



U.S. Immigration and Customs Enforcement

STATEMENT OF

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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

REGARDING A HEARING ON
IMMIGRATION ENFORCEMENT

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

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INTRODUCTION

Chairman Goodlatte, Ranking Member Conyers, and members of the Committee: thank you for the opportunity to appear before you today to testify about U.S. Immigration and Customs Enforcement's (ICE) immigration enforcement efforts.

ICE's Immigration Enforcement Successes

Over the past four years, ICE has transformed the immigration enforcement system, smartly focusing resources on the apprehension, detention and removal of individuals who fall within our highest enforcement priorities, namely national security and public safety threats. ICE's immigration enforcement statistics from the last fiscal year (FY) highlight the Administration's success in focusing the enforcement system efforts on removing from the country convicted criminals, public safety threats, recent illegal border entrants and other priority individuals. Overall, in FY 2012 ICE's Office of Enforcement and Removal Operations removed a record number of 409,849 individuals. Of these, approximately 55 percent, or 225,390 of the people removed, were convicted of felonies or misdemeanors – almost double the removal of criminals in FY 2008. This includes 1,215 aliens convicted of homicide; 5,557 aliens convicted of sexual offenses; 40,448 aliens convicted for crimes involving drugs; and 36,166 aliens convicted for driving under the influence. ICE also continues to make progress in the removal of other enforcement priorities. As such, 96 percent of all ICE's removals fell into a priority category – a record high.

In order to maintain control at our nation's borders, ICE prioritizes the identification and removal of recent border crossers and conducts targeted enforcement operations with the U.S. Border Patrol. Attempts to cross the Southwest border illegally have decreased 49 percent over

the past four years, and are 78 percent lower than what they were at their peak. In many ways, these historic results along the Southwest Border are attributable to the joint efforts of U.S. Border Patrol agents and ICE officers and agents, and the emphasis ICE places on the removal of recent border crossers.

ICE has been implementing a range of smart, effective reforms to the immigration system that allow our agency to focus its enforcement resources on individuals who pose a danger to national security, a risk to public safety, or otherwise represent enforcement priorities. ICE has established formal written prosecutorial discretion guidance for ICE law enforcement personnel and attorneys regarding their authority to exercise discretion when appropriate. The relevant directives clearly state that the exercise of discretion is inappropriate in cases involving 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. This guidance also directs the favorable exercise of prosecutorial discretion to ensure that victims of and witnesses to crimes are properly protected.

To further enhance ICE's prioritized approach, on December 21, 2012, ICE issued new guidance to state and local law enforcement partners governing the use of detainers in our nation's criminal justice system. The guidance sets forth a uniform, transparent and effective manner for regulating their use in cases arising out of the Criminal Alien Program, Secure Communities, 287(g) agreements, and other ICE enforcement efforts. Moreover, consistent with ICE enforcement priorities, the guidance outlines the types of cases where detainers should be issued. These include cases involving felony convictions or felony charges; three or more prior misdemeanor convictions; misdemeanors involving violence, sexual abuse or other serious

conduct; or cases that pose significant risks to national security, border security, or public safety. Conversely, the new policy limits their use in cases involving individuals arrested for minor misdemeanor offenses such as traffic offenses, which do not reflect a danger to public safety, and will help to ensure that available resources are focused on apprehending convicted felons, repeat immigration offenders and other ICE priorities. It is applicable to all ICE enforcement programs and strategies. ICE will continue to evaluate its enforcement policies, operations and programs to ensure that they are focused on our highest priorities, making adjustments when necessary.

Also reflective of ICE's commitment to smart, effective immigration enforcement are the major reforms we have made to the immigration detention system. Beginning in August 2009, these reforms address many of the concerns raised about ICE's immigration detention system, while allowing ICE to maintain adequate detention capacity to carry out our immigration enforcement responsibilities. To help effectuate these reforms, in 2009, ICE established its Office of Detention Policy and Planning, which oversees day-to-day detention reforms while designing a new detention system that aligns with our nation's values. ICE also conducted a nationwide deployment of a new automated Risk Classification Assessment instrument to improve transparency and uniformity in detention custody and classification decisions reflecting the agency's civil enforcement priorities, this assessment contains objective criteria to guide decision making, regarding whether an alien should be detained or released, and if detained, the alien's appropriate custody classification level. It also requires ICE officers to determine whether there is any special vulnerability that may impact custody and classification determinations. ICE continues to look for ways to ensure that the health and safety of aliens in our custody are protected, by increasing our oversight of detention facilities and improving the conditions of confinement within the detention system.

All of the above successes highlight the effectiveness ICE's overall effort to establish clear enforcement priorities that smartly focus agency resources.

Recent Releases of Certain Aliens

As the Committee knows, we are coming to the end of a Continuing Resolution (CR). This CR funded ICE to maintain a yearly average daily population of approximately 34,000 individuals. In early February, ICE was maintaining an average daily population in excess of 35,000 individuals, including many who did not require detention by law.

These detention levels exceeded Congressional appropriations, and with the strong possibility of sequestration, ICE officials managed the detention population in order to ensure that ICE could operate within the appropriations provided by Congress. Notably, these budget constraints are now further compounded by the reductions required by sequestration, which represents a nearly \$300 million cut to our budget that we must absorb over the remaining seven months of the fiscal year.

In reducing detention levels, we took careful steps to ensure that national security and public safety were not compromised by the releases. All release decisions were made by career law enforcement officials following a careful examination of the individual's criminal and immigration history ensuring that the focus remains on detaining serious criminal offenders and others who pose a threat to the national security or public safety. Every individual released was placed on an alternative form of ICE's supervision, and all released individuals remain in removal proceedings.

I regret that the timing of our releases caught many by surprise and we would be happy to brief your staffs further on this issue. The releases were a direct result of ICE's efforts to stay

within its detention budget in light of the CR and sequestration. Going forward, ICE will continue to manage its budget in a prioritized manner, ensuring that the focus remains on serious criminal offenders and others who pose a threat to public safety.

CONCLUSION

Thank you again for the opportunity to testify today, and I would now be pleased to answer any questions.