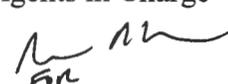




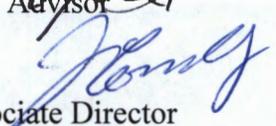
U.S. Immigration
and Customs
Enforcement

OCT - 5 2011

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

FROM: Gary Mead 
Executive Associate Director

Peter S. Vincent 
Principal Legal Advisor

James Dinkins 
Executive Associate Director

SUBJECT: Applicability of Prosecutorial Discretion Memoranda to Certain
Family Relationships

In June 2011, Director Morton issued a memorandum entitled "Exercising Prosecutorial Discretion Consistent with Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens" (the Prosecutorial Discretion Memorandum). This and other memoranda related to prosecutorial discretion are designed to ensure that agency resources are focused on our enforcement priorities, including individuals who pose a threat to public safety, are recent border crossers, or repeatedly violate our immigration laws. Pursuant to the Secretary's instruction, this new guidance serves to clarify how the existing memoranda related to prosecutorial discretion apply to family relationships involving long-term, same-sex partners.

When considering whether to exercise prosecutorial discretion in an individual case, ICE officers, agents, and attorneys should examine the totality of the circumstances presented by that case. As the Prosecutorial Discretion Memorandum makes clear, one of the factors relevant to that assessment is "the person's ties and contributions to the community, including family relationships." The factor of "family relationships" encompasses two adults who are in a committed, long-term, same-sex relationship.

Same-sex relationships that rise to the level of "family relationships" are long-term, same-sex relationships in which the individuals —

- are each other's sole domestic partner and intend to remain so indefinitely;
- are not in a marital or other domestic relationship with anyone else; and
- typically maintain a common residence and share financial obligations and assets.

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As with every other factor identified in the Prosecutorial Discretion Memorandum, the applicability of the "family relationships" factor is only one of many factors to be considered on an individualized basis in the determination of whether prosecutorial discretion is appropriate in a given case. Officers, agents and attorneys must consider the totality of circumstances presented in an individual case. Family relationships may be outweighed by criminal history, prior immigration violations, or other indicia that an individual meets ICE enforcement priorities.