIA 1999); INA § 241(e)(3)(C).	8 CFR § 1240.26(c)(1)(iv) requires R to prove that he has the means to depart immediately. <u>But see</u> INA § 241(e)(3)(C).
TRAVEL DOCUMENT	R must present a valid travel document (unless DHS already has R's travel document, or travel document is not required by country to which departing). IJ's order may provide for presentation of travel document within no more than 60 days.	R must present valid travel document for inspection by the DHS <i>before</i> VD is granted.
BOND/OTHER CONDITIONS	IJ, in her discretion, may impose a bond. R also must satisfy any other conditions that the IJ imposes to ensure timely departure.	IJ must impose a VD bond of at least \$500, to be paid within 5 business days of entry of VD order. R also must satisfy any other conditions that IJ imposes to ensure timely departure.
DISCRETION	R must merit a favorable exercise of discretion.	R must merit a favorable exercise of discretion.
AGGRAVATED FELONY BAR	R is barred if removable per INA § 237(a)(2)(A)(iii) (aggravated felony).	R is barred if removable per INA § 237(a)(2)(A)(iii) (aggravated felony).
SECURITY BAR	R is barred if removable per INA § 237(a)(4) (security and related grounds) (regs contain more inclusive bar than statute).	R is barred if removable per INA § 237(a)(4) (security and related grounds).
GMC BAR?	No express GMC requirement (but GMC issues may be relevant to discretion).	R must demonstrate GMC for at least five years immediately preceding the VD application.
PREVIOUS VD BAR	R is barred if previously afforded VD in removal proceedings after having been found inadmissible per INA § 212(a)(6)(A) (i.e., as a PWAP).	R is barred if previously afforded VD in removal proceedings after having been found inadmissible per INA § 212(a)(6)(A) (i.e., as a PWAP).
BY STIPULATION?	Yes, but only for purposes of overcoming problems with timing of request or stage of proceedings, and only with DCC approval.	No.
ALTERNATE ORDER OF REMOVAL	IJ must enter an alternate order of removal.	IJ must enter an alternate order of removal.

Proof of Service

I _____ mailed or delivered a copy of the foregoing Form EOIR-28 on _____
(Name) (Date-mm/dd/yy)

to the DHS (U.S. Immigration and Customs Enforcement - ICE) at _____
(Number and Street, City, State, Zip Code)

X _____

Signature of Attorney or Representative

APPEARANCES - An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that appearances for limited purposes are not permitted, unless specifically authorized by the Immigration Judge. A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Further proof of authority to act in a representative capacity may be required.

Indicate type of appearance

I am entering an appearance as attorney or representative in this Form EOIR-28 in the capacity of:

☐ Primary Attorney or Representative ☐ Non-primary Attorney or Representative ☐ On behalf of _____

☐ Check this box if you are entering your appearance pro bono.

AVAILABILITY OF RECORDS - During the time a case is pending, a party to a proceeding or his/her attorney or representative shall be permitted to examine the Record of Proceeding in the Immigration Court having administrative control over the Record of Proceeding, in accordance with the standard procedures of the Court.

REPRESENTATION - A person entitled to representation may be represented by any of the following:

- (1) Attorneys in the United States as defined in 8 C.F.R. § 1001.1(f).
- (2) Law students and law graduates not yet admitted to the bar as defined in 8 C.F.R. § 1292.1(a)(2).
- (3) Reputable individuals as defined in 8 C.F.R. § 1292.1(a)(3).
- (4) Accredited representatives as defined in 8 C.F.R. § 1292.1(a)(4).
- (5) Accredited officials as defined in 8 C.F.R. § 1292.1(a)(5).

All representatives must comply with the specific requirements to represent aliens before the Board of Immigration Appeals. For more information on the requirements, see 8 C.F.R. § 1292.1 and the particular subsections referenced above as applicable. Note that law students and law graduates must submit additional materials pursuant to 8 C.F.R. § 1292.1(a)(2).

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is contained in 28 C.F.R. §§ 16.1 - 16.11 and appendices. For further information about requesting records from the EOIR under the Freedom of Information Act, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, available through the EOIR's website at <http://www.usdoj.gov/eoir>.

CASES BEFORE THE EOIR - Automated information about cases before the EOIR is available by calling 1-800-898-7180.

ADDITIONAL INFORMATION:

(Please attach additional sheets of paper if necessary.)

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

G-28, Notice of Entry of Appearance as Attorney or Accredited Representative

Department of Homeland Security

Part 1. Notice of Appearance as Attorney or Accredited Representative

A. This appearance is in regard to immigration matters before:

- ☐ USCIS - List the form number(s): _____
- ☐ ICE - List the specific matter in which appearance is entered: _____

☐ CBP - List the specific matter in which appearance is entered: _____

B. I hereby enter my appearance as attorney or accredited representative at the request of:

List Petitioner, Applicant, or Respondent. **NOTE:** Provide the mailing address of Petitioner, Applicant, or Respondent being represented, and not the address of the attorney or accredited representative, except when filed under VAWA.

Principal Petitioner, Applicant, or Respondent			A Number or Receipt Number, if any	<input type="checkbox"/> Petitioner <input type="checkbox"/> Applicant <input type="checkbox"/> Respondent
Name: Last	First	Middle		
Address: Street Number and Street Name			State	Zip Code

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, USCBP, or USICE.

Signature of Petitioner, Applicant, or Respondent _____ Date _____

Part 2. Information about Attorney or Accredited Representative (Check applicable item(s) below)

- A. ☐ I am an attorney and a member in good standing of the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia:
 I am not ☐ or ☐ am subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law (If you are subject to any order(s), explain fully on reverse side).
- B. ☐ I am an accredited representative of the following qualified non-profit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 1292.2. Provide name of organization and expiration date of accreditation: _____
- C. ☐ I am associated with _____
 The attorney or accredited representative of record previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request (If you check this item, also complete item A or B above in Part 2, whichever is appropriate).

Part 3. Name and Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.


Name of Attorney or Accredited Representative	Attorney Bar Number(s), if any
Signature of Attorney or Accredited Representative	Date
Complete Address of Attorney or Organization of Accredited Representative (Street Number and Street Name, Suite No., City, State, Zip Code)	
Phone Number (Include area code)	Fax Number, if any (Include area code)
E-Mail Address, if any	



**U.S. Immigration
and Customs
Enforcement**

June 17, 2011

MEMORANDUM FOR: All Field Office Directors
All Special Agents in Charge
All Chief Counsel

FROM: John Morton
Director 

SUBJECT: Exercising Prosecutorial Discretion Consistent with the Civil
Immigration Enforcement Priorities of the Agency for the
Apprehension, Detention, and Removal of Aliens

Purpose

This memorandum provides U.S. Immigration and Customs Enforcement (ICE) personnel guidance on the exercise of prosecutorial discretion to ensure that the agency's immigration enforcement resources are focused on the agency's enforcement priorities. The memorandum also serves to make clear which agency employees may exercise prosecutorial discretion and what factors should be considered.

This memorandum builds on several existing memoranda related to prosecutorial discretion with special emphasis on the following:

- Sam Bernsen, Immigration and Naturalization Service (INS) General Counsel, Legal Opinion Regarding Service Exercise of Prosecutorial Discretion (July 15, 1976);
- Bo Cooper, INS General Counsel, INS Exercise of Prosecutorial Discretion (July 11, 2000);
- Doris Meissner, INS Commissioner, Exercising Prosecutorial Discretion (November 17, 2000);
- Bo Cooper, INS General Counsel, Motions to Reopen for Considerations of Adjustment of Status (May 17, 2001);
- William J. Howard, Principal Legal Advisor, Prosecutorial Discretion (October 24, 2005);
- Julie L. Myers, Assistant Secretary, Prosecutorial and Custody Discretion (November 7, 2007);
- John Morton, Director, Civil Immigration Enforcement Priorities for the Apprehension, Detention, and Removal of Aliens (March 2, 2011); and
- John Morton, Director, Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs (June 17, 2011).

Exercising Prosecutorial Discretion Consistent with the Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens

The following memoranda related to prosecutorial discretion are rescinded:

- Johnny N. Williams, Executive Associate Commissioner (EAC) for Field Operations, Supplemental Guidance Regarding Discretionary Referrals for Special Registration (October 31, 2002); and
- Johnny N. Williams, EAC for Field Operations, Supplemental NSEERS Guidance for Call-In Registrants (January 8, 2003).

Background

One of ICE's central responsibilities is to enforce the nation's civil immigration laws in coordination with U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS). ICE, however, has limited resources to remove those illegally in the United States. ICE must prioritize the use of its enforcement personnel, detention space, and removal assets to ensure that the aliens it removes represent, as much as reasonably possible, the agency's enforcement priorities, namely the promotion of national security, border security, public safety, and the integrity of the immigration system. These priorities are outlined in the ICE Civil Immigration Enforcement Priorities memorandum of March 2, 2011, which this memorandum is intended to support.

Because the agency is confronted with more administrative violations than its resources can address, the agency must regularly exercise "prosecutorial discretion" if it is to prioritize its efforts. In basic terms, prosecutorial discretion is the authority of an agency charged with enforcing a law to decide to what degree to enforce the law against a particular individual. ICE, like any other law enforcement agency, has prosecutorial discretion and may exercise it in the ordinary course of enforcement¹. When ICE favorably exercises prosecutorial discretion, it essentially decides not to assert the full scope of the enforcement authority available to the agency in a given case.

In the civil immigration enforcement context, the term "prosecutorial discretion" applies to a broad range of discretionary enforcement decisions, including but not limited to the following:

- deciding to issue or cancel a notice of detainer;
- deciding to issue, reissue, serve, file, or cancel a Notice to Appear (NTA);
- focusing enforcement resources on particular administrative violations or conduct;
- deciding whom to stop, question, or arrest for an administrative violation;
- deciding whom to detain or to release on bond, supervision, personal recognizance, or other condition;
- seeking expedited removal or other forms of removal by means other than a formal removal proceeding in immigration court;

¹ The Meissner memorandum's standard for prosecutorial discretion in a given case turned principally on whether a substantial federal interest was present. Under this memorandum, the standard is principally one of pursuing those cases that meet the agency's priorities for federal immigration enforcement generally.

Exercising Prosecutorial Discretion Consistent with the Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens

- settling or dismissing a proceeding;
- granting deferred action, granting parole, or staying a final order of removal;
- agreeing to voluntary departure, the withdrawal of an application for admission, or other action in lieu of obtaining a formal order of removal;
- pursuing an appeal;
- executing a removal order; and
- responding to or joining in a motion to reopen removal proceedings and to consider joining in a motion to grant relief or a benefit.

Authorized ICE Personnel

Prosecutorial discretion in civil immigration enforcement matters is held by the Director² and may be exercised, with appropriate supervisory oversight, by the following ICE employees according to their specific responsibilities and authorities:

- officers, agents, and their respective supervisors within Enforcement and Removal Operations (ERO) who have authority to institute immigration removal proceedings or to otherwise engage in civil immigration enforcement;
- officers, special agents, and their respective supervisors within Homeland Security Investigations (HSI) who have authority to institute immigration removal proceedings or to otherwise engage in civil immigration enforcement;
- attorneys and their respective supervisors within the Office of the Principal Legal Advisor (OPLA) who have authority to represent ICE in immigration removal proceedings before the Executive Office for Immigration Review (EOIR); and
- the Director, the Deputy Director, and their senior staff.

ICE attorneys may exercise prosecutorial discretion in any immigration removal proceeding before EOIR, on referral of the case from EOIR to the Attorney General, or during the pendency of an appeal to the federal courts, including a proceeding proposed or initiated by CBP or USCIS. If an ICE attorney decides to exercise prosecutorial discretion to dismiss, suspend, or close a particular case or matter, the attorney should notify the relevant ERO, HSI, CBP, or USCIS charging official about the decision. In the event there is a dispute between the charging official and the ICE attorney regarding the attorney's decision to exercise prosecutorial discretion, the ICE Chief Counsel should attempt to resolve the dispute with the local supervisors of the charging official. If local resolution is not possible, the matter should be elevated to the Deputy Director of ICE for resolution.

² Delegation of Authority to the Assistant Secretary, Immigration and Customs Enforcement, Delegation No. 7030.2 (November 13, 2004), delegating among other authorities, the authority to exercise prosecutorial discretion in immigration enforcement matters (as defined in 8 U.S.C. § 1101(a)(17)).

Exercising Prosecutorial Discretion Consistent with the Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens

Factors to Consider When Exercising Prosecutorial Discretion

When weighing whether an exercise of prosecutorial discretion may be warranted for a given alien, ICE officers, agents, and attorneys should consider all relevant factors, including, but not limited to—

- the agency's civil immigration enforcement priorities;
- the person's length of presence in the United States, with particular consideration given to presence while in lawful status;
- the circumstances of the person's arrival in the United States and the manner of his or her entry, particularly if the alien came to the United States as a young child;
- the person's pursuit of education in the United States, with particular consideration given to those who have graduated from a U.S. high school or have successfully pursued or are pursuing a college or advanced degrees at a legitimate institution of higher education in the United States;
- whether the person, or the person's immediate relative, has served in the U.S. military, reserves, or national guard, with particular consideration given to those who served in combat;
- the person's criminal history, including arrests, prior convictions, or outstanding arrest warrants;
- the person's immigration history, including any prior removal, outstanding order of removal, prior denial of status, or evidence of fraud;
- whether the person poses a national security or public safety concern;
- the person's ties and contributions to the community, including family relationships;
- the person's ties to the home country and conditions in the country;
- the person's age, with particular consideration given to minors and the elderly;
- whether the person has a U.S. citizen or permanent resident spouse, child, or parent;
- whether the person is the primary caretaker of a person with a mental or physical disability, minor, or seriously ill relative;
- whether the person or the person's spouse is pregnant or nursing;
- whether the person or the person's spouse suffers from severe mental or physical illness;
- whether the person's nationality renders removal unlikely;
- whether the person is likely to be granted temporary or permanent status or other relief from removal, including as a relative of a U.S. citizen or permanent resident;
- whether the person is likely to be granted temporary or permanent status or other relief from removal, including as an asylum seeker, or a victim of domestic violence, human trafficking, or other crime; and
- whether the person is currently cooperating or has cooperated with federal, state or local law enforcement authorities, such as ICE, the U.S. Attorneys or Department of Justice, the Department of Labor, or National Labor Relations Board, among others.

This list is not exhaustive and no one factor is determinative. ICE officers, agents, and attorneys should always consider prosecutorial discretion on a case-by-case basis. The decisions should be based on the totality of the circumstances, with the goal of conforming to ICE's enforcement priorities.

Exercising Prosecutorial Discretion Consistent with the Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens

That said, there are certain classes of individuals that warrant particular care. As was stated in the Meissner memorandum on Exercising Prosecutorial Discretion, there are factors that can help ICE officers, agents, and attorneys identify these cases so that they can be reviewed as early as possible in the process.

The following positive factors should prompt particular care and consideration:

- veterans and members of the U.S. armed forces;
- long-time lawful permanent residents;
- minors and elderly individuals;
- individuals present in the United States since childhood;
- pregnant or nursing women;
- victims of domestic violence, trafficking, or other serious crimes;
- individuals who suffer from a serious mental or physical disability; and
- individuals with serious health conditions.

In exercising prosecutorial discretion in furtherance of ICE's enforcement priorities, the following negative factors should also prompt particular care and consideration by ICE officers, agents, and attorneys:

- individuals who pose a clear risk to national security;
- serious felons, repeat offenders, or individuals with a lengthy criminal record of any kind;
- known gang members or other individuals who pose a clear danger to public safety; and
- individuals with an egregious record of immigration violations, including those with a record of illegal re-entry and those who have engaged in immigration fraud.

Timing

While ICE may exercise prosecutorial discretion at any stage of an enforcement proceeding, it is generally preferable to exercise such discretion as early in the case or proceeding as possible in order to preserve government resources that would otherwise be expended in pursuing the enforcement proceeding. As was more extensively elaborated on in the Howard Memorandum on Prosecutorial Discretion, the universe of opportunities to exercise prosecutorial discretion is large. It may be exercised at any stage of the proceedings. It is also preferable for ICE officers, agents, and attorneys to consider prosecutorial discretion in cases without waiting for an alien or alien's advocate or counsel to request a favorable exercise of discretion. Although affirmative requests from an alien or his or her representative may prompt an evaluation of whether a favorable exercise of discretion is appropriate in a given case, ICE officers, agents, and attorneys should examine each such case independently to determine whether a favorable exercise of discretion may be appropriate.

In cases where, based upon an officer's, agent's, or attorney's initial examination, an exercise of prosecutorial discretion may be warranted but additional information would assist in reaching a final decision, additional information may be requested from the alien or his or her representative. Such requests should be made in conformity with ethics rules governing

Exercising Prosecutorial Discretion Consistent with the Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens

communication with represented individuals³ and should always emphasize that, while ICE may be considering whether to exercise discretion in the case, there is no guarantee that the agency will ultimately exercise discretion favorably. Responsive information from the alien or his or her representative need not take any particular form and can range from a simple letter or e-mail message to a memorandum with supporting attachments.

Disclaimer

As there is no right to the favorable exercise of discretion by the agency, nothing in this memorandum should be construed to prohibit the apprehension, detention, or removal of any alien unlawfully in the United States or to limit the legal authority of ICE or any of its personnel to enforce federal immigration law. Similarly, this memorandum, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

³ For questions concerning such rules, officers or agents should consult their local Office of Chief Counsel.



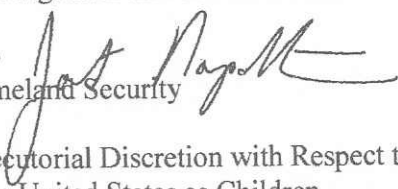
Homeland Security

June 15, 2012

MEMORANDUM FOR: David V. Aguilar
Acting Commissioner, U.S. Customs and Border Protection

Alejandro Mayorkas
Director, U.S. Citizenship and Immigration Services

John Morton
Director, U.S. Immigration and Customs Enforcement

FROM: Janet Napolitano 
Secretary of Homeland Security

SUBJECT: Exercising Prosecutorial Discretion with Respect to Individuals
Who Came to the United States as Children

By this memorandum, I am setting forth how, in the exercise of our prosecutorial discretion, the Department of Homeland Security (DHS) should enforce the Nation's immigration laws against certain young people who were brought to this country as children and know only this country as home. As a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.

The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to this memorandum:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- is not above the age of thirty.

Our Nation's immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.

As part of this exercise of prosecutorial discretion, the above criteria are to be considered whether or not an individual is already in removal proceedings or subject to a final order of removal. No individual should receive deferred action under this memorandum unless they first pass a background check and requests for relief pursuant to this memorandum are to be decided on a case by case basis. DHS cannot provide any assurance that relief will be granted in all cases.

1. With respect to individuals who are encountered by U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS):

- With respect to individuals who meet the above criteria, ICE and CBP should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.
- USCIS is instructed to implement this memorandum consistent with its existing guidance regarding the issuance of notices to appear.

2. With respect to individuals who are in removal proceedings but not yet subject to a final order of removal, and who meet the above criteria:

- ICE should exercise prosecutorial discretion, on an individual basis, for individuals who meet the above criteria by deferring action for a period of two years, subject to renewal, in order to prevent low priority individuals from being removed from the United States.
- ICE is instructed to use its Office of the Public Advocate to permit individuals who believe they meet the above criteria to identify themselves through a clear and efficient process.
- ICE is directed to begin implementing this process within 60 days of the date of this memorandum.
- ICE is also instructed to immediately begin the process of deferring action against individuals who meet the above criteria whose cases have already been identified through the ongoing review of pending cases before the Executive Office for Immigration Review.

3. With respect to the individuals who are not currently in removal proceedings and meet the above criteria, and pass a background check:

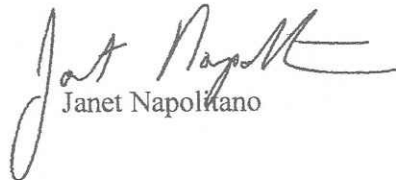
- USCIS should establish a clear and efficient process for exercising prosecutorial discretion, on an individual basis, by deferring action against individuals who meet the

above criteria and are at least 15 years old, for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.

- The USCIS process shall also be available to individuals subject to a final order of removal regardless of their age.
- USCIS is directed to begin implementing this process within 60 days of the date of this memorandum.

For individuals who are granted deferred action by either ICE or USCIS, USCIS shall accept applications to determine whether these individuals qualify for work authorization during this period of deferred action.

This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights. It remains for the executive branch, however, to set forth policy for the exercise of discretion within the framework of the existing law. I have done so here.



Janet Napolitano

