



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

**SEP 27 2019**

The Honorable Joaquin Castro  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Castro:

Thank you for your July 17, 2019 letter to U.S. Immigration and Customs Enforcement (ICE) regarding U nonimmigrant status (U visa) cases.

ICE recognizes the significant law enforcement interest with active victim-witnesses remaining in the United States. The U visa is an immigration benefit available to eligible aliens who, among other requirements, have suffered substantial physical or mental abuse as a result of certain enumerated criminal acts, and who were helpful, are being helpful, or are likely to be helpful to law enforcement in investigating or prosecuting such criminal activity.

The U visa is intended to strengthen the ability of federal, state, and local law enforcement agencies, including ICE Homeland Security Investigations (HSI), to detect, investigate, and prosecute cases of human trafficking, domestic violence, sexual exploitation, female genital mutilation, and other specified criminal activity. U visa petitioners who are in removal proceedings and are awaiting U.S. Citizenship and Immigration Services (USCIS) adjudication of their U visa petition may request that ICE join a motion to terminate proceedings. Likewise, U visa petitioners with a final order of removal may request a Stay of Removal from ICE pending USCIS adjudication.

On August 2, 2019, I issued ICE Directive 11005.2, *Stay of Removal Requests and Removal Proceedings Involving U Nonimmigrant Status (U Visa) Petitioners*, to provide updated procedural guidance for reviewing Stay of Removal requests and joining motions to terminate removal proceedings from U visa petitioners. The new guidance removes the requirements for requesting a *prima facie* determination from USCIS and instructs ICE personnel to exercise discretion when determining whether to grant a Stay of Removal request from a U visa petitioner based on the totality of circumstances, including any favorable or adverse factors as well as federal interest(s) implicated. Assistance provided by a U visa petitioner to law enforcement, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of criminal activity will generally be considered a significant favorable factor but is not necessarily dispositive. Directive 11005.2 adds a provision that generally allows for a Stay of Removal to be granted to U visa petitioners who are assisting ICE investigations. Additionally, ICE will not remove a U visa petitioner, or their qualifying family members whom USCIS has granted deferred action to, unless a new basis for removal develops or USCIS terminates deferred action. I am confident that this revised guidance will reinforce ICE's ability

to prosecute criminal activity while also providing protections for victims of crime. Furthermore, ICE Policy Memorandum 10076.1, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs*, issued on June 17, 2011, remains in effect.

In Fiscal Year (FY) 2009, when the previous version of the Directive was issued, USCIS received 10,952 petitions for U visas. In FY 2018, USCIS received 58,991 U visa petitions. At the end of FY 2018, the backlog of U visa petitions awaiting review was 228,764. The United States grants 10,000 U visas each year, and there is no cap on the number of derivative visas. Given the exponential increase in the number of U visa petitions and the resulting backlog that has developed over the last 10 years, ICE and USCIS can no longer sustain the process of seeking and issuing a *prima facie* determination for every pending U visa petition.

ICE continues to focus its enforcement resources on individuals who pose a threat to national security, public safety, and border security. ICE no longer exempts classes or categories of removable aliens from potential enforcement; however, ICE continues to recognize the significant law enforcement interest with victims and witnesses remaining in the United States. Anyone who has violated U.S. immigration laws may be subject to arrest, detention, and if subject to a final administrative removal order, removal from the United States.

Thank you again for your letter and interest in this matter. Please share this response with the cosigners of your letter.

Sincerely,



Matthew T. Albence  
Deputy Director and  
Senior Official Performing the Duties of the Director

cc: The Honorable Gwen Moore  
The Honorable Eleanor Holmes Norton  
The Honorable Nydia M. Velázquez  
The Honorable Dina Titus  
The Honorable Adriano Espaillat  
The Honorable Alcee L. Hastings  
The Honorable Barbara Lee  
The Honorable Katherine Clark  
The Honorable Albio Sires

The Honorable Bonnie Watson Coleman  
The Honorable Jimmy Panetta  
The Honorable James P. McGovern  
The Honorable Juan Vargas  
The Honorable Marc Veasey  
The Honorable Jan Schakowsky  
The Honorable Jackie Speier  
The Honorable Salud Carbajal  
The Honorable Darren Soto