

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

October 29, 2021

Hart W. Wood
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

RE: American Oversight v. ICE, No. 20-1716
ICE FOIA Case Number 2020-ICLI-00056
Fourth Interim Release

Dear Mr. Wood:

This letter is the fourth interim response to your client's Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated March 24, 2020. Your client seeks "any documents gathered in response to a request made to former Chief of Staff Thomas Blank on or around January 30, 2019, for 'any ICE Policy Memo's addressing enforcement, zero tolerance or family separation - from 2017 forward,' as reflected in ICE records previously released to American Oversight."

ICE has located 350 pages of potentially responsive records from ICE's Office of the Director and has processed these records under the FOIA, 5 U.S.C. § 552. Of the 350 pages: 126 were deemed non-responsive/duplicative in nature; 69 pages require consultation with the U.S. Department of Homeland Security; 1 page requires consultation with U.S. Customs and Border Protection; 69 pages will be released in full; and portions of the remaining 85 pages will be withheld pursuant to FOIA Exemptions 5, 6, 7(C), and 7(E) as described below.

ICE has applied FOIA Exemption 5 to protect from disclosure inter-agency pre-decisional and deliberative communications and drafts as well as attorney-client privilege and attorney work product information.

FOIA Exemption 5 protects inter-agency or intra-agency deliberative process privilege, attorney work-product privilege, or attorney-client privilege information. Exemption 5 protects the integrity of the decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

ICE has applied FOIA Exemption 7(E) to protect from disclosure internal agency law enforcement sensitive investigative techniques and internal agency URLs, agency case numbers, or database codes contained within the records.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant United States Attorney Jeremy S. Simon at jeremy.simon@usdoj.gov.

Sincerely,
LYNNEA A
SCHURKAMP
Lynnea Schurkamp
Deputy FOIA Officer for –
Fernando Pineiro Jr.
(A)FOIA Officer

Digitally signed by
LYNNEA A SCHURKAMP
Date: 2021.10.27
12:30:57 -04'00'

Enclosure: 154 pages

cc: Jeremy Simon

Assistant United States Attorney

From: (b)(6); (b)(7)(C)
Sent: Thu, 7 Mar 2019 13:30:27 +0000
To: Seguin, Debbie; (b)(6); (b)(7)(C)
Subject: DHS OIG Hearing Highlights from Inspector General John V. Kelly's Testimony to the House Appropriations Committee (HAC) Homeland Security (HS) Subcommittee: FYSA
Attachments: Director's Report - 2019-02 - Final - 20190304.pdf, John V Kelly Testimony-030619.pdf, FY 2018 Audit Recommendations as of 20190228_Final.xlsx
Importance: High

Debbie (b)(6); (b)(7)(C)

Good Morning; FYSA:

Background:

-
DHS Inspector General (IG) John V. Kelly testified yesterday (the IG's testimony is attached) before the House Appropriations Committee (HAC) Homeland Security (HS) Subcommittee on DHS OIG's recent oversight efforts into some of the Department's most high - profile portfolios / work areas. OIG's mission is to provide independent, objective oversight and promote excellence, integrity, and accountability within DHS, as you're aware.

In Fiscal Year (FY) 2018, DHS OIG released 89 audits, inspections, and other reviews containing 318 recommendations. During the same period, the work of OIG's criminal investigators resulted in 103 arrests, 132 indictments, 76 convictions and 31 personnel actions.

Complaints from DHS employees and the public to OIG's hotline continue to grow, with 40,657 complaints received in FY 2018 and 7,331 received to date in FY 2019.

DHS OIG's return on investment averages \$9.47 over the last 5 years, meaning that for every \$1 invested in the OIG, we have identified \$9.47 in potential savings.

The IG's testimony to the HAC-HS focused on the following key areas, namely:

- Family separation;
- Unannounced inspections of U.S. Immigration and Customs Enforcement (ICE) facilities;
- The Department's efforts to hire and train border patrol agents and immigration officers; and,
- Oversight of the Federal Emergency Management Agency (FEMA) disaster relief work, respectively.

-
ICE – Related Audits / Topics IG Kelly Discussed with the HAC-HS:

- IG Kelly discussed the following work germane to ICE: family separation (Zero Tolerance Policy), and the unannounced inspections of ICE facilities.

(Of note, FYSA, IG Kelly also discussed the efforts to hire and train Border Patrol agents and immigration officers, and the FEMA Disaster Relief Fund, or DRF)

The ICE reports cited include:

- Concerns about ICE Detainee Treatment and Care at Detention Facilities (OIG-18-32);
- Issues Requiring Action at the Essex County Correctional Facility in Newark, New Jersey (OIG-19-20);
- Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California (OIG-18-86);
- ICE’s Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements (OIG-18-67);
- ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards (OIG-19-18); and,
- DHS Training Needs for Hiring 15,000 Border Patrol Agents and Immigration Officers (OIG-19-07), respectively.

- Action Items/Get-Backs:

(b)(5)

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(b)(5)

Thank you & please advise if you have questions or concerns.

V/r,

(b)(6);

Special Advisor

Office of the Director (OD)

U.S. Immigration and Customs Enforcement (ICE)

Desk: (b)(6); (b)(7)(C) Mobile: (b)(6); (b)(7)(C)



Monthly Audit Report February 2019

Status of Active Audits

Auditor	Summary for Current Month					Summary for Current Fiscal Year					Active Audit Phases				
	Active at Start of Month	Opened During FEB (+)	Issued or CX During FEB (-)	Net Change This Month	Current Active Total	Active at Start of FY 2019	Opened During FY 2019 (+)	Issued or CX During FY 2019 (-)	Net Change YTD	Current Active Total	Announcement	Entrance Conference	Fieldwork	Exit Conference	Draft Report
GAO	34	5	1	+4	38	33	12	7	+5	38	2	3	25	5	3
OIG	27	2	2	0	27	29	7	9	-2	27	2	2	19	1	3
External	7	0	0	0	7	8	0	1	-1	7	1	0	6	0	0
Total	68	7	3	+4	72	70	19	17	+2	72	5	5	50	6	6

* "Issued or CX" audits include engagements for which the auditor has issued a final report, as well as audits that were cancelled, suspended, placed on hold, or from which ICE has been officially removed from the scope.

* Appendix I includes a complete list of active audits.

Status of Audit Recommendations

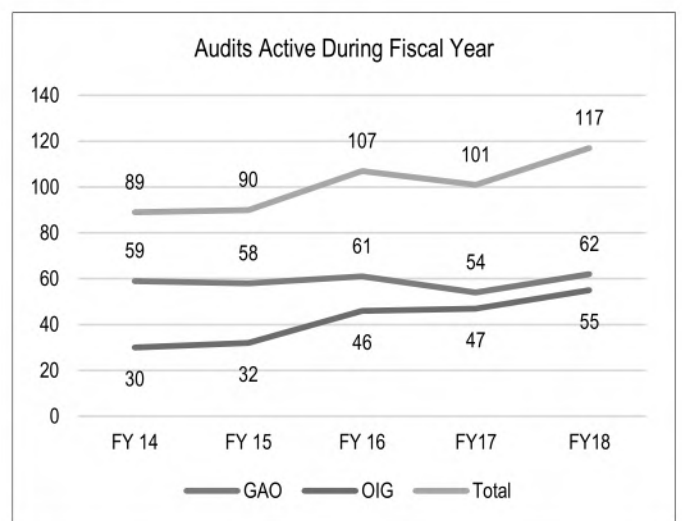
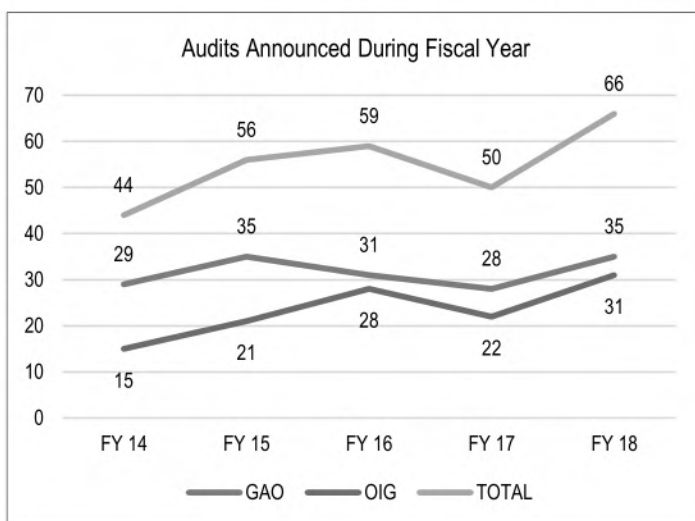
Auditor	Open at Start of FY 2019	Opened During FEB	Closed During FEB	Opened During FY 2019	Closed During FY 2019	Current Open Total	Aged Recommendations						% Aged
							0-6 months	6-12 months	12-24 months	24-36 months	36-48 months	48+ months	
GAO	33 (1)	0	3	8	3	38 (1)	8	15	4	5	1	5 (1)	28.9%
OIG	48 (4)	1	6	18	10	56 (3)	26 (2)	5	15 (1)	0	2	8	17.9%
Total	81 (5)	1	9	26	13	94 (4)	34 (2)	20	19 (1)	5	3	13 (1)	22.3%

* Numbers in parentheses are "unresolved" recommendations, meaning the auditor does not believe ICE's planned corrective actions are sufficient to meet the intent of the recommendation.

* The Department Audit Liaison (DAL) reports on the age of open recommendations. As defined by the DAL, aged recommendations are those that have been open more than 24 months.

* Appendix II includes a list of the aged recommendations.

Audits by Fiscal Year





High Priority GAO Audits

(b)(5)



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Appendix I – List of Active Audits

Sorted by auditor, then by phase, then by announcement date (oldest to newest).

Auditor	Project No.	Summary in Report	Title	Phase	Announcement Date	DHS Lead	DHS Sub-component
External	A-03-18-50538	•	Suspended and Nonwork Social Security Numbers Being Used at Federal Agencies	Audit Announcement	02/01/18	USCIS	ICE
External	101-05-17-004	•	DOJ's Use of Law Enforcement Immigration Sponsorships	Fieldwork	10/04/17	USCIS	ICE, PLCY
External	A2017004	•	Review of the Federal Bureau of Prisons and United States Marshals Services' Pharmaceutical Cost	Fieldwork	11/27/17	ICE	
External	SIGAR-SP-188	•	U.S. and Afghan Government Benefits to ANDSF Personnel Training in the United States	Fieldwork	01/09/18	ICE	USCIS
External	DOS-02	•	Department of State's Annual Inspection Schedules	Fieldwork	02/09/18	PLCY	CBP, ICE, USCIS
External	A-2018-007	•	Expansion of the Institutional Hearing Program (IHP)	Fieldwork	07/16/18	ICE	USCG
External	A-DM-17-047	•	Bureau of the Fiscal Service's Internal Controls Over its Card Acquiring Service Program and Management of Interchange Fees	Fieldwork		MGMT-CFO	ICE, FLETC, USCG, TSA, CBP
GAO	103333	•	Seafood Trade and Enforcement of Forced Labor Provision	Audit Announcement	02/08/19	CBP	ICE, USCG
GAO	103281	•	Implementing Export Controls at Universities	Audit Announcement	02/08/19	ICE	CBP, S&T, USCIS
GAO	103274	•	International Trade-Based Money Laundering	Entrance Conference	02/01/19	ICE	CBP, PLCY
GAO	103265	•	U.S. Efforts to Combat Trade-Based Money Laundering	Entrance Conference	02/01/19	ICE	CBP, PLCY
GAO	103189	•	Federal Records in the National Instant Criminal Background Check System	Entrance Conference	02/01/19	ICE	CBP, USCG, USSS
GAO	102437	•	U.S. Secret Service Dual Mission	Fieldwork	11/08/17	USSS	DHS CFO, DHS CHCO, ICE, NPPD, PLCY
GAO	102427	Ⓡ	Immigration Enforcement Priorities and Prosecutorial Discretion	Fieldwork	12/05/17	ICE	CBP, OGC, PLCY
GAO	102449	•	FAA Aircraft Registry Transparency	Fieldwork	12/21/17	TSA	ICE, CBP
GAO	102504	•	DHS Agile Application	Fieldwork	12/21/17	MGMT-PARM	CBP, FEMA, ICE, MGMT-CFO (PA&E), MGMT-CIO, NPPD, S&T, TSA, USCG
GAO	102600	•	Export Control of Firearms	Fieldwork	02/21/18	CBP	ICE
GAO	102559	•	DHS Identification and Resolution of EEO Barriers in the Workplace	Fieldwork	03/20/18	CRCL	CBP, ICE, MGMT-CHCO, TSA, USCIS
GAO	102748	•	DHS Test and Evaluation Activities for Major Acquisition Programs	Fieldwork	04/13/18	S&T	CBP, FEMA, ICE, PARM, NPPD, SEC, TSA, MGMT-CFO, USCIS
GAO	102770	•	Select DHS Major Acquisition Programs	Fieldwork	04/25/18	MGMT-PARM	CBP, FEMA, ICE, PARM, NPPD, SEC, TSA, MGMT-CFO, USCIS
GAO	102621	•	Bank Secrecy Act Implementation	Fieldwork	06/04/18	ICE	
GAO	102816	•	Joint Interagency Task Forces	Fieldwork	06/05/18	PLCY	CBP, ICE, USCG
GAO	102810	Ⓡ	Criminal Prosecution for Immigration-Only Offenses	Fieldwork	06/12/18	CBP	ICE, PLCY
GAO	102827	•	The Foreign Narcotics Kingpin Designation Act	Fieldwork	07/02/18	ICE	CBP, PLCY, USCG
GAO	102918	Ⓡ	DHS's Processing of Families at the Southwest Border	Fieldwork	07/12/18	USCIS	CBP, ICE, MGMT-CFO, PLCY
GAO	102882	Ⓡ	Oversight of the E-2 Visas Program	Fieldwork	07/16/18	USCIS	CBP, ICE
GAO	102859	•	National Cyber Investigative Joint Task Force (NCIJTF) Policy Objectives and Funding	Fieldwork	07/19/18	USSS	ICE, MGMT-CFO, MGMT-CIO, NPPD, PLCY
GAO	102914	Ⓡ	Deportation of Veterans	Fieldwork	07/26/18	ICE	USCIS



Auditor	Project No.	Summary in Report	Title	Phase	Announcement Date	DHS Lead	DHS Sub-component
GAO	102908	•	Fraud Risks Associated with the Self-petition Process for Victims of Abuse Established Under the INA	Fieldwork	08/01/18	USCIS	CRCL, ICE, PLCY
GAO	102934	•	Pregnant Women in Prisons and Detention Facilities	Fieldwork	08/23/18	ICE	CBP, CRCL
GAO	102942	•	Temporary Protected Status	Fieldwork	09/20/18	USCIS	ICE, CBP, I&A, PLCY, USCG
GAO	102965	•	Looting and Trafficking of Native American Cultural Items	Fieldwork	10/26/18	OPE	CBP, CRCL, ICE, MGMT-CRISO
GAO	102999	•	Bank Secrecy Act Costs and Benefits	Fieldwork	10/29/18	ICE	USSS
GAO	103065	•	Sanctions Resources	Fieldwork	10/29/18	CBP	ICE, MGMT-OCFO, USSS
GAO	103103	•	U.S. Assistance to Mexico Under the Merida Initiative	Fieldwork	11/19/18	CBP	ICE
GAO	103122	•	DHS's Credible Fear Process	Fieldwork	12/07/18	USCIS	CBP, ICE, MGMT-CFO, PLCY
GAO	102583	•	Drawback Modernization	Fieldwork	01/29/19	CBP	ICE
GAO	102148	•	Mariana Islands Workforce Data	Exit Conference	08/23/17	USCIS	CBP, ICE
GAO	102386	•	Terrorist Watchlist Nominations and Screening Processes	Exit Conference	11/09/17	DHS I&A	CBP, ICE, TSA, USCIS, PLCY
GAO	102492	•	U.S. Assistance to Central America	Exit Conference	01/08/18	PLCY	CBP, FLETC, ICE, USCG
GAO	102533	•	Elder Abuse and International Criminal Enterprise	Exit Conference	02/21/18	ICE	CBP, USSS
GAO	102591	•	Review of Federal Legacy Systems	Exit Conference	02/27/18	MGMT-CIO	CBP, FEMA, ICE, TSA
GAO	100774	•	Backdoor Authority Accounts	Draft Report	09/22/16	MGMT-CFO	CBP, DND, FEMA, FLETC, ICE, NPPD, OGC, S&T, TSA, USCG, USCIS, USSS
GAO	102370	•	Northern Border Security	Draft Report	10/23/17	PLCY	CBP, FEMA, ICE, I&A, NPPD, SEC, S&T, USCG
GAO	102403	•	DHS Research and Development Spending and Oversight	Draft Report	10/27/17	S&T	CBP, CWMD, FEMA, ICE, MGMT-CFO, MGMT-CIO, MGMT-CPO, PARM, NPPD, TSA, USCG
OIG	19-003	•	FY 2018 Audit of the Department of Homeland Security's Compliance with Improper Payments Elimination and Recovery Act of 2010	Audit Announcement	11/08/18		
OIG	19-040	•	Review of DHS' Implementation of the Cybersecurity Act of 2015 for Calendar Years 2017 and 2018	Audit Announcement	02/21/19		
OIG	19-031	•	Unannounced Inspections of ICE Adult Detention Facilities	Entrance Conference	12/17/18	ICE	
OIG	19-004	•	DHS' Countering of Unmanned Aircraft Systems	Entrance Conference	01/30/19	PLCY	CBP, ICE, OGC, S&T, TSA, USCG, USSS
OIG	17-082	•	Review of Cooperation between the Departments of Justice and Homeland Security in Southwest Border Criminal Investigations	Fieldwork	09/28/17	ICE	
OIG	17-SRG-005	•	Unauthorized and Protected Disclosures	Fieldwork	10/20/17	MGMT-CSO	CBP, FLETC, ICE, MGMT-CHCO, OGC, TSA, USCIS, USSS
OIG	17-123	•	Unannounced Inspections of ICE Adult Detention Facilities	Fieldwork	10/24/17	ICE	
OIG	18-029	•	DHS Insider Threat Operations Center for Unclassified DHS Systems and Networks	Fieldwork	12/08/17	MGMT-CSO	ICE
OIG	18-SRG-005	•	DACA Revocations	Fieldwork	01/10/18	USCIS	CBP, ICE
OIG	18-056	•	CBP, ICE, TSA, and Secret Service handling of Employee Allegations of Sexual Harassment and Workplace Sexual Misconduct	Fieldwork	02/01/18	CRCL	CBP, ICE, MGMT-CHCO, TSA, USSS
OIG	18-060	•	ICE's Criminal Alien Program	Fieldwork	02/05/18	ICE	



Auditor	Project No.	Summary in Report	Title	Phase	Announcement Date	DHS Lead	DHS Sub-component
OIG	18-074	•	DHS' Use of Technology for Illicit Drug Interdiction	Fieldwork	3/6/2018	CBP	ICE, NPPD, S&T, USCG
OIG	18-077	Ⓡ	ICE's Enforcement and Removal Strategy	Fieldwork	04/05/18	ICE	CRCL
OIG	18-087	•	Evaluation of DHS' Information Security Program for Fiscal Year 2018	Fieldwork	04/17/18	MGMT-CIO	CBP, FEMA, FLETC, ICE, I&A, NPPD, S&T, TSA, USCG, USCIS, USSS
OIG	18-092	•	Review of DHS' Random Drug Testing for Opioids	Fieldwork	04/24/18	MGMT-CHCO	CBP, ICE, TSA, USSS
OIG	18-085	•	DHS Response to FOIA and Congressional Requests	Fieldwork	04/26/18	PRIV	CBP, FEMA, ICE, MGMT-CFO, OGC, OLA
OIG	18-SRG-008	•	Discipline of ICE Program Manager	Fieldwork	05/11/18	ICE	
OIG	18-101	Ⓡ	DHS' Seizure, Storage, and Destruction of Drugs	Fieldwork	06/21/18		CBP, ICE, TSA, USCG
OIG	18-102	•	DHS' IT Modernization Efforts	Fieldwork	07/12/18	MGMT-CIO	CBP, ICE
OIG	18-104	•	DHS' Use and Oversight of Administrative Asset Forfeiture in Accordance with Applicable Law and Policy	Fieldwork	08/09/18	MGMT-CRSO	CBP, ICE, MGMT-CFO, USCG, USSS
OIG	18-112	•	ICE's FY18 Accounting of Drug Control Funding and Performance Summary	Fieldwork	08/14/18	ICE	
OIG	18-SRG-009	•	Removal of Separated Alien Families by ICE	Fieldwork	08/31/18	ICE	
OIG	18-117	Ⓡ	DHS Tracking of Detainees to Support Migrant Family Reunification	Fieldwork	09/25/18	CBP	ICE
OIG	18-014	•	FY 2017 Risk Assessment and Audit of DHS Purchase and Travel Card Programs	Exit Conference	11/06/17	MGMT-CFO	CBP, ICE, FEMA
OIG	17-020	•	Inadequate Oversight of Low Value DHS Contracts	Draft Report	12/14/16	MGMT-CPO	CBP, FEMA, ICE, MGMT-PARM, TSA, USCG, USCIS, USSS
OIG	18-041	•	Department of Homeland Security's FY 2017 Conference Spending	Draft Report	01/08/18	MGMT-CFO	CBP, CWMD, FEMA, FLETC, ICE, I&A, MGMT-CHCO, NPPD, OPS, S&T, TSA, USCG, USCIS, USSS
OIG	18-062	Ⓡ	ICE Faces Barriers in Timely Repatriation of Detained Aliens	Draft Report	02/14/18	ICE	



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Office of the Director
Briefing Materials



Appendix II – List of Aged Recommendations

Sorted by auditor, then by report number (oldest to newest).

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~~Issue guidance has been delayed.~~



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**Testimony of Acting Inspector
General John V. Kelly**

**Before the Committee on
Appropriations, Subcommittee on
Homeland Security**

U.S. House of Representatives

“DHS Office of Inspector General”



**Homeland
Security**

**March 6, 2019
9:30 AM**

DHS-ICE-20-0656-D-000028



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Chairwoman Roybal-Allard, Ranking Member Fleischmann, and members of the Subcommittee, thank you for inviting me today to discuss the work of the Department of Homeland Security (DHS) Office of Inspector General (OIG). I am pleased to have the opportunity to share our office's recent oversight efforts into some of the Department's most high profile areas of work.

It is the OIG's mission to provide independent, objective oversight and promote excellence, integrity, and accountability within DHS. Through our work, we help the Department address challenges and fulfill its vital mission of protecting and securing our Nation. The work of the OIG is done by about 790 dedicated federal employees located both in Washington, D.C. and in 32 field offices across the United States.

One of OIG leadership's most persistent challenges is determining how best to leverage our relatively small staff to provide comprehensive oversight of the third-largest Cabinet department with over 240,000 federal employees and the most diverse mission set in the Federal government. We have recently created a new process internally to address this challenge, whereby leadership across all functions of our agency meet in a weekly discussion to set priorities regarding the DHS programs we will audit, inspect, review, and investigate. Through this approach, we are able to take into account our legislatively mandated reviews, congressional requests, referrals from other oversight agencies, and discretionary job proposals to create a balanced and comprehensive oversight portfolio. Our ultimate goal is to be a nimble organization poised to quickly respond to DHS' highest risk challenges with impactful oversight that provides value to the Department, the Congress, and the American taxpayer.

In fiscal year (FY) 2018 alone we released 89 audits, inspections, and other reviews containing 318 recommendations. During the same time period, the work of our office's criminal investigators resulted in 103 arrests, 132 indictments, 76 convictions and 31 personnel actions. Complaints from DHS employees and the public to our hotline continue to grow, with 40,657 complaints received in FY 2018 and 7,331 received to date in FY 2019. DHS OIG's return on investment averages \$9.47 over the last 5 years, meaning that for every \$1 invested in the OIG, we have identified \$9.47 in potential savings.

My testimony today will focus on our recent work in the areas of: (1) family separation, (2) unannounced inspections of U.S. Immigration and Customs Enforcement (ICE) facilities, (3) the Department's efforts to hire and train border patrol agents and immigration officers, and (4) oversight of the Federal Emergency Management Agency (FEMA) disaster relief work.



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Department of Homeland Security

Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy

Last year, the Administration's Zero Tolerance Policy and the resulting family separations sparked intense public debate. In early May 2018, DHS determined that the Zero Tolerance Policy would cover alien adults arriving illegally in the United States with minor children, a change to its approach to immigration enforcement. Because the minor children cannot be held in criminal custody with an adult, alien adults who entered the United States illegally would have to be separated from any accompanying minor children when the adults were referred for criminal prosecution. The children, who DHS then deemed to be unaccompanied alien children (UAC) were held in DHS custody until they could be transferred to the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR).

In response to significant congressional and public interest, DHS OIG deployed a multi-disciplinary team comprised of attorneys, inspectors, and criminal investigators to areas in and around El Paso and McAllen, Texas to conduct unannounced visits at Customs and Border Protection (CBP) and ICE facilities between June 26 and June 28, 2018. While our work did not evaluate the merits of the Zero Tolerance Policy, family separations or the Department's efforts to reunify separated families, we did report on our observations made in the field¹, including:

- DHS was not fully prepared to implement the Zero Tolerance Policy or to deal with certain effects of the policy following implementation.
- A lack of fully integrated Federal immigration information technology system made it difficult for DHS to reliably track separated parents and children.
- CBP regulated the number of asylum-seekers entering at the ports of entry, which may have resulted in additional illegal border crossings.
- CBP detained UACs for extended periods in facilities intended for short-term detention.
- Lack of access to reliable data poses an obstacle to accurate reporting on family separations.

¹ *Special Review – Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy* (OIG-18-84).



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- Dissemination of inconsistent or inaccurate information resulted in confusion among alien parents about separation and reunification process.

Our observations indicate that DHS was not fully prepared to implement the Zero Tolerance Policy, or to deal with certain effects of the policy following implementation. For instance, while the Government encouraged all asylum-seekers to come to ports of entry to make their asylum claims, CBP managed the flow of people who could enter at those ports of entry through metering, which may have led to additional illegal border crossings. Additionally, CBP held alien children separated under the policy for long periods in facilities intended solely for short-term detention.² The OIG team also observed that a lack of a fully integrated Federal immigration information technology system made it difficult for DHS to reliably track separated parents and children, raising questions about the Government's ability to accurately report on separations and subsequent reunifications. Finally, inconsistencies in the information provided to alien parents resulted in some parents not understanding that their children would be separated from them, and made communicating with their children after separation difficult.

Next Steps

As we noted in our *Initial Observations* report, while Executive Order 13841 halted the practice of family separation, OIG multi-disciplinary family separation teams continue to work on the issues we identified during our initial observations.

We initiated a full-scale audit in October looking at the effectiveness of DHS' IT systems for tracking and supporting efforts to reunify unaccompanied alien children with separated families. Our audit will determine whether the IT systems and processes DHS relied upon were adequate to carry out specific border security operations, including tracking separated families, prior to and following the implementation of the Zero Tolerance Policy. We are also looking at whether DHS effectively tracked family reunification efforts following the federal judge's court order in late June 2018. Using our data analytics capabilities, we will assess data reliability and the accuracy of DHS's reported numbers for separated parents and children. We are currently in the fieldwork phase.

² Notwithstanding this observation, OIG observed that the DHS facilities it visited appeared to be operating in substantial compliance with applicable standards for holding children. The detailed results of OIG's unannounced inspections of these facilities are described in a separate OIG report titled *Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody* (OIG-18-87), discussed later in this testimony.



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We have also opened a review into CBP's Processing of Asylum Seekers at Ports of Entry. The objective of this work is to determine whether CBP Office of Field Operations is turning away those who present themselves for asylum at ports of entry and separating family units that seek asylum and documenting separations appropriately. As part of its ongoing fieldwork, the team travelled to ports of entry in Texas, Arizona, and California, where it observed operations, gathered documents, and interviewed CBP officers, representatives of non-governmental organizations, and asylum seekers.

Finally, we will take a closer look at the removal of separated alien families. Our work will determine whether ICE removed any parents without first offering them the opportunity to bring their separated children with them. The review will identify why this may have happened and how many separated parents may have been removed without having that option.

Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody

As part of our initial observation work regarding the Zero Tolerance Policy and family separations, we reported on the conditions we observed in the Texas CBP facilities we visited on June 26-28, 2018.³ We visited nine CBP facilities in McAllen and El Paso, Texas, including five Border Patrol stations and four CBP Office of Field Operations (OFO) ports of entry.

As you are aware, CBP facilities must provide safe and sanitary holding facilities as detailed in CBP's 2015 *National Standards on Transport, Escort, Detention and Search* (TEDS Standards). Generally, CBP must transfer UACs into the custody of ORR within 72 hours of identifying them as such. The TEDS Standards also outline protocols for CBP on how to treat vulnerable populations and specify requirements for general care and conditions for children in temporary custody.

The CBP facilities we visited appeared to be operating in compliance with the TEDS Standards. While there was one exception of inconsistent cleanliness of the hold rooms, we observed that UACs had access to hygiene items and clean bedding at all facilities we visited. We did not encounter issues with temperatures or ventilation, access to emergency medical care, inadequate supervision, or access to telephones. In all nine CBP facilities we visited, UACs had access to food and snacks; the children we spoke with did not complain of hunger and said they had enough food.

³ Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody (OIG-18-87).



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We also observed that OFO ports of entry had offices and storage spaces redesigned into holding rooms to be able to hold more UACs, family units, and other border crossers referred for processing. For example, at the Gateway International Bridge in Brownsville, one hold room with a bathroom and sink was only used as a bathroom so that temporary hold rooms that did not have bathroom facilities could have access to them. The OFO ports of entry we visited have very limited number of holding cells for short-term custody. We observed in these situations when a UAC was required to be held separately from unrelated adults, there was limited ability to hold other people.

Our observations are limited to the times and locations of the team's visits and cannot be generalized to other times or locations. We are certainly aware of the deaths late last year of two minor children who died while in DHS custody and we have open investigations into the facts and circumstances of both children's deaths. We are also investigating the death of a third child who died shortly after being released from DHS custody. We will report out publicly on these investigations once complete. Additionally, several of our reports have identified significant issues with ICE facilities.

Unannounced Inspections of ICE Facilities

In response to requirements set forth by this Committee and concerns raised by immigrant rights groups and complaints to the OIG Hotline, the OIG conducts unannounced inspections of detention facilities to evaluate compliance with ICE detention standards. We generally limit the scope of our inspections to the ICE *Performance-Based National Detention Standards* (ICE Standards) for health, safety, medical and mental health care records, grievances, classification and searches, use of segregation, use of force, language access, and staff detainee communication. Our inspections focus on elements of the ICE Standards that can be observed and evaluated by OIG employees who do not have specialized training in medicine, mental health, or corrections.

In 2017, our inspection of five detention facilities raised significant concerns about the treatment and care at four of the facilities visited.⁴ At these four facilities we observed potentially unsafe and unhealthy detention conditions. Further, in violation of ICE Standards, all detainees entering one facility were strip-searched. In our two most recent unannounced inspections of Essex County Correctional Facility in Newark, New Jersey⁵ and Adelanto ICE

⁴ *Concerns about ICE Detainee Treatment and Care at Detention Facilities* (OIG-18-32).

⁵ *Issues Requiring Action at the Essex County Correctional Facility in Newark, New Jersey* (OIG-19-20).



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Processing Center in Adelanto, California⁶, we found significant health and safety risks in violation of ICE Standards. Specifically, we found the following issues of concern:

- Unreported Security Incidents
- Food Safety Issues
- Facility Conditions
- Nooses in Detainee Cells
- Improper and Overly Restrictive Segregation
- Untimely and Inadequate Detainee Medical Care

Unreported Security Incidents

According to the ICE Standards, Essex County Correctional Facility must report to ICE any incidents involving detainees. However, the facility failed to do so following a detainee's discovery and reporting of a guard's loaded handgun left in a facility staff bathroom that the detainee was cleaning. This marks the fourth time in less than a year that the facility failed to notify ICE of incidents involving detainees and raises serious concerns about the facility's ability to handle security issues.

Interviews with detainees and facility management revealed facility leadership completed a review of the incident, but did not interview the detainee who found the weapon. Rather, facility leadership reported to us that they told the detainee not to discuss the matter with anyone else. The review documented by the facility does not mention that the detainee found and reported the loaded weapon.

Facility records also do not indicate that ICE was notified of the incident, as required by ICE Standards. ICE confirmed it was never notified, despite previously citing the facility for failure to report issues involving detainees, including detainee fights and hospitalization for mental illness.

During our site visit, we notified ICE of the incident and, in August 2018, ICE issued a Contract Discrepancy Report. The report outlined this incident as the fourth time in less than a year that the Essex Facility had failed to notify ICE of detainee-related incidents. The penalty for this discrepancy report can be a fine up to a 5 percent reduction of invoiced amounts. The penalty is pending final review and issuance by ICE.

⁶ *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California (OIG-18-86).*



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Health and safety concerns at Essex County and Adelanto ICE Processing Center

At Essex County Correctional, we also observed extreme mishandling of meats, which of course can spread salmonella, listeria, and E. coli, leading to serious foodborne illnesses. We observed facility staff serving potentially spoiled meat to detainees. Over a seven month period in 2018, detainees filed approximately 200 kitchen-related grievances (about 12 percent of all grievances filed) with comments such as:

- “For dinner, we were served meatballs that smell like fecal matter. The food was rotten.”
- “The food that we received has been complete garbage, it’s becoming impossible to eat it. It gets worse every day. It literally looks like it came from the garbage dumpster; I have a stomach infection because of it and the nurse herself told me it was caused by the food.”⁷

The facility at Essex also presents a risk to detainee health and safety. ICE Standards require the facility to conduct preventive maintenance and regular inspections to ensure timely repairs. Despite these standards, we observed conditions that pose serious health and safety risks for detainees, including leaking ceilings in detainee living areas, showers laced with mold and peeling paint, and dilapidated beds. These facility conditions revealed serious concerns about basic maintenance and upkeep.

We observed violations of the ICE Standards at the Adelanto ICE Processing Center in Adelanto, California that were equally concerning. As detailed in our *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California*⁸, we observed braided bedsheets, referred to as nooses by center staff and detainees, hanging from vents in 15 of the 20 cells we visited within 4 housing units. Interviews with detainees provided a variety of reasons for braiding and hanging bedsheets, with one detainee noting “I’ve seen a few attempted suicides using the braided sheets by the vents and then the guards laugh at them and call them ‘suicide failures’ once they are back from medical.”

In March 2017, a 32-year old male died at an area hospital after being found hanging from his bedsheets in an Adelanto cell. In the months after this suicide, ICE compliance reports documented at least three suicide attempts by hanging at Adelanto, two of which specifically used bedsheets. Media reports based on 911 call logs indicate at least four other suicide attempts at the

⁷ *Issues Requiring Action at the Essex County Correctional Facility in Newark, New Jersey* (OIG-19-20).

⁸ *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California* (OIG-18-86).



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center from December 2016 to July 2017.⁹ In total, these reports represent at least seven suicide attempts at the Adelanto Center from December 2016 to October 2017. Nationwide, self-inflicted strangulation accounts for 4 of the 20 detainee deaths reported between October 2016 to July 2018, according to ICE news releases.

ICE has not taken seriously the recurring problem of detainees hanging bedsheet nooses at the Adelanto Center and according to a senior ICE official, ICE management at Adelanto does not believe it is necessary or a priority to address the braided sheets issue. It must be noted that all ICE detainees are held in civil, not criminal, custody. ICE detention is administrative in nature, aimed to process and prepare detainees for removal. ICE must ensure the Adelanto Center and all ICE facilities comply with detention standards to establish an environment that protects the safety, rights, and health of detainees. Although this form of civil custody should be non-punitive, some of the center conditions and detainee treatment we identified during our visits and outlined in the Management Alert are similar to those one may see in criminal custody.

ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements

In addition to our own inspections of conditions, we also are concerned by the findings of our review of the adequacy of ICE's own oversight of immigration facilities. Our report found deficiencies in both ICE's immigration detention inspection and post-inspection follow-up processes.¹⁰

ICE uses two inspection types to examine detention conditions in more than 200 detention facilities. ICE contracts with a private company, Nakamoto Group, Inc., and relies on its Office of Detention Oversight (ODO) for inspections. ICE also uses an onsite monitoring program. Yet, neither the inspections nor the onsite monitoring ensure consistent compliance with detention standards, nor do they promote comprehensive deficiency corrections.

Neither type of inspection ICE uses to examine detention facilities ensures consistent compliance with detention standards or comprehensive correction of identified deficiencies. Specifically, because the Nakamoto inspection scope is too broad, ICE's guidance on procedures is unclear, and Nakamoto's inspection

⁹ Paloma Esquivel, 'We don't feel OK here': Detainee deaths, suicide attempts and hunger strikes plague California immigration facility, LOS ANGELES TIMES (Aug. 8, 2017), <http://www.latimes.com/local/lanow/la-me-ln-adelanto-detention-20170808-story.html>.

¹⁰ *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements* (OIG-18-67).



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practices are not consistently thorough, its inspections do not fully examine actual conditions or identify all compliance deficiencies. In contrast, ODO uses effective methods and processes to thoroughly inspect facilities and identify deficiencies, but the inspections are too infrequent to ensure the facilities implement all corrections.

Moreover, ICE does not adequately follow up on identified deficiencies or systematically hold facilities accountable for correcting deficiencies, which further diminishes the usefulness of both Nakamoto and ODO inspections. In addition, ICE Enforcement and Removal Operations (ERO) field offices' engagement with onsite monitoring program Detention Service Managers (DSM) is inconsistent, which hinders implementation of needed changes. Although ICE's inspections, follow-up processes, and DSMs' monitoring of facilities help correct some deficiencies, they do not ensure adequate oversight or systemic improvements in detention conditions. As a result, certain deficiencies remain unaddressed for years.

ICE needs to comprehensively examine and assess its inspections process, improve its follow-up procedures for corrective actions, and ensure ERO field offices more consistently engage in overseeing detention operations. Taking such actions will help limit and correct persistent deficiencies, as well as effect long-lasting changes and systemic improvements in ICE detention facilities.

ICE concurred with all seven of our recommendations from our Adelanto Center, Essex County Correctional, and ICE's Inspections and Monitoring of Detention Facilities reports, committing to corrective action to ensure the Adelanto Center meets ICE Standards, and undertaking steps to update processes and guidance to improve oversight over detention facilities.

ICE Contracting Issues

Another way in which ICE could hold detention facilities to applicable detention standards is through contracting tools. We reviewed¹¹ how ICE manages and oversees detention contracts, as ICE contracts with 106 detention facilities to detain removable aliens. In FY 2017, these 106 facilities held an average daily population of more than 25,000 detainees. Since the beginning of FY 2016, ICE has paid more than \$3 billion to the contractors operating these 106 facilities. We found that ICE is failing to use quality assurance tools and impose consequences for contract noncompliance such as failure to meet performance standards. Additionally, the use of waivers may circumvent detention standards specified in contracts. Instead of holding facilities accountable through financial penalties, ICE frequently issued waivers to facilities with

¹¹ *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards (OIG-19-18).*



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deficient conditions, seeking to exempt them from having to comply with certain detention standards.

In fact, ICE is not imposing financial penalties, even for serious deficiencies such as those we found in the Discrepancy Reports. In addition to the issues flagged by these Discrepancy Reports, from October 2015 to June 2018 various inspections and DSMs found 14,003 deficiencies at the 106 contract facilities we focused on for our review. Deficiencies including those that jeopardize the safety and rights of detainees, such as failing to notify ICE about sexual assaults and failing to forward allegations regarding misconduct of facility staff to ICE ERO. Despite these identified deficiencies, ICE only imposed financial penalties twice.¹²

ICE also has no formal policies and procedures to govern the waiver process, thereby allowing officials without clear authority to grant waivers, and failing to ensure key stakeholders have access to approved waivers. In some cases, officials may violate Federal Acquisition Regulation (FAR) requirements because they seek to effectuate unauthorized changes to contract terms. Key officials admitted there are no policies, procedures, guidance documents, or instructions to explain how to review waiver requests. Further, contract facilities may be exempt from compliance with otherwise applicable detention standards indefinitely, as waivers generally do not have an end date and the Custody Management Division within ERO does not reassess or review waivers after it approves them. In our sample of 65 approved waiver requests, only three had identified expiration dates; the 62 others had no end date.

ICE officials concurred with all our report recommendations, including the recommendation that ICE develop protocols to ensure that all existing and future waivers are (1) approved by ICE officials with appropriate authority; distributed to key stakeholders; consistent with contracting terms; and compliant with FAR requirements, as applicable. ICE also agreed to review all current waivers to determine continuing applicability, and, if appropriate, cancel any waivers that are no longer needed. ICE anticipates completing these actions by April 30, 2019.

Border Security: Hiring and Training DHS Law Enforcement Officials

The Department, CBP, and ICE continue to face significant challenges in identifying, recruiting, hiring, and fielding the number of law enforcement

¹² ICE deducted funds from one facility as a result of a pattern of repeat deficiencies over a 3-year period, primarily related to health care and mental health standards. The other deduction was made due to a U.S. Department of Labor order against the contractor for underpayment of wages and was not related to any identified deficiency.



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officers as mandated by two January 2017 Executive Orders.¹³ In response to multiple OIG Hotline complaints related to the performance and management of a CBP Accenture Contract, we audited the hiring contract and found serious performance issues.

CBP Needs to Address Serious Performance Issues on the Accenture Hiring Contract

In November 2017, CBP awarded Accenture a \$297 million contract to help meet the demands of recruiting and hiring agents and officers under the President's January 25, 2017 Executive Order, *Border Security and Immigration Enforcement Improvements*.¹⁴ The contract includes 1 base year, with 4 option years, to hire 7,500 fully qualified applicants, including Customs and Border Protection Officers, Border Patrol Agents, and Air and Marine Interdiction Agents.

In July 2018, we initiated an audit to determine whether CBP awarded and is managing its \$297 million hiring contract with Accenture in a fiscally responsible manner according to Federal, departmental, and component requirements. Our review determined that Accenture has not provided the promised hiring process or results, yet CBP has paid Accenture approximately \$13.6 million for startup costs, security requirements, recruiting, and applicant support. In return, Accenture has processed two accepted job offers.

Recognizing Accenture could not fulfill the contract's requirements without significant delays, CBP agreed to modify the contract to accommodate Accenture.¹⁵ Under the modification, CBP staff carried out a significant portion of the hiring operations. During this period, since Accenture could not determine which applicants it recruited, CBP agreed to give credit and temporarily pay Accenture for a percentage of all applicants regardless of whether CBP or Accenture processed the applicants. As of October 1, 2018, CBP had processed 14 applicants on behalf of Accenture. All 14 applicants accepted job offers and 7 of the 14 entered on duty, which translated to payment of approximately \$500,000 to Accenture for work CBP had completed.

In its first year, CBP's contract with Accenture has already taken longer to deploy and delivered less capability than promised. Accenture is nowhere near satisfying its 7,500-person hiring goal over the next 5 years. Further, CBP has

¹³ Executive Order 13767- *Border Security and Immigration Enforcement Improvements*, January 25, 2017; and Executive Order 13768- *Enhancing Public Safety in the Interior of the United States*, January 25, 2017.

¹⁴ *Management Alert — CBP Needs to Address Serious Performance Issues on the Accenture Hiring Contract* (OIG-19-13).

¹⁵ As of October 1, 2018, CBP has modified the contract four times, changing the scope of work and raising the cost ceiling by about \$8 million.



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used significant staffing and resources to help Accenture do the job for which it was contracted. As such, we are concerned that CBP may have paid Accenture for services and tools not provided. CBP risks wasting millions of taxpayer dollars on a hastily approved contract that is not meeting its proposed performance expectations. CBP must hold the contractor accountable, mitigate risk, and devise a strategy to ensure results without additional costs to the Government.

Funding Limitations Impact Training

Between July 2017 and March 2018, we also reviewed and analyzed the January 2017 Executive Orders, DHS's implementation memorandums concerning the January 2017 Executive Orders, and respective agency hiring plans and training strategies.¹⁶ While the Federal Law Enforcement Training Centers (FLETC), U.S. Border Patrol (USBP) and ICE have each developed hiring surge training plans and strategies, funding limitations has delayed implementation. As a result, the Department pushed FY 2017 and 2018 hiring and training projections to FY 2019 and beyond. Funding limitations will also delay efforts to improve and construct necessary training venues and facilities.

The existing training venues are in need of improvement. Consider how USBP revised its training curriculum based on current research and identified areas to enhance training, emphasizing performance based scenarios. However, because of lack of funding, CBP has not been able to construct most of the required venues to incorporate curriculum revisions. USBP Academy instructors are conducting trainings using "workarounds" that lack performance-based realistic settings. According to a senior USBP Academy Official "the workarounds were intended as a short term fix, and are not meant to be a permanent part of the training program."¹⁷ Without necessary improvements, the quality of instruction will remain below intended levels and not include exposure to authentic environments. This presents a significant safety risk to the officers and anyone within their enforcement authority.

FEMA Oversight

DHS OIG has traditionally dedicated significant attention and resources to providing oversight to FEMA specifically. For many years, Congress funded OIG's oversight of FEMA's Disaster Relief Fund (DRF) spending through a transfer of funds from the DRF to OIG. Initially a \$16 million transfer, that number increased to \$24 million in recent years. While the FEMA Disaster

¹⁶ *DHS Training Needs for Hiring 15,000 Border Patrol Agents and Immigration Officers (OIG-19-07)*.

¹⁷ *Id.*



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Relief Fund transfer itself was discontinued in the FY 2017 appropriation, the appropriations committees directed OIG to continue to dedicate a minimum of almost \$21 million in FY 2017 and \$17 million in FY 2018 to disaster-related investigations and audits and we have done so. After the historic and devastating hurricane season of 2017, Congress also appropriated \$35 million total in a combination of no-year and three-year supplemental funding to OIG for disaster-related oversight.

Hurricanes Harvey, Irma, and Maria made landfall in a four-week time period during August and September 2017. These storms now rank as three of the five most expensive in U.S. history, according to the National Oceanic and Atmospheric Administration (NOAA).¹⁸ This makes the 2017 hurricane season the costliest in U.S. history, topping even the 2005 season, which included Katrina, Rita, and Wilma. For our office, the first order of business in response to the unprecedented disasters was to deploy auditors and investigators to FEMA's Joint Field Offices (JFOs) in Texas, Florida, and Puerto Rico. We quickly deployed staff from our local field offices as well as other auditors, analysts, and criminal investigators from around the country. Having OIG staff on the ground serves multiple purposes: we serve as an independent unit for oversight of disaster response and recovery activities, to detect and alert FEMA of systemic problems, and to help ensure accountability over Federal funds. Our deployment activities are focused on identifying potential risks and vulnerabilities and providing our stakeholders with timely, useful information to address emerging challenges and ongoing operations. Based on auditors' observations and analysis, we identified several areas where additional, more comprehensive traditional audit work was needed.

One of the chief challenges in a post-disaster environment is the vulnerability for fraud and abuse. Unfortunately, there are those that wish to profit from disasters, turning survivors into victims. Thus, OIG's criminal investigators play a very active and essential role during the post-disaster period. Our office works closely with the National Center for Disaster Fraud Hotline as we receive and process complaints. We also team with state and local law enforcement, federal partners, and U.S. Attorney's Offices in the affected jurisdictions to create local disaster fraud task forces. Currently, investigations related to FEMA fraud—from both 2017 and earlier disasters—represent 29.7 percent of OIG's currently open criminal investigative caseload.

In addition to the situational challenges facing FEMA during the 2017 hurricane season, other challenges to FEMA's programs and operations tend to be more persistent and systemic vulnerabilities:

¹⁸ Damages from Harvey are estimated at \$125 billion; Maria's damages are estimated at \$90 billion; and Irma's at \$50 billion.



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- Improper procurement practices;
- Duplication of benefits;
- Mismanagement of disaster costs;
- Privacy vulnerabilities;
- Limitations in the ability to quickly protect survivors' homes and property from further damage;
- Obstacles with accurate and timely home inspections;
- Incomplete controls when providing Federal funds to high-risk entities; and
- Inconsistent contract oversight.

Unmitigated, these challenges could delay survivors' recovery and put billions of dollars of Federal funds at risk.

For almost a decade, OIG has been reporting on some of these persistent and systemic challenges in annual "capping" reports.¹⁹ These reports consolidate all of OIG's FEMA-related findings and recommendations for the year and are designed to inform FEMA headquarters officials about significant and systemic issues of noncompliance and program inefficiencies that warrant FEMA's attention. As reported in our most recent capping report—consolidating our FY 2017 audit work—between FY 2009 and FY 2017, OIG audited FEMA grant funds totaling \$13.75 billion and reported potential monetary benefits of \$6.55 billion.

Collectively, our FY 2017 work shows that FEMA continues to face systemic problems and operational challenges, and fails to manage disaster relief grants and funds adequately. Furthermore, FEMA remains ineffective at holding grant recipients accountable for properly managing disaster relief funds and providing adequate monitoring of or technical assistance to subgrantees. We continue to identify problems such as improper contracting activities, and ineligible and unsupported expenditures.

Of particular concern to the OIG, the challenges identified in our annual capping reports tend to repeat year after year. For example, our FYs 2016, 2015, and 2014 summary reports also found that FEMA did not manage disaster relief grants and funds adequately and did not hold grant recipients accountable for properly managing disaster relief funds.²⁰ Moreover, since FY 2010, we have consistently reported that states, which are required to provide oversight of grant funds and subgrantee activities, are not doing an adequate job of educating subgrantees and enforcing Federal regulations through

¹⁹ *Summary and Key Findings of Fiscal Year 2017 FEMA Disaster Grant and Program Audits* (OIG-18-75) was the ninth annual capping report issued by our office.

²⁰ *Summary and Key Findings of Fiscal Year 2016 FEMA Disaster Grant and Program Audits* (OIG-18-06)



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effective and vigilant monitoring. We encourage FEMA to continue to take action on its commitment to strengthen grants management, including creating a plan that will identify root causes and identify solutions that are specific, viable, and can be implemented and managed to help prevent recurring problems similar to those that we have identified over the years.

Ongoing and Future Disaster Work

The OIG has a number of ongoing and planned audits related to disasters. Currently, we have audits underway regarding FEMA's Transitional Shelter Assistance Program, Individual Auto Assistance, as well as debris procurement issues. The majority of these reviews will be reported between spring and winter 2019. We are also initiating work to address mandates in the Disaster Recovery Reform Act of 2018, including reviews of state and tribal housing strategies and the lease and repair of rental units for temporary housing. We also have a number of planned and on-going audits in response to congressional requests and discretionary work, including reviews of FEMA's Sheltering and Temporary Emergency Power programs across different states and in Puerto Rico and more narrow reviews of FEMA contract management and debris removal efforts.

Ongoing projects also include reviews of:

- FEMA's Public Assistance (PA) grant awards to Puerto Rico Electric Power Authority (PREPA) and PREPA's contracts with Whitefish Energy Holdings LCC and Cobra;
- Supply chain issues related to FEMA's response to Hurricanes Irma and Maria in Puerto Rico;
- FEMA's advance contract strategy for Puerto Rico;
- Capacity Audits of various municipalities that received Public Assistance Grant Program funds. These audits, which are contracted to Independent Public Accountants, assess whether grant fund recipients and subrecipients have established and implemented policies, procedures, and practices to help ensure that funds are accounted for and expended in accordance with Federal regulations and FEMA guidance.

Finally, we will continue to conduct reviews of FEMA's oversight of state public assistance grant management and have initiated a broad review of FEMA's recovery of questioned state grant costs.

Madame Chairwoman, this concludes my testimony.



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I am pleased to answer your questions, as well as those of the other Members.

Thank you.

(b)(5)

From: Short, Tracy
Sent: Sat, 9 Mar 2019 14:48:45 +0000
To: (b)(6); (b)(7)(C) Albence, Matthew; Asher, Nathalie R; (b)(6); (b)(7)(C) Seguin, Debbie
Cc: (b)(6); (b)(7)(C) Loiacono, Adam V
Subject: ADVERSE FAMILY SEPARATION DECISION: Ms. L v. ICE, No. 18-428, ECF No. 386 (S.D. Cal. Mar. 8, 2018) (order granting plaintiffs' motion to modify class definition)
Attachments: 386 Ms. L. Order Granting Plaintiffs' Motion to Modify Class Definition 3-8-19.pdf
Importance: High

All,

Last night, Judge Sabraw entered a new decision expanding the class he had previously certified in the Ms. L family separation class action litigation pending in the Southern District of California. (b)(5)

(b)(5)

Thanks,

Tracy

~~— ATTORNEY/CLIENT PRIVILEGE — ATTORNEY WORK PRODUCT —~~

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L.; et al.,

Petitioners-Plaintiffs,

v.

U.S Immigration and Customs
Enforcement (“ICE”); et al.,

Respondents-Defendants.

Case No.: 18cv0428 DMS (MDD)

**ORDER GRANTING PLAINTIFFS’
MOTION TO MODIFY CLASS
DEFINITION**

Last spring, the Attorney General of the United States announced a controversial “zero tolerance” policy for all persons crossing the border illegally. Under the policy, parents and children who crossed the border illegally were separated, and the children were placed in the custody of the Department of Health and Human Services (“HHS”), Office of Refugee and Resettlement (“ORR”). Several weeks before the Attorney General’s announcement of the zero tolerance policy, Plaintiffs filed the present case alleging they, and a class of similarly situated individuals, had been forcibly separated from their children by government officials at the border. Plaintiffs alleged these separations were the result of a nationwide policy that had been implemented well before the announcement of the zero tolerance policy and that the policy had resulted in the indiscriminate separation of migrant families both at and between designated ports of entry. Plaintiffs challenged this

1 family separation policy as a violation of their substantive due process rights to family
2 integrity under the Fifth Amendment to the United States Constitution.

3 On June 26, 2018, this Court granted Plaintiffs' motions for class certification and
4 for a preliminary injunction, and ordered reunification of the children in ORR custody with
5 their parents within 30 days. (*See* ECF Nos. 82, 83.) Pursuant to the Court's Orders, 2,816
6 children were identified as having been separated from their parents at the border, and
7 nearly all of them have now been reunified with their parents or otherwise discharged in
8 accordance with their parents' wishes.

9 Recently, the HHS Office of Inspector General ("OIG") conducted an internal
10 investigation into the Administration's zero tolerance policy given "the potential impact of
11 [the policy] on vulnerable children and ORR operations[,] and "to determine the number
12 and status of separated children who have entered ORR care" as a result of the policy. On
13 January 17, 2019, the OIG issued a Report on its investigation entitled, "Separated Children
14 Placed in Office of Refugee Resettlement Care." That Report reveals the Department of
15 Justice ("DOJ") and the Department of Homeland Security ("DHS") began separating
16 migrant families as early as July 1, 2017, well before the zero tolerance policy was publicly
17 announced in May of 2018, and that pursuant to the policy, potentially "thousands" more
18 families had been separated.

19 In granting class certification, this Court generally defined the class to include
20 parents who had entered the United States at or between ports of entry, who were, had been
21 or would be detained in immigration custody by DHS, and had a minor child who was
22 separated from them and detained in ORR custody at or after that time. Specifically, the
23 class was defined as follows:

24 All adult parents who enter the United States at or between designated ports
25 of entry who (1) have been, are, or will be detained in immigration custody
26 by the DHS, and (2) have a minor child who is or will be separated from them
27 by DHS and detained in ORR custody, ORR foster care, or DHS custody,
absent a determination that the parent is unfit or presents a danger to the child.

28 ///

1 (ECF No. 82 at 17.) In implementing the Court’s preliminary injunction and reunification
2 order, Defendants limited this class to parents whose children were “detained in ORR
3 custody, ORR foster care, or DHS custody” on the date the preliminary injunction was
4 issued, June 26, 2018. Defendants did not include in the class those parents whose children
5 were released from ORR custody *before* June 26, 2018. As a result, those parents—the
6 potentially “thousands” identified by OIG—were not reunified with their children pursuant
7 to the Court’s preliminary injunction. Plaintiffs now move to clarify that the class certified
8 in the Court’s Order includes those parents, or in the alternative, to modify the class
9 definition to include those parents. After reviewing the parties’ briefs and relevant legal
10 authority, and hearing argument from counsel, the Court grants Plaintiffs’ motion to
11 modify the class definition.

12 Defendants oppose the motion on several grounds. They contend that expanding the
13 class to include these parents would run afoul of the adequacy, typicality and commonality
14 requirements of Federal Rule of Civil Procedure 23(a), and present ascertainability
15 problems. Defendants argue parents whose children were released from government
16 custody before June 26, 2018, are in a different legal position from parents whose children
17 were in government custody on or after that date. They also argue Plaintiffs delayed raising
18 this issue, and that it would be unfair to Defendants to expand the class after they have
19 reunified so many class members with their children.

20 There is no dispute “courts retain discretion to revisit class certification throughout
21 the legal proceedings, and may rescind, modify, or amend the class definition in light of
22 subsequent developments in the litigation.” *Krueger v. Wyeth, Inc.*, 310 F.R.D. 468, 473-
23 74 (S.D. Cal. 2015). This authority is found in Federal Rule of Civil Procedure 23(c)(1)(C),
24 which states, “[a]n order that grants or denies class certification may be altered or amended
25 before final judgment[,]” and in Supreme Court case law. *See Gen. Tel. Co. v. Falcon*, 457
26 U.S. 147, 160 (1982) (“Even after a certification order is entered, the judge remains free to
27 modify it in the light of subsequent developments in the litigation.”) “In considering the
28 appropriateness of [modification or] decertification, the standard of review is the same as

1 a motion for class certification: whether the Rule 23 requirements are met.” *Roy v. County*
 2 *of Los Angeles*, No. CV 13-04416-AB (FFMx), 2018 WL 3435417, at *2 (C.D. Cal. July
 3 11, 2018) (quoting *Marlo v. United Parcel Serv., Inc.*, 251 F.R.D. 476, 479 (C.D. Cal.
 4 2008)). *See also Lyon v. U.S. Immigration & Customs Enforcement*, 308 F.R.D. 203, 210-
 5 11 (N.D. Cal. 2015); *Astiana v. Kashi Co.*, 295 F.R.D. 490, 492 (S.D. Cal. 2013) (same).

6 Here, Plaintiffs first notified the Court of their concerns with the class definition in
 7 the November 29, 2018 Joint Status Report (“JSR”). (*See* ECF No. 329.) In that document,
 8 Plaintiffs’ counsel stated that on November 16, 2018, they “learned of a separated parent
 9 who feared imminent removal because her child was released from ORR custody before
 10 June 26, 2018.” (*Id.* at 18.) Plaintiffs’ counsel stated during the subsequent status
 11 conference that they had learned of “a handful” of such cases. (ECF No. 332 at 16.)
 12 Counsel informed the Court they had met and conferred on this issue, and “agreed that
 13 removals of individuals in this category be stayed pending the Court’s resolution.” (ECF
 14 No. 329 at 18.) Defense counsel requested that the issue be resolved by way of a formal
 15 noticed motion, to which the Court agreed.

16 Thereafter, Plaintiffs filed the present motion based on the information they had at
 17 that time. Before Defendants filed their response, the case was stayed because of the
 18 government shutdown. During the stay, OIG issued its Report. As noted above, the
 19 purpose of the OIG investigation was to determine the number and status of separated
 20 children “who have entered ORR care, including but not limited to the subset of separated
 21 children covered by [the present case,] *Ms. L. v. ICE*.” (Report at 1.) OIG found the
 22 following:

23 In the summer of 2017, prior to the formal announcement of the zero-tolerance
 24 policy, ORR staff and officials observed a steep increase in the number of
 25 children who had been separated from a parent or guardian by DHS
 26 (“separated children”) and subsequently referred to ORR for care.[] Officials
 27 estimated that ORR received and released thousands of separated children
 28 prior to a June 26, 2018, court order in *Ms. L v. ICE* that required ORR to
 identify and reunify certain separated children in its care as of that date.

1 (*Id.*) Although the Administration’s zero tolerance policy was publicly announced in May
2 2018, the OIG Report states, “From July through November 2017, the El Paso sector of
3 Customs and Border Protection (CBP), an agency within DHS, implemented new policies
4 that resulted in 281 families being separated.” (*Id.* at 3.) During this same period, July
5 through November 2017, ORR staff “observed a significant increase in the number and
6 proportion of separated children (i.e., children separated from their parent or legal guardian
7 by DHS) relative to other UACs [unaccompanied alien children].” (*Id.*) “Overall, ORR
8 and ASPR [the Office of the Assistant Secretary for Preparedness and Response] officials
9 estimate that thousands of separated children entered ORR care and were released prior to
10 the June 26, 2018 court order.” (*Id.*)

11 Clearly, the OIG Report is a significant development in this case. And, importantly,
12 the contents of the Report are undisputed. The most significant facts to come out of the
13 Report are (1) that in the summer of 2017, DOJ and DHS were separating parents and
14 children at the border pursuant to the Administration’s new policy, and (2) during and after
15 that time, potentially thousands of children who had been separated from a parent were
16 received by ORR and subsequently discharged from ORR custody to designated sponsors
17 pursuant to the Trafficking Victims Protection and Reauthorization Act (“TVPRA”), Pub.
18 Law No. 110-457 (Dec. 13, 2008), prior to the Court’s June 26, 2018 Orders.

19 Defendants suggest this information is not a new development, but rather something
20 the parties knew about, or should have known about, when the Court issued its Orders.
21 However, that suggestion stands in stark contrast to Defendants’ representations in this
22 case in as late as May of 2018 that the government did not have either a policy or practice
23 of separating families at the border. (*See* ECF No. 61 at 10 (stating Plaintiffs failed to point
24 to an “actual Government policy or practice regarding separation” but were instead
25 “challenging a number of different immigration and criminal enforcement actions by
26 multiple agencies which, when taken with regard to the named Plaintiffs, resulted in the
27 separation of each named Plaintiff from her child.”); *see also* ECF No. 70 at 5 (disputing

28 ///

1 that there was a policy or practice of family separation).¹ In light of those representations,
2 it is unreasonable to suggest that Plaintiffs should have known that potentially thousands
3 of parents and children had been separated at the border prior to the Court's June 26, 2018
4 Orders.² Given the subsequent, undisputed developments set out in the OIG Report,
5 modification of the class is warranted if the class, as modified, meets the requirements of
6 Federal Rule of Civil Procedure 23.

7 As set out in the Court's previous order on class certification, Rule 23(a) sets out the
8 requirements of numerosity, commonality, typicality and adequacy of representation.
9 Numerosity is not disputed as there are thousands of members in the class as currently
10 certified, so the Court turns first to commonality. In the previous order on class
11 certification, the Court found the commonality requirement was met given the evidence of
12 a "common practice" of "separating migrant parents and children and failing to reunite
13 them without a showing the parent is unfit or presents a danger to the child." (ECF No. 82
14 at 12.) The Court went on to state: "Whether that practice violates substantive due process
15 is a question common to the class, and the answer to that question is 'apt to drive the
16 resolution of the litigation.'" (*Id.*) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338,
17 350 (2011)). That finding applies equally to the proposed modified class.

18 There is no dispute the parents who have been excluded from the class were also
19 subjected to this "common practice." Like the current members of the class, they, too,
20 were separated from their children by DOJ and DHS, their children were placed in ORR
21

22
23 ¹ The Court notes the latter representation was made only a few days before the Attorney
24 General publicly announced the zero tolerance policy under which children were to be
separated from their parents if they entered the country illegally.

25 ² Undoubtedly, Plaintiffs would have discovered the total number of separated children in
26 ORR custody through normal discovery channels in this litigation. However, the parties
27 did not engage in discovery at the outset of the litigation. Instead, they properly focused
28 their intense efforts on implementing the Court's preliminary injunction, which required
reunification of children with their parents within 14 days (for children under age 5) and
30 days (for children over 5).

1 custody, and they were not reunified with their children despite the absence of any finding
 2 they were unfit parents or presented a danger to their children. These parents, like those
 3 presently in the class, present the identical question, namely did that practice violate the
 4 parents' rights to substantive due process, and the answer to that question applies to all
 5 these parents, not just those whose children were in ORR custody on June 26, 2018.

6 Defendants argue this new group of parents presents a different legal and factual
 7 situation from the current class members because the children of this new group are no
 8 longer in ORR custody, and thus, reunification of these parents and their children may be
 9 impossible or ill-advised. However, this argument goes to the issue of remedy, not liability,
 10 and Ninth Circuit case law makes clear that a difference in remedies does not necessarily
 11 defeat a showing of commonality. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022 (9th
 12 Cir. 1998) ("The existence of shared legal issues with divergent factual predicates is
 13 sufficient, as is a common core of salient facts coupled with disparate legal remedies within
 14 the class."); *see also Parra v. Bashas', Inc.*, 536 F.3d 975, 979 (9th Cir. 2008) (rejecting
 15 argument that "redressing the harm and calculating the various pay disparities for the
 16 different employment positions precludes class certification."). Further, reunification is
 17 not the only remedy available here. Other remedies may be appropriate, and they would
 18 apply to all class members. For instance, as OIG has suggested, an accounting is a
 19 necessary first step to determine the "number and status" of separated children who were
 20 in ORR custody at any time.³ And, finally, Defendants' argument ignores Plaintiffs'
 21 request for declaratory relief, namely a declaration that the separation of class members
 22 from their children was and is unlawful. (Am. Compl. at 14.) This remedy would be

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 28 ³ That accounting necessarily would provide important information about the number and
 status of the proposed modified parent class members.

1 available to all class members regardless of the custodial status of their children.⁴ Thus,
2 the newly proposed class satisfies the commonality requirement.⁵

3 Next, Defendants argue the proposed modification to the class definition does not
4 satisfy the adequacy requirement. Specifically, they assert “Plaintiffs’ proposed expansion
5 of the class would ... create an adequacy problem, because no named class member at the
6 time class certification was being briefed was in the situation where her child had been
7 released from ORR custody to a sponsor.” (Defs.’ Opp’n to Mot. at 2; *see also id.* at 16
8 (arguing “the named plaintiffs ... cannot be adequate class representatives for the expanded
9 class ... because neither of their children were released to other sponsors, and both of them
10 sought reunification with their child directly from ORR.”)) However, it is unclear how the
11 location of the separated children would render the class representatives inadequate.
12 Defendants do not assert the location of the separated children creates a conflict between
13 the named Plaintiffs and their counsel and the newly proposed class members. Nor do they
14 assert that the named Plaintiffs would not vigorously prosecute the action on behalf of these
15 newly proposed class members. Indeed, the named Plaintiffs and their counsel have
16 vigorously prosecuted this action on behalf of parents who were removed from the United
17 States even though they themselves were not removed. There is simply no evidence or
18 reason to believe that the named Plaintiffs or their counsel would not vigorously prosecute
19 this action on behalf of parents who were subjected to the same government policy but
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21
22 ⁴ Plaintiffs’ request for declaratory relief also satisfies the requirement of Rule 23(b)(2),
23 which states class certification is appropriate if “the party opposing the class has acted or
24 refused to act on grounds that apply generally to the class, so that final injunctive *or*
25 *declaratory relief* is appropriate respecting the class as a whole[.]” Fed. R. Civ. P. 23(b)(2)
(emphasis added).

26 ⁵ As with the motion for class certification, the parties’ arguments on typicality mirror their
27 arguments on commonality. Given the overlap of these issues in this case, the reasoning
28 set out above and in the class certification order, (ECF No. 82 at 13-14), leads the Court to
conclude the typicality requirement is satisfied.

1 whose children were released from ORR custody prior to June 26, 2018. On the contrary,
2 Plaintiffs' counsel represented to the Court that they stand ready to put together another
3 steering committee to assist any newly identified class members in the event this motion is
4 granted. (ECF No. 364 at 34.) Under these circumstances, the newly proposed class
5 satisfies the adequacy requirement.

6 In addition to these Rule 23 factors, Defendants raise several other arguments against
7 modifying the class definition. First, although Defendants recognize that ascertainability
8 is not a requirement for class certification, they argue the proposed modification to the
9 class definition "would make it nearly impossible to ascertain the class with any level of
10 certainty." (Defs.' Opp'n to Mot. at 5.) In essence, they assert it would be too burdensome
11 for them to identify the members of the newly proposed class, therefore the class should
12 not be modified.

13 As an initial matter, the Court notes this is not a valid argument against either class
14 certification or modification of a previously certified class. *See Briseno v. ConAgra Foods,*
15 *Inc.*, 844 F.3d 1121, 1125-26 (9th Cir.) (rejecting assertion that, in addition to satisfying the
16 requirements of Rule 23, "class proponents must also demonstrate that there is an
17 administratively feasible way to determine who is in the class."), *cert. denied by ConAgra*
18 *Brands, Inc. v. Briseno*, ___ U.S. ___, 138 S.Ct. 313 (2017). This is especially so here,
19 where the difficulty in identifying proposed class members is the result of Defendants' own
20 record keeping practices, or lack thereof. *See Agne v. Papa John's Int'l, Inc.*, 286 F.R.D.
21 559, 566 n.6 (W.D. Wash. 2012) (stating "it would be unfair to deny class certification
22 because of the potential difficulty of identifying the class members where that difficulty is
23 mostly due to the fact that [Defendant] destroyed the call lists that it used."); *Raffin v.*
24 *Medicredit, Inc.*, No. 15-4912-GHK (PJWx), 2017 WL 131745, at *6 n.5 (C.D. Cal. Jan.
25 3, 2017) (stating "courts generally do not bar class certification where the defendant's own
26 destruction of records causes difficulty in identifying class members.") The argument
27 holds even less weight here because Plaintiffs are not seeking class certification under Rule
28 23(b)(3), which calls for consideration of the difficulties in identifying class members as

1 part of the “superiority” requirement. *See Pierce v. County of Orange*, 526 F.3d 1190,
 2 1200 (9th Cir. 2008) (finding no abuse of discretion in denying certification of Rule 23(b)(3)
 3 class “in light of expected difficulties identifying class members and determining
 4 appropriate damages.”) Rather, the class in this case is certified under Rule 23(b)(2), which
 5 does not have a similar requirement.

6 Furthermore, although the process for identifying newly proposed class members
 7 may be burdensome, it clearly can be done. Indeed, Jallyn Sualog, who is leading ORR’s
 8 efforts to reunify separated parents and children, has set out the process of identifying these
 9 newly proposed class members. (*See Decl. of Jallyn Sualog in Supp. of Defs.’ Opp’n to*
 10 *Mot.* ¶¶ 13-20.) Thus, Defendants’ argument of burden does not warrant denial of the
 11 present motion.

12 Defendants also suggest it would be more appropriate for the newly proposed class
 13 members to bring individual cases rather than include them in this case. (ECF No. 364 at
 14 52.) Like the issue of burden, this argument also goes to the issue of superiority under
 15 Rule 23(b)(3). *See Fed. R. Civ. P. 23(b)(3)(A)* (listing as factor for consideration “the class
 16 members’ interests in individually controlling the prosecution or defense of separate
 17 actions[.]”) Even if this argument applied here, it would weigh in favor of granting the
 18 motion, not denying it. As the Ninth Circuit stated in *Smith v. Los Angeles Unified School*
 19 *Dist.*, 830 F.3d 843 (9th Cir. 2016), “[c]ourts have long recognized the benefits conferred
 20 by the class action mechanism over numerous individual actions[.]” (*id.* at 863),
 21 particularly in civil rights actions where a government practice or policy is at issue.
 22 *Parsons v. Ryan*, 754 F.3d 657, 686-87 (9th Cir. 2014) (stating primary purpose of Rule
 23 23(b)(2) “has always been the certification of civil rights class actions.”) In fact, near the
 24 beginning of this case when separate lawsuits were being filed across the country,
 25 Defendants advocated for consolidation and avoidance of separate actions in multiple fora.
 26 *See, e.g., State of Wash. v. United States*, Case No. 18cv1979 DMS (MDD), ECF No. 22
 27 (Defendants’ motion to dismiss, or in the alternative, to transfer venue to this Court);

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1 *M.M.M. v. Sessions*, Case No. 18cv1832 DMS (MDD), ECF No. 21 at 21 (reflecting
2 Defendants' request to transfer case to this Court).

3 Now that Defendants have complied with this Court's preliminary injunction, it
4 appears they want to reverse course and have these newly identified parents file individual
5 cases throughout the country. However, forcing individual parents to bring separate
6 lawsuits challenging separation from their children makes little sense when precisely that
7 same legal claim has already been certified for class treatment in this case. It also ignores
8 the harsh reality of this case, namely that 471 parents in the presently defined class were
9 removed from this country without their children. (ECF No. 382 at 6.) Unless members
10 of the newly proposed class are identified, it will remain unknown how many of them, if
11 any, were also removed without their children, though it is probable that many will have
12 suffered the same fate as the 471 parents mentioned above. The ability of any such
13 removed parents to pursue individual claims in this country would be virtually impossible.

14 Defendants also argue the Court should not modify the class definition because this
15 is not the proper forum in which to account for the parents who were separated from their
16 children at the border by DOJ and DHS, and whose children were released from ORR
17 custody prior to June 26, 2018. (ECF No. 364 at 54.) Specifically, at the hearing on this
18 matter, defense counsel argued: "Litigation doesn't necessarily exist to resolve every issue
19" (*Id.*) Instead, counsel noted, other branches of government can get to the bottom of
20 the issue. (*Id.* ("The executive branch itself with OIG Reports ... is a possibility."))

21 The other branches, of course, are free to investigate these issues, and they are doing
22 so. In addition to OIG, Congress has been holding hearings on these issues and issuing
23 subpoenas to the Defendants in this case. *See*, Colleen Long, *House Targets Family*
24 *Separations in First Trump Subpoena*, AP News (Feb. 26, 2019),
25 <https://www.apnews.com/0b012aaaa6454a10a585eb4a848c8541>; Colleen Long et al.,
26 *Kirstjen Nielsen testifies on border security, future of border wall*, PBS News (Mar. 6,
27 2019, 5:17 PM EST), [https://www.pbs.org/newshour/politics/watch-live-homeland-](https://www.pbs.org/newshour/politics/watch-live-homeland-security-secretary-kirstjen-nielsen-testifies-before-house-committee)
28 [security-secretary-kirstjen-nielsen-testifies-before-house-committee](https://www.pbs.org/newshour/politics/watch-live-homeland-security-secretary-kirstjen-nielsen-testifies-before-house-committee). Clearly, the matter

1 of determining the “number and status of separated children” who have entered ORR care
2 at any point in time because of the Administration’s family separation policy is not going
3 away. Every branch of government is now invested in the process. But that does not mean
4 the Court should abdicate its role in this matter. The quintessential duty of the courts is to
5 determine controversies involving matters of constitutional significance; to ensure that the
6 actions of government officials do not violate fundamental constitutional rights, and if they
7 do, to address them. *See Marbury v. Madison*, 5 U.S. 137, 178 (1803) (stating the
8 resolution of constitutional questions “is the very essence of judicial duty.”); *The Federalist*
9 *No. 78* (Alexander Hamilton) (stating it is the “duty” of the courts “to declare all acts
10 contrary to the manifest tenor of the Constitution void. Without this, all the reservations
11 of particular rights or privileges would amount to nothing.”)

12 This Court has before it a case involving a class of parents who were separated from
13 their children at the border by DOJ and DHS pursuant to government policy. The present
14 motion asks the Court to modify the class definition to include all parents who were
15 subjected to that policy, not just those whose children were in ORR custody on June 26,
16 2018. That question clearly falls within the scope of this case, and the Court has an
17 obligation to resolve that question and to provide relief to these parents, if appropriate
18 under law. *See Lewis v. Casey*, 518 U.S. 343, 349 (1996) (“It is the role of courts to provide
19 relief to claimants, in individual or class actions, who have suffered, or will imminently
20 suffer, actual harm[.]”).

21 Defendants’ final argument is essentially one of equity. Specifically, they argue they
22 have been operating under the assumption that the class was limited to parents whose
23 children were in ORR custody on June 26, 2018, and it would be unfair to them to now
24 enlarge the class and force them to identify and reunify these other parents and their
25 children. This argument overlooks the profound importance of the reunification effort,
26 which entailed a search for parents who had been separated from their minor children under
27 questionable circumstances; it ensured every reasonable effort was employed to avoid the
28 very real possibility of a permanently orphaned child due to the actions of one or more

1 government officials. Whether it is fair to Defendants to require them to identify and
2 possibly reunite another group of parents and children who were separated pursuant to the
3 same government policy is not relevant to the purely legal issue presently before this Court,
4 *i.e.*, whether the class definition in this case should be modified. The factors relevant to
5 that inquiry have been discussed above, and they warrant modification of the class
6 definition here.

7 The hallmark of a civilized society is measured by how it treats its people and those
8 within its borders. That Defendants may have to change course and undertake additional
9 effort to address these issues does not render modification of the class definition unfair; it
10 only serves to underscore the unquestionable importance of the effort and why it is
11 necessary (and worthwhile).

12 In sum, that Plaintiffs were alerted to the existence of a handful of parents within
13 this group, and that subsequent investigation by the OIG confirmed that there was not just
14 a handful but potentially thousands of parents in this group, does not render modification
15 of the class definition unfair. Rather, modification of the class definition falls squarely
16 within the confines of Supreme Court precedent and Rule 23(c)(1)(C), which give courts
17 broad discretion to alter or amend a class definition considering subsequent developments
18 in a case. *See Armstrong v. Davis*, 275 F.3d 849, n.28 (9th Cir. 2001) (stating district courts
19 have “broad discretion” to revisit class certification “throughout the legal proceedings
20 before the Court.”), *abrogated on other grounds by Johnson v. California*, 543 U.S. 499,
21 504-05 (2005).

22 Subsequent developments have occurred here, and the modified class, like the
23 original class, satisfies the requirements of Rule 23. Accordingly, Plaintiffs’ motion to
24 modify the class definition is granted. The previously certified class is modified as follows:

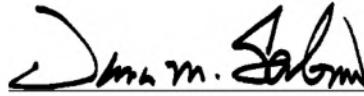
25 All adult parents who entered the United States at or between designated ports
26 of entry on or after July 1, 2017, who (1) have been, are, or will be detained
27 in immigration custody by the DHS, and (2) have a minor child who has been,
28 is or will be separated from them by DHS and has been, is or will be detained

1 in ORR custody, ORR foster care, or DHS custody, absent a determination
2 that the parent is unfit or presents a danger to the child.⁶

3 Although the parties addressed the issue of the relief to be afforded to the newly
4 included class members both in their briefs and at oral argument, the Court declines to
5 resolve that issue in the present order. Rather, pursuant to Defendants' request, the Court
6 stays application of its preliminary injunction to the newly included class members pending
7 further briefing from the parties as to what specific relief Plaintiffs request and are entitled
8 to at this stage of the case. The parties should be prepared to address these issues in the
9 next JSR.

10 **IT IS SO ORDERED.**

11 Dated: March 8, 2019

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13 Hon. Dana M. Sabraw
14 United States District Judge
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27 ⁶ The class as modified is subject to the same qualifications as the originally certified class
28 with respect to, for example, criminal history and communicable disease. (ECF No. 82 at
10-11, 17 n. 10.)

From: (b)(6); (b)(7)(C)
Sent: Wed, 6 Feb 2019 18:43:54 +0000
To: Seguin, Debbie
Subject: RE: Policy memo's or other guidance
Attachments: Enforcement Guidance.zip

Here are 14 documents that include: six ICE policies (courthouse, civil fines, pregnant detainees, etc.) , five pertaining to Zero Tolerance Policy and/or the litigation resulting from it, and two pertaining to 212(f).

From: (b)(6); (b)(7)(C)
Sent: Wednesday, February 6, 2019 1:30 PM
To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: Policy memo's or other guidance

(b)(5)

From: (b)(6); (b)(7)(C)
Sent: Friday, February 1, 2019 10:46 AM
To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

Debbie,

(b)(5)

From: (b)(6); (b)(7)(C)
Sent: Thursday, January 31, 2019 10:09 AM
To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

Debbie in the attached is various documents published by OPP and ERO.

(b)(5)

Thanks,

(b)(6);

Warning : Sensitive PII NOT authorized on this site!

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Broadcasts

A Message from Executive Associate Director for Enforcement and Removal Operations and Official Performing the Duties of the Deputy Director Matthew T. Albence

11/20/2018 TO ALL ICE EMPLOYEES

Temporary Restraining Order Issued in East Bay Sanctuary Covenant v. Trump

As discussed in my earlier guidance issued on November 9, 2018, *Interim Guidance Regarding Custody Procedures for Aliens Subject to Expedited Removal* final rule (IFR) was published in the Federal Register on that date. The IFR provided that aliens subject to a suspension of entry under a presidential proclamation concerning the southern border with Mexico – such as the one issued by President Trump on the same date – and who contravene such a proclamation by United States unlawfully on or after the effective date of such a proclamation are ineligible for asylum. See *Aliens Subject to a Bar on Entry under Section 2 Procedures for Protection Claims*, 83 Fed. Reg. 55934 (Nov. 9, 2018); *Presidential Proclamation Addressing Mass Migration Through the Southern Border of the United States* (Nov. 9, 2018).

However, on November 19, 2018, a U.S. district court granted a nationwide temporary restraining order (TRO) stopping the IFR from going into effect in *East Bay Sanctuary Covenant v. Trump*, No. 18-06810 (N.D. Cal. Nov. 19, 2018). Accordingly, until further notice, ICE personnel should NOT take any action to prevent aliens who might otherwise appear to be subject to the IFR from seeking asylum in the United States.

As noted in my guidance from November 9, neither the IFR nor the Presidential Proclamation affected ICE's custody determination processes or the roles and responsibilities of ICE immigration officers with regard to the credible fear screening process. The central impact for ICE concerned whether aliens in removal proceedings are ineligible for asylum under the terms of the IFR. In light of the TRO, to the extent that an alien may facially appear to be covered by the IFR or Presidential Proclamation, including due to annotations on Form I-213 (Record of Removable/Inadmissible Alien) or Form I-213 or database entries, ICE employees should take no action to preclude him or her from pursuing asylum. In removal proceedings before the Executive Office for Immigration Review (EOIR), ICE should handle such cases as they would have been handled prior to issuance of the IFR and not argue that the IFR or Presidential Proclamation render the alien ineligible for asylum, unless and until instructed otherwise. We understand that EOIR has apprised its immigration judges of the TRO, as well.

A copy of the TRO is attached for your reference. The TRO is effective immediately and remains in effect until December 19, 2018, or further court order. It does not prevent ICE from continuing to implement the IFR and orders a return to the pre-IFR practices for processing asylum applications. Further ICE guidance will follow as the litigation dictates. Any questions relating to the TRO should be directed to OPLA.

Thank you for your continued dedication and service in support of the ICE mission.

Matthew T. Albence
Executive Associate Director for Enforcement and Removal Operations and
Senior Official Performing the Duties of the Deputy Director
U.S. Immigration and Customs Enforcement

Broadcasts

A Message from Executive Associate Director for Enforcement and Removal Operations and Senior Official Performing the Duties of the Deputy Director Matthew T. Albence

11/9/2018 TO ALL ICE EMPLOYEES

Interim Guidance Regarding Custody Procedures for Aliens Subject to Expedited Removal

Today, the President issued a proclamation under sections 212(f) and 215(a)(1) of the Immigration and Nationality Act (INA), *Addressing Mass Migration Through the Southern Border of the United States*, which, subject to certain exceptions, suspends for 90 days the "entry of any alien into the United States across the international boundary between the United States and Mexico." Most notably, the suspension of entry does not apply to "any alien who enters the United States at a port of entry properly presents for inspection, or to any lawful permanent resident of the United States."

Also today, the Department of Justice and the Department of Homeland Security (DHS) published a joint interim final rule titled, *Aliens Subject to a Bar on Entry Under Section 212(f); Procedures for Protection Claims* ("the IFR"), in the Federal Register. 83 Fed. Reg. 55934 (Nov. 9, 2018). The IFR, which is effective immediately, provides that aliens subject to a suspension of entry under a proclamation concerning the southern border with Mexico – such as that issued today – but who enter the United States by entering the United States unlawfully on or after the effective date of such a proclamation, are ineligible for asylum. Aliens rendered ineligible for asylum by the IFR and who are referred for a credible fear interview in the expedited removal process are still eligible to seek withholding of removal under the INA, or protection under the regulations implementing U.S. obligations under Article 3 of the Convention Against Torture. Rather than establishing a "credible fear" standard, however, such aliens would be permitted to pursue such claims in removal proceedings before an immigration judge under section 240 only if they establish a "reasonable fear" of persecution or torture.

The presidential proclamation and the IFR do not impact the role and responsibilities of U.S. Immigration and Customs Enforcement (ICE) immigration officers regarding the credible fear screening process. Consistent with existing requirements, when an alien in the INA section 235(b)(1) expedited removal process expresses an intention to apply for asylum or expresses a fear of return, including any verbal or non-verbal indications that the alien may be persecuted or tortured in his or her homeland, the officer must refer the alien for a credible fear interview before a U.S. Citizenship and Immigration Services asylum officer. If the immigration officer makes no qualitative determination regarding the claim of fear.

Detention and Release Authorities

In light of these legal developments, this message provides clarification of the detention and release authorities applicable to different categories of aliens in the expedited removal process, including those ineligible for asylum due to the presidential proclamation and the IFR referenced above, but who are referred for removal proceedings after establishing a reasonable fear of persecution or torture.

Arriving Aliens

Arriving aliens – aliens encountered at a port of entry or interdicted in international or U.S. waters and brought to the United States – subject to expedited removal proceedings are determined to possess a credible fear and referred for removal proceedings under section 240 of the INA are subject to mandatory detention during such removal proceedings. INA § 235(b)(1)(B)(ii); 8 C.F.R. § 235.3(c). Immigration judges lack the authority to re-determine custody of arriving aliens. 8 C.F.R. § 1003.19(c).

ICE, however, maintains discretion pursuant to section 212(d)(5) of the INA to parole such aliens for "urgent humanitarian reasons or significant public benefit." 8 C.F.R. § 235.3(c). The regulations identify five general categories of aliens who may meet the standard on a case-by-case basis: aliens with serious medical needs; pregnant women; juveniles; certain witnesses; and "aliens whose continued detention is not in the public interest." 8 C.F.R. § 212.5(b)(1)–(5). Pursuant to ICE's *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture* (Dec. 8, 2009), absent additional factors weighing against release, an arriving alien determined to possess a credible fear establishes to the satisfaction of the ICE immigration officer his or her identity and that he or she does not pose a flight risk or danger to the community, it is presumptively deemed "not [to be] in the public interest" for such alien to be detained.

The presidential proclamation and the IFR do not impact the detention and release authorities applicable to arriving aliens.

Certain Other Aliens

With regard to aliens subject to expedited removal, who are encountered outside a port of entry, within 14 days of entry, and within 100 air miles of the U.S. border – referred to as "certain other aliens" – historically, the DHS took the position that those aliens, after referral for removal proceedings under section 240, remain ineligible for bond and/or a custody redetermination before an immigration judge.

On May 4, 2005, however, the Board of Immigration Appeals (Board) issued *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005), holding that immigration judges have the authority to consider bond for "certain other aliens," who were initially considered for expedited removal, but referred to the immigration court for removal proceedings under section 240. The Board relied in part upon the regulation at 8 C.F.R. § 1236.1(d)(1), which "specifically states that until there is a final removal order in the section 240 proceedings, Immigration Judges have jurisdiction 'to exercise the authority in section 236 of the Act . . . to detain the alien in custody, release the alien, and the amount of bond . . . as provided in § 1003.19.'" *Id.* at 732. The Board also considered the classes of aliens expressly excluded from the jurisdiction of immigration judges, 8 C.F.R. § 1003.19(h)(2)(i), and noted that the "list does not include aliens [] who have been placed in 240 removal proceedings after having been screened and detained for expedited removal as 'certain other aliens' pursuant to the authority in section 235(b)(1)(A)(iii) of the Act." *Id.* Pursuant to existing regulations, such aliens are now detained pursuant to INA § 236(a) or 236(c) depending upon the facts of the individual case.

The Board's decision in *Matter of X-K-* would apply with equal force to aliens ineligible for asylum due to the presidential proclamation and the IFR reference above who are referred for removal proceedings under section 240 of the INA after having established a reasonable fear of persecution or torture.

Accordingly, upon referral for removal proceedings under section 240 of the INA, an immigration officer should conduct a custody determination, using Form I-88 (Form of Custody Determination) in such cases. As with any other case in which an alien is detained pursuant to ICE's pre-order custody authority under INA § 235(b)(1)(A)(iii), an alien is subject to mandatory detention under INA § 236(c). ICE immigration officers have the discretionary authority to release an alien who demonstrates that he or she is not a flight risk or danger to the community.

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- In determining whether an alien should be released on bond or his or her own recognizance, relevant factors include, but are not limited to: (1) whether the alien has a fixed address in the United States; (2) the alien's length of residence in the United States; (3) the alien's family ties in the United States, and whether the alien may entitle the alien to reside permanently in the United States in the future; (4) the alien's employment history; (5) the alien's record of appearance in court; (6) the alien's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien's immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and (9) the alien's manner of entry to the United States. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

These custody determinations will be subject to review by an immigration judge. The presidential proclamation and the IFR do not impact the detention and release authorities applicable to "certain other aliens" subject to expedited removal.

Note: On October 12, 2018, the Attorney General directed the Board to refer for his review its decision in *Matter of M-S-*, to address whether the Board's decision in *Matter of X-K-*, should be overruled. See *Matter of M-S-*, 27 I&N Dec. 476 (A.G. 2018). DHS has argued that the Attorney General should overrule *Matter of X-K-* to hold that immigration judges lack authority to conduct bond hearings for aliens who DHS detains under section 235(b) of the INA following referral for INA § 235(b)(2)(A)(i) proceedings. Further guidance will be forthcoming, as appropriate, when a decision is issued in that case.

Aliens Subject to a Final Expedited Removal Order

As set forth in regulations, an alien who has been issued an expedited removal order "shall be detained pending . . . removal." 8 C.F.R. § 235.3(b)(2)(iii). Aliens subject to an expedited removal order are not detained pursuant to the post-order custody provisions of section 241(a) of the INA and are not eligible for release on arrest supervision. Such aliens may only be released from custody on parole on a case-by-case basis in the limited circumstances where "parole is required to meet an emergency or is necessary for a legitimate law enforcement objective." *Id.*

The presidential proclamation and the IFR do not impact the detention and release authorities applicable to aliens subject to a final expedited removal order.

Any questions relating to the presidential proclamation, IFR, or detention and release authorities should be directed to OPLA.

Thank you for your continued dedication and service in support of the ICE mission.

Matthew T. Albence
Executive Associate Director for Enforcement and Removal Operations and
Senior Official Performing the Duties of the Deputy Director
U.S. Immigration and Customs Enforcement

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 10088.1: Fines and Penalties for Civil Violations of Immigration Law

Issue Date: June 19, 2018
Effective Date: June 19, 2018
Superseded: None.
Federal Enterprise Architecture Number: 306-112-002a

1. **Purpose/Background.** This Directive sets forth U.S. Immigration and Customs Enforcement (ICE) policy regarding the assessment and collection of fines and penalties for civil violations of immigration law. This Directive is intended to implement sections 240B(d)(1), 274C(d)(3), and 274D(a) of the Immigration and Nationality Act (INA) and applicable regulations.¹ These provisions provide ICE with discretion to assess civil fines for failure to voluntarily depart the United States within the specified voluntary departure period,² prohibited activities involving document fraud,³ and willful failure to depart pursuant to a final order of removal.⁴

2. **Policy.** ICE will exercise discretion in enforcing applicable laws and regulations governing the assessment and collection of fines and penalties against aliens, who have unlawfully remained in the United States beyond an authorized period of voluntary departure or in violation of a removal order, or individuals or business entities who have engaged in prohibited activities involving document fraud.

When assessing civil fines and penalties, ICE will notify individuals and business entities of its intention to impose a fine and the right to request administrative review of the assessed fine. When assessing fines for document fraud, ICE will notify aliens that the civil fine process is separate from removal proceedings.

3. **Definitions.** The following definitions apply for purposes of this Directive only:
 - 3.1. **Civil Fine.** A financial penalty for certain statutory civil immigration violations.
 - 3.2. **Notice of Intent to Fine or Notice of Intention to Fine (NIF).** A standardized form that provides written notice to the respondent (a person or an entity) setting forth the alleged violation(s) of the INA, the imposition of a civil fine, and a description of the appeals process.

¹ See 8 C.F.R. pts. 270 (procedures for assessing fines for prohibited activities involving document fraud) and 280 (procedures for assessing fines for failing to voluntarily depart and failing to comply with a final order of removal).

² INA § 240B(d)(1).

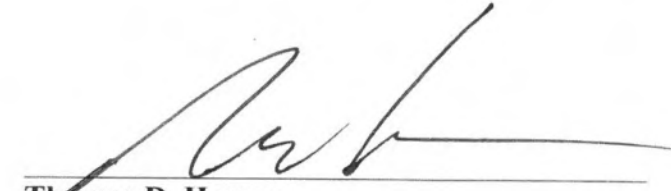
³ INA § 274C(d)(3).

⁴ INA § 274D(a).

- 3.3. **Personal Service.** Consistent with 8 C.F.R. § 103.8(a)(2), delivery of a copy to the respondent or his or her attorney of record personally, delivery of a copy to the respondent's dwelling house or usual place of abode by leaving it with a person of suitable age and discretion, or delivery of a copy to the respondent's attorney of record or to the respondent by mailing a copy by certified or registered mail, return receipt requested, addressed to the respondent at his or her last known address.
- 3.4. **Final Decision.** The agency's decision to collect a fine after all administrative appeals have been exhausted or after the respondent fails to contest the fine within the timeframe permissible.
4. **Responsibilities.**
- 4.1. **The Executive Associate Directors for Enforcement and Removal Operations (ERO) and Homeland Security Investigation (HSI) and the Principal Legal Advisor** are responsible for ensuring compliance with the provisions of this Directive and issuing guidance within his or her Directorate or Program Office for implementation, as appropriate.
- 4.2. **ICE Law Enforcement Officers (LEOs)** are responsible for complying with the provisions of this Directive, as applicable, and other relevant agency, Directorate, or Program Office guidance on the process and procedures for assessing and collecting civil fines and penalties, including recordkeeping requirements.
- 4.3. **OPLA** is responsible for providing appropriate legal guidance and representing the Department of Homeland Security in any administrative appeal before the Board of Immigration Appeals.
- 4.4. **Office of the Chief Financial Officer (OCFO)** is responsible for the collection of civil fines and penalties, including creating accounts receivable for valid fines, issuing invoices, tracking the fines in ICE's financial system, and referring delinquent debts to the Department of the Treasury, as required by law.
5. **Procedures/Requirements.**
- 5.1. **Initiation of Fine Assessment.** ICE has discretion to determine when to impose a civil fine. ICE LEOs must ensure that sufficient evidence is gathered and properly documented prior to the assessment of a fine. A properly issued NIF will be issued on an approved, standardized form appropriate for the specific type of civil fine.
- 5.2. **Personal Service.** ICE will comply with service requirements in applicable regulations governing the civil fines process. LEOs will ensure that the NIF and/or Final Decision are served by personal service.
- 5.3. **Assessment of Fines.** ICE LEOs will calculate fine amounts, as defined in statute, and consider mitigating and aggravating factors, when applicable.

- 5.4. **Administrative Review of Fine.** Respondents may contest a fine prior to collection. ICE will notify respondents of the right to be represented by counsel at no cost to the government, and the right to request administrative review.
- 5.5. **Final Decision.** A final decision by ICE will be entered and served via personal service after the applicable regulatory process for assessing a fine has been completed and all available appeals are adjudicated or the period for filing an appeal has expired. Final Decisions may not be appealed.
- 5.6. **Collection of Fines.** ICE LEOs will submit a completed NIF and supporting materials to OCFO for the collection of civil fines after a final decision is served on the respondent. OCFO shall review the NIF and supporting materials and create an accounts receivable for valid fines and follow established regulatory procedures for collecting debts owed to the government. ICE LEOs may not accept payment for any civil fines.
6. **Recordkeeping.** ICE LEOs will create and maintain a Record of Proceeding which will be included as part of the Alien Registration File (A-File) or Case File for qualifying U.S. citizens, as applicable.
7. **Authorities/References.**
- 7.1. INA §§ 240B(d); 274C; 274D.
- 7.2. 8 C.F.R. pts. 270; 280.
- 7.3. Civil Monetary Penalty Adjustments for Inflation, 83 Fed. Reg. 13826 (Apr. 2, 2018) (updated annually).
- 7.4. DHS Delegation No. 7030.2, *Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement* (Nov. 13, 2004).
- 7.5. ICE Delegation No. 0001, *Delegation of Authority to the Directors, Detention and Removal and Investigations, and to Field Office Directors, Special Agents in Charge and Certain Other Officers of the Bureau of Immigration and Customs Enforcement* (June 6, 2003).
- 7.6. ICE Delegation No. DO-01-2018, *Delegation of Authority to Administer and Enforce Provisions Relating to Civil Penalties for Failure to Depart June 19, 2018.*
8. **Attachments.** None.
9. **No Private Right.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It 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

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. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.


Thomas D. Homan
Acting Director

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Directive Number 11072.1: Civil Immigration Enforcement Actions Inside Courthouses

Issue Date: January 10, 2018

Effective Date: January 10, 2018

Superseded: None

Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive sets forth U.S. Immigration and Customs Enforcement (ICE) policy regarding civil immigration enforcement actions inside federal, state, and local courthouses. Individuals entering courthouses are typically screened by law enforcement personnel to search for weapons and other contraband. Accordingly, civil immigration enforcement actions taken inside courthouses can reduce safety risks to the public, targeted alien(s), and ICE officers and agents. When practicable, ICE officers and agents will conduct enforcement actions discreetly to minimize their impact on court proceedings.

Federal, state, and local law enforcement officials routinely engage in enforcement activity in courthouses throughout the country because many individuals appearing in courthouses for one matter are wanted for unrelated criminal or civil violations. ICE's enforcement activities in these same courthouses are wholly consistent with longstanding law enforcement practices, nationwide. And, courthouse arrests are often necessitated by the unwillingness of jurisdictions to cooperate with ICE in the transfer of custody of aliens from their prisons and jails.

2. **Policy.** ICE civil immigration enforcement actions inside courthouses include actions against specific, targeted aliens with criminal convictions, gang members, national security or public safety threats, aliens who have been ordered removed from the United States but have failed to depart, and aliens who have re-entered the country illegally after being removed, when ICE officers or agents have information that leads them to believe the targeted aliens are present at that specific location.

Aliens encountered during a civil immigration enforcement action inside a courthouse, such as family members or friends accompanying the target alien to court appearances or serving as a witness in a proceeding, will not be subject to civil immigration enforcement action, absent special circumstances, such as where the individual poses a threat to public safety or interferes with ICE's enforcement actions.¹

¹ ICE officers and agents will make enforcement determinations on a case-by-case basis in accordance with federal law and consistent with U.S. Department of Homeland Security (DHS) policy. See Memorandum from John Kelly, Secretary of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest* (Feb. 20, 2017); Memorandum from John Kelly, Secretary of Homeland Security, *Implementing the President's Border Security and Immigration Enforcement Improvements Policies* (Feb. 20, 2017).

ICE officers and agents should generally avoid enforcement actions in courthouses, or areas within courthouses that are dedicated to non-criminal (e.g., family court, small claims court) proceedings. In those instances in which an enforcement action in the above situations is operationally necessary, the approval of the respective Field Office Director (FOD), Special Agent in Charge (SAC), or his or her designee is required.

Civil immigration enforcement actions inside courthouses should, to the extent practicable, continue to take place in non-public areas of the courthouse, be conducted in collaboration with court security staff, and utilize the court building's non-public entrances and exits.

Planned civil immigration enforcement actions inside courthouses will be documented and approved consistent with current operational plans and field operations worksheet procedures. Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI) may issue additional procedural guidance on reporting and documentation requirements; such reporting and documentation shall not impose unduly restrictive requirements that operate to hamper or frustrate enforcement efforts.

As with any planned enforcement action, ICE officers and agents should exercise sound judgment when enforcing federal law and make substantial efforts to avoid unnecessarily alarming the public. ICE officers and agents will make every effort to limit their time at courthouses while conducting civil immigration enforcement actions.

This policy does not apply to criminal immigration enforcement actions inside courthouses, nor does it prohibit civil immigration enforcement actions inside courthouses.

3. **Definition** The following definitions apply for the purposes of this Directive only.
 - 3.1. **Civil immigration enforcement action.** Action taken by an ICE officer or agent to apprehend, arrest, interview, or search an alien in connection with enforcement of administrative immigration violations.
4. **Responsibilities.**
 - 4.1. The **Executive Associate Directors** for **ERO** and **HSI** are responsible for ensuring compliance with the provisions of this Directive within his or her program office.
 - 4.2. **ERO FODs** and **HSI SACs** are responsible for:
 - 1) Providing guidance to officers and agents on the approval process and procedures for civil immigration enforcement actions at courthouses in their area of responsibility beyond those outlined in this Directive; and
 - 2) Ensuring civil immigration enforcement actions at courthouses are properly documented and reported, as prescribed in Section 5.1 of this Directive.

4.3. ICE Officers and Agents are responsible for complying with the provisions of this Directive and properly documenting and reporting civil immigration enforcement actions at courthouses, as prescribed in Section 5.1 of this Directive.²

5. Procedures/Requirements.

5.1. Reporting Requirements.

- 1) ICE officers and agents will document the physical address of planned civil immigration enforcement actions in accordance with standard procedures for completing operational plans, noting that the target address is a courthouse.³
- 2) Unless otherwise directed by leadership, there will be no additional reporting requirements in effect for this Directive.

6. Recordkeeping. ICE maintains records generated pursuant to this policy, specifically the Field Operations Worksheets (FOW) and Enforcement Operation Plan (EOP). ERO will maintain the FOW in accordance with the Fugitive Operations schedule DAA-0567-2015-0016. HSI will maintain EOPs in accordance with the Comprehensive Records Schedule N1-36-86-1/161.3. The EOPs will be maintained within the Investigative Case Files.

7. Authorities/References.

7.1. DHS Directive 034-06, *Department Reporting Requirements*, October 23, 2015.

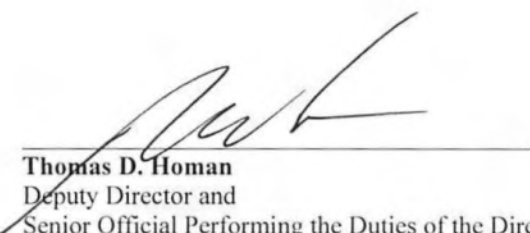
7.2. DHS Instruction 034-06-001, Rev. 1, *Department Reporting Requirements*, March 28, 2017.

8. Attachments. None.

9. No Private Right. This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It 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. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.

² See also ICE Directive No. 10036.1, *Interim Guidance Relating to Officer Procedure Following Enactment of VAWA 2005* (Jan. 22, 2007), for additional requirements regarding civil immigration enforcement actions against certain victims and witnesses conducted at courthouses.

³ ERO will use the Field Operations Worksheet and HSI will use the Enforcement Operation Plan.



Thomas D. Homan
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U.S. Immigration and Customs Enforcement

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Policy Number 10074.2: Issuance of Immigration Detainers by ICE Immigration Officers

Issue Date: March 24, 2017

Effective Date: April 2, 2017

Superseded: Interim Policy No. 10074.1: *Detainers* (Aug. 2, 2010)

Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive establishes U.S. Immigration and Customs Enforcement (ICE) policy and procedures regarding the issuance of civil immigration detainers to federal, state, local, and tribal law enforcement agencies (LEAs). ICE issues detainers to federal, state, local, and tribal LEAs to provide notice of its intent to assume custody of a removable alien detained in federal, state, local, or tribal custody. The Department of Homeland Security's (Department or DHS) detainer authority, codified in section 287.7 of title 8 of the Code of Federal Regulations (C.F.R.), arises from the Secretary of Homeland Security's power under section 103(a)(3) of the Immigration and Nationality Act (INA) to provide regulations "necessary to carry out his authority," and from ICE's general authority to arrest and detain aliens subject to removal or removal proceedings, pursuant to sections 236, 241, and 287 of the INA. The use of immigration detainers, however, long pre-dates any reference to detainers in the statute or regulations.¹ In fact, the former Immigration and Naturalization Service first used the Form I-247 as early as 1952.

Detainers enable ICE to judiciously deploy its investigative, detention, and removal resources consistent with the immigration enforcement priorities of the Department and the executive branch of the U.S. Government. Detainers also allow ICE immigration officers to avoid the risks to public safety and officer safety associated with arrests outside the custodial environment.

2. **Policy.** It is ICE policy to ensure that ICE immigration officers exercise detainer authority in a manner consistent with all legal requirements and in a manner that ensures ICE's LEA partners may honor detainers.
- 2.1. The consolidated detainer form, Form I-247A (Immigration Detainer – Notice of Action), attached to this Directive shall be used as of the effective date of this Directive. Form I-247D (Immigration Detainer – Request for Voluntary Action), Form I-247N (Request

¹ See, e.g., *Chung Young Chew v. Boyd*, 309 F.2d 857 (9th Cir. 1962); *Rinaldi v. United States*, 484 F. Supp. 916 (S.D.N.Y. 1977); *Slavik v. Miller*, 89 F. Supp. 575 (W.D. Pa. 1950), *aff'd*, 184 F.2d 575 (3d Cir. 1950), *cert. denied*, 340 U.S. 955 (1951); *Matter of Lehder*, 15 I&N Dec. 159 (BIA 1975).

for Voluntary Notification of Release of Suspected Priority Alien), and Form I-247X (Request for Voluntary Transfer), may no longer be issued. Detainers issued on prior versions of the detainer form remain active and need not be replaced with a Form I-247A. See Attachment 8.4 for guidance on how to complete the Form I-247A.

- 2.2. Only ICE immigration officers, including designated officers of a state or political subdivision of a state authorized to perform certain immigration officer functions under section 287(g) of the INA, may issue immigration detainers.
- 2.3. Regardless of whether a federal, state, local, or tribal LEA regularly cooperates with DHS immigration detainers, ICE immigration officers shall issue a detainer to the LEA for an alien in the LEA's custody after the alien is arrested for a criminal offense and the officer has probable cause to believe that the subject is an alien who is removable from the United States.
- 2.4. ICE immigration officers must establish probable cause to believe that the subject is an alien who is removable from the United States before issuing a detainer with a federal, state, local, or tribal LEA. Further, as a matter of policy, all detainers issued by ICE must be accompanied by either: (1) a properly completed Form I-200 (Warrant for Arrest of Alien) signed by an authorized ICE immigration officer; or (2) a properly completed Form I-205 (Warrant of Removal/Deportation) signed by an authorized ICE immigration officer.²
- 2.5. Except for circumstances in which the alien is detained in ICE custody at the time the detainer is issued, an ICE immigration officer shall not issue an immigration detainer to an LEA unless the LEA has arrested the alien for a criminal offense in an exercise of the LEA's independent arrest authority.³ ICE Immigration officers shall not issue an immigration detainer for an alien who has been temporarily detained or stopped, but not arrested, by another LEA. This does not preclude the LEA from temporarily detaining an alien while an ICE immigration officer responds to the scene.
- 2.6. An ICE immigration officer may not issue a detainer based upon the initiation of an investigation to determine whether the subject is a removable alien. An ICE immigration officer may not establish probable cause of alienage and removability, for purposes of detainer issuance, solely based on evidence of foreign birth and the absence of records in available databases ("foreign-born-no match").

² Although ICE maintains that this is not legally required, ICE is implementing this warrant measure as a nationwide policy in light of one district court's ruling that detention pursuant to an ICE detainer constitutes a warrantless arrest and that section 287(a)(2) of the INA only authorizes a warrantless arrest if there is reason to believe the alien will escape before an arrest warrant can be secured. See *Moreno v. Napolitano*, --- F. Supp. 3d ---, 2016 WL 5720465, at *8 (N.D. Ill. Sept. 30, 2016).

³ Box 2 on Form I-247A (Immigration Detainer – Notice of Action) is used by ICE to ensure that an alien detained in ICE's custody is returned to ICE custody after being transferred to another LEA for a proceeding or investigation. Such detainers may be issued prior to the other LEA assuming custody of the subject of the detainer.

- 2.7. ICE immigration officers must promptly assume custody of an alien who is the subject of an immigration detainer. Further, ICE immigration officers should assume custody of an alien subject as soon as practicable, and as close as possible to the time at which the alien would otherwise have been released by the relevant LEA, but in no circumstances more than 48 hours after such time. If it becomes apparent that ICE cannot assume custody of the alien within 48 hours of when he or she would otherwise be released, the ICE immigration officer should immediately cancel the detainer.
- 2.8. In some cases, after issuing an immigration detainer for an individual in the custody of a federal, state, local, or tribal LEA, ICE may determine that it will not assume custody of the subject. In these cases, the ICE immigration officer must cancel the immigration detainer as soon as such determination is made.
- 2.9. As a matter of law, ICE cannot assert its civil immigration enforcement authority to arrest and/or detain a U.S. citizen.⁴
3. **Definitions.** The following definitions apply only for purposes of this directive.
- 3.1. **Detainer.** A notice that ICE issues to a federal, state, local, or tribal LEA to inform the LEA that ICE intends to assume custody of a removable alien in the LEA's custody.
- 3.2. **ICE Immigration Officer.** The term "ICE immigration officer" means Enforcement and Removal Operations (ERO) deportation officers and Homeland Security Investigations (HSI) special agents, including supervisory and managerial personnel who are responsible for supervising authorized immigration officers, as well as designated officers of a state or political subdivision of a state authorized to perform certain immigration officer functions under section 287(g) of the INA. *See* 8 C.F.R. § 287.7(b).
- 3.3. **Probable Cause.** The facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information that are sufficient in themselves to warrant a person of reasonable caution in the belief that an individual is a removable alien.
4. **Responsibilities.**
- 4.1. **All ICE employees** are responsible for complying with the policy and procedures set forth in this Directive.
- 4.2. **ICE immigration officers**, including designated immigration officers of a state or political subdivision of a state authorized to perform certain immigration officer functions under section 287(g) of the INA, are responsible for issuing and executing

⁴ ICE immigration officers must comply with requirements of ICE Policy No. 16001.2, *Investigating the Potential U.S. Citizenship of Individuals Encountered by ICE* (Nov. 10, 2015), when issuing detainers. In particular, footnote 1 of that policy specifically applies to prior versions of the detainer "and/or any successor form serving the same or substantially similar" purpose.

immigration detainees in accordance with the policy and procedures set forth in this Directive.

- 4.3. ICE ERO Assistant Directors, Deputy Assistant Directors, Field Office Directors (FODs), and the Directors of the National Criminal Analysis and Targeting Center, the Pacific Enforcement Response Center, and the Law Enforcement Support Center, and their designees, as well as the ICE HSI Assistant Director for Domestic Operations and ICE HSI Special Agents in Charge (SACs) and their designees, are responsible for disseminating and ensuring compliance with this Directive.**

5. Procedures.

5.1. Establishing Probable Cause.

As a matter of policy, a detainer must be supported by probable cause based upon one of the following four categories of information:

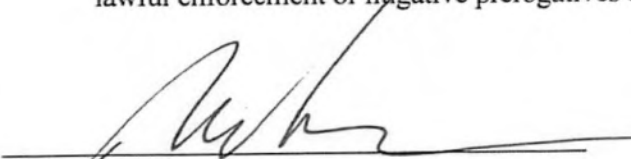
- 1) A final order of removal against the alien;
- 2) The pendency of ongoing removal proceedings against the alien, including cases in which DHS has issued a charging document and served the charging document on the alien;
- 3) Biometric confirmation of the alien's identity and a records match in federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks lawful immigration status or, notwithstanding such status, is removable under U.S. immigration law; and/or
- 4) Statements made voluntarily by the alien to an ICE immigration officer and/or other reliable evidence that indicate the alien either lacks lawful immigration status or, notwithstanding such status, is removable under U.S. immigration law.

An ICE immigration officer may not issue a detainer prior to establishing probable cause to believe that the subject is a removable alien. Further, an ICE immigration officer may not issue a detainer based upon the initiation of an investigation to determine whether the subject is a removable alien. The pendency of ongoing removal proceedings refers to cases in which DHS has issued a charging document and served the charging document on the alien. As a matter of policy, an ICE immigration officer may not establish probable cause of alienage and removability, for purposes of detainer issuance, solely based on evidence of foreign birth and the absence of records in available databases ("foreign-born-no match").

- 5.2. Issuing an Immigration Detainer and Administrative Warrant.** All immigration detainees (Form I-247A Immigration Detainer – Notice of Action) must be accompanied by either Form I-200 (Warrant for Arrest of Alien) or Form I-205 (Warrant of Removal/Deportation).

- 1) If the subject of the detainer is a removable alien who is not yet subject to a final order of removal, the ICE immigration officer who issues the detainer shall attach a Form I-200 (Warrant for Arrest of Alien) to the detainer.
 - a. The Form I-200 shall be issued by any of the supervisory immigration officials listed at 8 C.F.R. § 287.5(e)(2).
 - 2) If the subject of the detainer is also the subject of a final order of removal, including where the alien is subject to reinstatement of removal under section 241(a)(5) of the INA, the ICE immigration officer who issues the detainer shall attach a Form I-205 (Warrant of Removal/Deportation) to the immigration detainer.
 - a. The Form I-205 shall be issued by any of the supervisory immigration officials listed in 8 C.F.R. § 241.2(a)(1).
- 5.3. Declined Immigration Detainers.** When ICE becomes aware that an LEA failed to honor an immigration detainer issued by ICE, the ICE immigration officer shall document the declined detainer in the ENFORCE Alien Removal Module (EARM) through the use of the detainer lift code of “A – Declined by LEA.”
- 5.4. Cancelling an Immigration Detainer.** If after issuing an immigration detainer ICE determines that it will not assume custody of the subject, the ICE immigration officer must cancel the immigration detainer.
- 1) Form I-247A shall be issued to the relevant LEA requesting cancellation of the detainer; and
 - 2) All cancelled detainers shall be documented in EARM through the use of the detainer lift code of “L - Lifted”, or using another case-specific lift code requiring the cancellation of the detainer (e.g. “D – Died”, “N – Alien not subject to deportation”).
- 6. Recordkeeping.** ICE maintains records generated pursuant to this policy, specifically Forms I-247A (Immigration Detainer-Notice of Action), Forms I-200 (Warrant for Arrest of Alien) and Forms I-205 (Warrant of Removal/Deportation) in the Alien File.
- 7. Authorities/References.**
- 7.1. Immigration and Nationality Act of 1952, Pub. L. No. 82-414, as amended (codified at 8 U.S.C. §§ 1101 *et seq.*).
 - 7.2. 8 C.F.R. §§ 236.1, 241.2, 287.3, 287.5, 287.7.
 - 7.3. *Moreno v. Napolitano*, --- F. Supp. 3d ---, 2016 WL 5720465 (N.D. Ill. Sept. 30, 2016).
 - 7.4. Executive Order 13768, *Enhancing Public Safety in the Interior of the United States* (Jan. 25, 2017).

- 7.5. Memorandum from DHS Secretary John Kelly, *Enforcement of the Immigration Laws to Serve the National Interest* (Feb. 20, 2017).
- 7.6. ICE Policy No. 16001.2, *Investigating the Potential U.S. Citizenship of Individuals Encountered by ICE* (Nov. 10, 2015).
- 7.7. ICE Policy No. 13001.1, *State Personnel Designated to Act as Immigration Officers for Immigration Enforcement Purposes* (Dec. 4, 2008).
- 8. **Attachments.**
 - 8.1. Form I-247A (Immigration Detainer – Notice of Action).
 - 8.2. Form I-200 (Warrant for Arrest of Alien).
 - 8.3. Form I-205 (Warrant of Removal/Deportation).
 - 8.4. ICE Guidance For Completing the Form I-247A.
- 9. **No Private Right Statement.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create or diminish any rights, substantive or procedural, enforceable at law or equity by any party in any criminal, civil, or administrative matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



Thomas D. Homan
Acting Director
U.S. Immigration and Customs Enforcement

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From: ERO Taskings**Sent:** Wednesday, July 11, 2018 6:42 PM**Subject:** Further Guidance Regarding *Ms. L v. I.C.E.* – Class Notice and Notice for Final Order Class Members**Importance:** High

This message is sent on behalf of (b)(6); (b)(7)(C), Acting Assistant Director for Field Operations, with the concurrence of Tae D. Johnson, As Director for Custody Management.

To: Assistant Directors, Deputy Assistant Directors, Field Office Directors, Deputy Field Office Directors, and Assistant Field Office Directors

Subject: Further Guidance Regarding *Ms. L v. I.C.E.* – Class Notice and Notice for Final Order Class Members

On June 26, 2018, the U.S. District Court for the Southern District of California issued a nationwide preliminary injunction in the case of *Ms. L v. I.C.E.*, ---F.3d 1234, 2018 WL 3129486 (S.D. Cal. June 26, 2018). This injunction requires that separated alien parents who are class members be reunified with their minor children by June 26, 2018, with limited exceptions.

Please review these instructions carefully to ensure compliance with the *Ms. L* preliminary injunction:

- ERO Field Offices are directed to immediately post copies of the attached “Notice of Potential Rights for Certain Detained Alien Parents Separated from their Minor Children” (page 1), in **both English and Spanish**, in all facilities in which *Ms. L* class members are detained. The notice must be posted as soon as possible, but no later than **COB July 12, 2018**, in areas where it will be accessible to detainees (in housing areas, dining halls, law libraries, etc.). The Election page (page 2) is not required to be posted.
- ERO Field Offices are directed to provide the **Spanish version of the Election page (page 2) with the Notice (page 1) printed on the back to each class member with an executable final order of removal**. ERO must read the Election page to the class member in a language that the class member understands and ERO must fill out the certificate of service. ERO should not read the Notice or discuss its contents with the class member.
 - If the final order class member chooses Box #3 (“I do not have a lawyer, and I want to talk with a lawyer before deciding whether I want my child removed”), ERO must wait 48 hours before re-approaching the class member to choose box #1 or #2.
 - ERO must note in EARM when the notice is provided to each final order class member.
 - The Election page is now the appropriate way for a class member to memorialize his or her decision about whether to be removed with or without his or her child(ren). If a class member (who has not yet been removed) indicated his or her preference for removal on another form including the “Separated Alien Removal Form,” they will need to be provided the Election page and make a new decision.
- If the detainee has questions, he or she should be directed to *Ms. L* Class Counsel using the information shown on the Notice.

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Attachments (2)

1. Notice of Rights Under *Ms. L v. ICE* - English.pdf
2. Notice of Rights Under *Ms. L v. ICE* - Spanish.pdf

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From: ERO Taskings
Sent: Thursday, July 26, 2018 11:10 AM
Subject: Further Guidance Regarding Ms. L v. I.C.E.
Importance: High

This message is sent on behalf of (b)(6); (b)(7)(C) **Acting Assistant Director for Field Operations**

To: Assistant Directors, Deputy Assistant Directors, Field Office Directors, Deputy Field Office Directors

Subject: Further Guidance Regarding Ms. L v. I.C.E.

In light of the complexity, scope, and profile of the class action litigation in *Ms. L v. I.C.E.*, No. 18-428 (S.D. Cal. filed Feb. 26, 2018), it is of utmost importance that Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) staff are reminded of the applicable class definition and limitation ability to remove class members at this time. Attached are the two prior broadcast messages issued with regard to this case.

Reminder – Class Definition

The court's orders are applicable to the following **nationwide** class as defined by the Court:

All adult parents who enter the United States at or between designated ports of entry who (1) have been, are, or will be detained in immigration custody by the DHS, and (2) have a minor child who is or will be separated from them by DHS and detained in ORR custody, ORR foster care, or DHS custody, or a determination that the parent is unfit or presents a danger to the child.

Although the class does not include parents with a criminal history (with exceptions) or communicable disease, or parents apprehended in the interior of the States, **ERO officers should NOT make any determination that an adult who has been separated from his or her minor child is excluded from the class.**

Please ensure that every case in which there is **any indication** of such a separation is discussed with the Office of the Principal Legal Advisor (OPLA), with assumption of class membership until determined otherwise.

Temporary Restraining Order (TRO)

On July 16, 2018, Plaintiffs requested that the district court order that class members not be removed until one week after they have been reunited with their family. Plaintiffs requested, in the alternative, that if the district court issue a TRO to stay removals while it decides the stay motion. The same day, the district court issued an emergency TRO while it considers Plaintiffs' motion for a stay of removal. Although these removals are generally being coordinated through ERO Headquarters, it is imperative for ERO officers to be on the lookout for such cases. In short, until further notice, ERO should **not** remove **any** class member.

Any questions regarding class membership – as well as anything related to the reunification, release, or removal of class members – should be referred to (b)(7)(F)@ice.dhs.gov.

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Attachments (2)

1. Further Guidance Regarding Ms. L v. I.C.E. – Class Notice and Notice for Final Order Class Members.eml
2. Notice of Preliminary Injunction Related to Family Reunification – Ms. L v. I.C.E.eml

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From: ERO Taskings**Sent:** Tuesday, December 12, 2017 12:45 PM**Subject:** Nationwide Injunction Involving Minors Detained in Federal Custody – Implementing *Saravia v. Sessions*, No. 17- 03615, 2017 WL 5569838 (N.D. Cal. filed June 22, 2017)

The following message is sent on behalf of Tae D. Johnson, Assistant Director for Custody Management, with the concurrence of Nathalie R. Asl Assistant Director for Field Operations:

To: Assistant Directors, Field Office Directors, Deputy Field Office Directors, Assistant Field Office Directors, and Field Office Juvenile

Subject: Nationwide Injunction Involving Minors Detained in Federal Custody – Implementing *Saravia v. Sessions*, No. 17- 03615, 2017 WL 5 Cal. filed June 22, 2017)

On November 20, 2017, the U.S. District Court for the Northern District of California issued an order granting a nationwide preliminary injunction that directly arrest and detention of alien minors. The name of the case is *Saravia v. Sessions*, No. 17- 03615, 2017 WL 5569838 (N.D. Cal. filed June 22, 2017).

The injunction applies to alien minors who:

- 1) came to the United States as an unaccompanied alien child;
- 2) were previously detained in the custody of the Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR) but then re sponsor by ORR; and
- 3) have been or will be rearrested by the Department of Homeland Security (DHS) on allegations of gang affiliation on or after April 1, 2017.

The order requires each class member to be provided with a hearing before an immigration judge to challenge the basis of the allegation of gang affiliation. members arrested after the date of the order, the alien must be provided with such a hearing within seven days of arrest. The class member, sponsor, indiv of record, and class counsel must receive notice and be given the opportunity to participate in the hearing.

A second order, issued on November 28, 2017, adds the requirement that the hearings be held in the jurisdiction in which the class member was living or w requested by the class member or his or her counsel. Unrepresented class members will be informed of this right by the immigration judge. If the class me a hearing where he or she was living or arrested, the hearing must take place within two weeks of the request.

At these hearings, often referred to as "*Saravia* hearings," the government bears the burden of proving that the class member is a danger to the community, demonstrate changed circumstances since the class member was released from ORR custody. It is therefore important that you coordinate with the local O Principal Legal Advisor's (OPLA) Office of the Chief Counsel (OCC) to ensure it has all available evidence that the alien's release would pose a danger to th community. If an immigration judge decides that the government did not make an adequate showing of changed circumstances, or the class member rebutt showing, the class member must be released to the sponsor previously appointed by ORR.

(b)(5)

In addition, going forward, FOJCs should coordinate with Homeland Security Investigations to determine whether minors targeted for arrest, including those previously determined to be unaccompanied alien children (UACs), continue to meet the legal definition *before* arresting the minor. If an alien does not mee definition, he or she should not be transferred to ORR. Rather, the FOJC should seek JFRMU concurrence for detention in an ICE secure facility in accord normal procedures.

Please consult with your OCC on any questions regarding the implementation of the court orders.

Limitation on the Applicability of this Guidance. This guidance is not intended to limit the appropriate exercise of prosecutorial discretion in other conte this guidance impose any limitations on release where it is determined that an alien does not pose a danger or flight risk; release is required by law, suc alien receives a final grant of relief, removal proceedings are dismissed or terminated without ICE opposition; an alien is surrendered to another agency criminal arrest warrant; or a court order or legal precedent requires release. Moreover, this message provides only internal guidance to ICE and does not, i to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civi

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From: ERO Taskings**Sent:** Thursday, August 2, 2018 4:09 PM**Subject:** Notice to ICE ERO Field Offices about Ms. L Class Members, ERO Reporting, and Case Status

The following message is sent on behalf of Tae D. Johnson, Assistant Director for Custody Management, with the concurrence of (b)(6): Assistant Director for Field Operations:

To: Field Office Directors, Deputy Field Office Directors, and Assistant Field Office Directors**Subject:** Notice to ICE ERO Field Offices about Ms. L Class Members, ERO Reporting, and Case Status

Pursuant to the family unit reunification and release process mandated by *Ms. L v. I.C.E.*, 310 F. Supp. 3d 1133, (S.D. Cal. June 26, 2018), class members are on a very expedited schedule. ERO Field Office staff may not have had enough information to determine a final destination for class members; some class members were released with paperwork indicating a non-governmental organization or church address, with commensurate reporting locations. Notices to Appear (NTAs) also have been filed with the local court and not the court located near the reunified families' final destination.

Field Office staff should be mindful of this situation, if class members request a change of reporting location. Final destination locations for these aliens must be in EARM as aliens request a change of address or attempt to report to final destination locations. In addition, ERO field offices are requested to allow for a change of reporting locations to destination locations to facilitate field office reporting.

Additionally, as minors are now accompanied, their cases should be joined with the parent (unless the child's attorney requests otherwise), and proceed on consolidated NTA.

(b)(5)

To help facilitate the change of address process, ERO has created the attached flyer (in English and Spanish) that can be disseminated to individuals released on custody and kept or displayed in ERO offices near change of address forms.

For additional information about family unit reporting to ERO Field Offices, please contact (b)(7)(E)@ice.dhs.gov.

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Attachments (2)

1. Family Reunification - Change of address ENGLISH.PDF
2. Family Reunification - Change of address SPANISH.PDF

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees

Issue Date: December 14, 2017
Effective Date: December 14, 2017
Superseded: ICE Policy 11032.2: *Identification and Monitoring of Pregnant Detainee* (August 15, 2016).
Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive sets forth policy and procedures to ensure pregnant detainees in U.S. Immigration and Customs Enforcement (ICE) custody for immigration violations are identified, monitored, tracked, and housed in an appropriate facility to manage their care. This Directive codifies existing ICE policy and procedures and complements ICE's national detention standards¹ and ICE Health Service Corps (IHSC) policies.
2. **Policy.** ICE is committed to identifying and providing appropriate care for pregnant detainees in ICE custody. ICE's detention standards generally require detention facilities to notify ICE after a pregnant detainee is identified.

Enforcement and Removal Operations (ERO) officers and Homeland Security Investigations (HSI) agents will notify their Field Office Directors (FODs) and Special Agents in Charge (SACs), respectively, when they arrest and detain a pregnant individual in ICE custody. HSI SACs shall notify the ERO FOD when administratively arresting a pregnant individual who will be detained in ICE custody. ERO FODs shall notify the local Field Medical Coordinator (FMC) upon learning of a pregnant detainee.

3. **Definitions.** None.
4. **Responsibilities.**
- 4.1. **ERO Field Office Directors** are responsible for:

- 1) Ensuring local IHSC and custody personnel, or medical staff in non-IHSC staffed facilities, have a process in place to notify the FOD, consistent with applicable detention standards, no later than 72 hours after a detainee is determined to be pregnant;
- 2) Ensuring detention facilities are aware of their obligations regarding pregnant detainees under this Directive and applicable ICE detention standards;

¹ Refers to the National Detention Standards (NDS) 2000, Performance-Based National Detention Standards (PBNDs) 2008, and the PBNDs 2011.

- 3) Ensuring pregnant detainees receive appropriate medical care including effectuating transfers² to facilities that are able to provide appropriate medical treatment;
- 4) Monitoring, in coordination with IHSC, the condition of pregnant detainees; and
- 5) Ensuring that ERO officers are aware of policy related to the use of restraints for pregnant detainees.

4.2. HSI Special Agents in Charge (SACs) are responsible for:

- 1) Ensuring the HSI agents notify the SAC as soon as practical when a pregnant individual is arrested;
- 2) Notifying the FOD as soon as practical when a pregnant individual is arrested and is detained in ICE custody; and
- 3) Ensuring HSI agents are aware of policy related to the use of restraints for pregnant detainees.

4.3. IHSC Personnel are responsible for:

- 1) Notifying the FOD and IHSC HQ, as soon as practical, when a pregnant detainee is identified;
- 2) Monitoring, in coordination with the FOD, the condition of pregnant detainees, including the term of the pregnancy, general health of the pregnant detainee, and medical condition of the fetus, and communicating with the FOD about any specific risk factors or concerns;
- 3) Oversight and review of facility capabilities to determine if a pregnant detainee's needs can be accommodated and recommending to the FOD when a pregnant detainee's transfer to another facility is necessary for appropriate medical care; and
- 4) Developing and maintaining a system for tracking and monitoring all pregnant detainees in ICE custody.

4.4. ERO Field Operations Personnel are responsible for:

- 1) Consulting with FODs and IHSC on custody determinations or detention facility placement decisions for a pregnant detainee; and
- 2) Providing case, location, and status information as appropriate to assist IHSC with tracking and monitoring pregnant detainees.

² All transfer determinations shall be made in accordance with the requirements of ICE Policy 11022.1: *Detainee Transfers* (Jan. 4, 2012), or as updated.

- 4.5. **ICE Officers and Agents** are responsible for notifying, as soon as practical, the SAC or FOD, through their chain of command, when a pregnant individual is arrested and detained in ICE custody.

5. **Procedures/Requirements.**

- 5.1. **Medical Needs of Detainees.** IHSC will assess detention facilities to determine their ability to meet the needs of pregnant detainees and monitor and track the medical condition of individual pregnant detainees while in ICE custody. When it is determined that a facility cannot provide appropriate medical care in a particular case, the pregnant detainee will be transferred to another detention facility or off-site treatment facility that can provide appropriate medical care.

6. **Recordkeeping.** IHSC will maintain medical records in accordance with records retention schedule DAA 567-2015-0002, which states in relevant part, that medical records for an adult will be retained for 10 years after an individual has been released from ICE custody, and then shall be destroyed. Medical records for minors must be retained until the minor's 27th birthday. ERO will maintain the records of custody determinations in accordance with records schedule DAA-0563-2013-0001-006. These records are destroyed 75 years after the end of the calendar year in which the data is gathered.

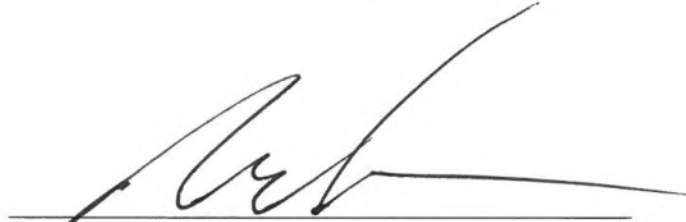
7. **Authorities/References.**

- 7.1. Immigration and Nationality Act §§ 212(d)(5), 235(b), 236, & 241.
- 7.2. 8 C.F.R. §§ 1.1(q), 212.5, 235.3, & 236.2(b).
- 7.3. 2000 National Detention Standards, including "Medical Care" Standard.
- 7.4. 2008 Performance Based National Detention Standards, including Standard 4.3 "Medical Care."
- 7.5. 2011 Performance Based National Detention Standards, including: Standard 2.15 "Use of Force and Restraints"; Standard 4.3 "Medical Care"; and Standard 4.4 "Women's Medical Care."
- 7.6. IHSC Policy 04-02 "Women's Medical Care."
- 7.7. ICE Policy No. 11020.1: *Use of GPS Monitoring Devices on Persons who are Pregnant or Diagnosed with a Severe Medical Condition* (Sept. 14, 2009), or as updated.

8. **Attachments.** None.

9. **No Private Right.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It 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. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



Thomas D. Homan
Deputy Director and Senior Official
Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

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From: ERO Taskings

Sent: Friday, June 29, 2018 10:45 AM

Subject: Notice of Preliminary Injunction Related to Family Reunification – Ms. L v. I.C.E.

This message is sent on behalf of (b)(6); (b)(7)(C) Acting Assistant Director for Field Operations, with the concurrence of Tae D. Johnson, As Director for Custody Management.

To: Assistant Directors, Deputy Assistant Directors, Field Office Directors, Deputy Field Office Directors, and Assistant Field Office Directors

Subject: Notice of Preliminary Injunction Related to Family Reunification – Ms. L v. I.C.E.

On June 26, 2018, the U.S. District Court for the Southern District of California issued a nationwide preliminary injunction in the case of *Ms. L v. I.C.E.*, ---F.3d WL 3129486 (S.D. Cal. June 26, 2018). This injunction will have an immediate significant impact in all cases involving family units, especially those who have separated due to criminal proceedings under the Attorney General's Zero Tolerance policy.

I. Who is affected by the injunction?

Answer: Adult aliens and their minor children who entered the United States at or between the ports of entry and who were separated as part of that initial

The court's order is applicable to the following nationwide class as defined by the Court:

All adult parents who enter the United States at or between designated ports of entry who (1) have been, are, or will be detained in immigration custody by DHS, and (2) have a minor child who is or will be separated from them by DHS and detained in ORR custody, ORR foster care, or DHS custody, absent a determination that the parent is unfit or presents a danger to the child.

The class does not include parents with any criminal history or communicable disease, or parents apprehended in the interior of the United States.

II. What must ICE do to comply with the injunction?

Answer: In general, ICE will be prohibited from keeping class member parents separate from their children and prohibited from removing parents without it unless certain conditions are met. Separated family units will be reunited in accordance with the order.

ICE must immediately comply with the following:

1. **ICE may not remove a class member parent** if he or she has a minor child who was separated from him or her upon apprehension and is in the custody of the Department of Health and Human Services, Office of Refugee Resettlement (ORR) (including foster care). ICE may still remove the parent *with* the minor child. ICE may remove the parent alone if he or she affirmatively, knowingly, and voluntarily declines to be reunited with the child prior to removal. There is also a prohibition on removal in cases where there is a determination that the parent is unfit or presents a danger to the child, unless the child was released by ORR to another parent or guardian.

A form will be provided to document the parents' decision whether they choose to be removed with or without the child.

2. **ICE may not separate class member families – including for purposes of detention –** unless the parent is unfit or presents a danger to the child, affirmatively, knowingly, and voluntarily declines to be reunited with the child in ICE custody. **This applies regardless of whether the family unit consists of one or two parents.**
3. **ICE and ORR must reunify class member families.** Unless there is a determination that the parent is unfit or presents a danger to the child, or the parent affirmatively, knowingly and voluntarily declines to be reunited with the child:

ICE and ORR must reunify class members with their minor children under the age of five within **14 days of the order (by July 10, 2018).**

ICE and ORR must reunify all class members with their minor children age five and over within **30 days of the order (by July 26, 2018).**

More guidance is forthcoming on the logistics of this reunification process but, for now, be aware that prompt action will be required once this process begins.

4. **ICE and ORR must facilitate regular communication between class member parents and their minor children** who are in ORR custody, ORR foster care, or DHS custody. **Within 10 days (by July 6, 2018),** all parent class members must be provided with telephonic contact with their children if regular contact has not been established yet.
5. **ICE must cooperate with other agencies** seeking information related to the location and well-being of class member's children. ERO-HQ will mainly be responsible for providing this information to other agencies; however, ERO-HQ may seek information regarding class members from field offices in order to complete the order.

If you have any questions or concerns regarding this guidance or issues related to family units, please contact the Juvenile and Family Residential Manager at (b)(7)(C) @ice.dhs.gov.

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Attachments (1)

- 1. Separated Parent Removal Form 29 June 2018(AVL).docx

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Policy Number: 5004.1

Stays of Removal and Private Immigration Bills

Issue Date: May 5, 2017

Effective Date: May 5, 2017

Superseded: This Directive supersedes any U.S. Immigration and Customs Enforcement (ICE) policies and guidance on the issuance of stays of removal in connection with private immigration bills.

Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive establishes policy, procedures, and responsibilities that ICE will adhere to when considering and issuing stays of removal related to private immigration bills. Private immigration bills introduced by members of Congress generally operate as a last resort for individuals who have exhausted ordinary administrative and judicial immigration remedies. The majority of present-day private immigration bills are introduced to confer lawful permanent resident (LPR) status on beneficiaries by circumventing the normal immigration law framework, including inadmissibility grounds and legal requirements that ordinarily apply to those seeking LPR status.
2. **Policy.**
 - 2.1. **Introduction of Private Immigration Bills and Requests for Investigative Reports.**
 - 1) ICE will not defer action on or halt the alien-beneficiary's immigration proceedings, including the appeal process, nor will ICE forgo the right to initiate removal proceedings or effectuate a final order of removal against an alien-beneficiary based solely on the introduction of the private immigration bill and/or ICE's receipt of a request for an investigative report.
 - 2) ICE may initiate and/or continue immigration proceedings, including the appeal process, against alien-beneficiaries who have not been issued a final order of removal. If the alien-beneficiary later becomes subject to a final order of removal during the congressional term in which the private immigration bill was introduced, ICE will consider the issuance of a stay of removal if the conditions set forth in section 2.2 of this Directive are met.
 - 2.2. **Stays of Removal for Alien-Beneficiaries.**
 - 1) ICE will consider issuing a temporary stay of removal for an alien-beneficiary who is subject to a final order of removal only if the Chair of the Judiciary Committee (or appropriate Subcommittee) of the U.S. Senate (Senate) or U.S. House of Representatives (House) explicitly requests a stay in writing, on Committee

letterhead. A request for an investigative report will no longer trigger an automatic stay of removal.

- 2) The stay, if issued, is granted by ICE as a matter of comity and courtesy between the executive and legislative branches of government to ensure Congress has the time and information it needs to consider the pending private immigration bill.
- 3) The duration of the stay, if issued, will be limited to six months from the date it is issued by ICE. At the ICE Director's discretion, a 90-day extension may be provided beyond the six-month stay if specifically requested by the Chair of the Committee or the Subcommittee in writing, on Committee letterhead, and if necessary to accommodate extenuating circumstances.
- 4) An alien-beneficiary who is subject to a final order of removal may receive no more than one stay as a result of the private immigration bill process. As such, ICE will not honor subsequent requests for a stay of removal from the Chair of the Committee or the Subcommittee for beneficiaries who have already received a stay through the private immigration bill process.
- 5) ICE may initiate action to effectuate the removal of an alien-beneficiary whose final order of removal has previously been stayed through the private immigration bill process if ICE obtains any evidence about the alien-beneficiary that, in its judgment, warrants immediate removal.

3. Definitions. The following definitions apply for purposes of this Directive only.

- 3.1. Alien-Beneficiary(ies).** The individual(s) on whose behalf a private immigration bill is introduced in the Senate or House.
- 3.2. Committee.** The Senate or House Judiciary Committee.
- 3.3. Investigative Report.** A report prepared by ICE for the Committee or Subcommittee containing background information necessary to determine the merits of the proposed immigration relief sought for alien-beneficiaries of a private immigration bill.
- 3.4. Private Immigration Bill.** Congressional legislation that provides specific immigration benefits to a named alien-beneficiary or beneficiaries.
- 3.5. Stay of Removal.** A discretionary determination made by ICE to temporarily defer the enforcement of a final order of removal that has been issued against an alien-beneficiary.
- 3.6. Subcommittee.** The Senate or House Judiciary Subcommittee that maintains appropriate jurisdiction over private immigration bills.

4. Responsibilities.

4.1. The Office of Congressional Relations (OCR) is responsible for:

- 1) Receiving the written request from the Chair of the Committee or Subcommittee for a stay of removal;
- 2) Ensuring requests for which stays of removal are considered are made by the Chair of the Committee or Subcommittee in writing on Committee letterhead;
- 3) Notifying Enforcement and Removal Operations (ERO) and the Office of the Principal Legal Advisor (OPLA) that a stay of removal has been requested for an alien-beneficiary;
- 4) Delivering ICE's decision on the request for a stay of removal to the Chair of the Committee or Subcommittee; and
- 5) Informing the Committee or Subcommittee when action has been taken to effectuate the removal of an alien beneficiary whose final order of removal has been stayed.

4.2. ERO is responsible for:

- 1) Staying the removal of the alien-beneficiaries who are the subject of a final order of removal, if appropriate and consistent with this Directive;
- 2) Notifying OPLA and OCR if it plans to effectuate the removal of an alien-beneficiary whose final order of removal has been stayed; and
- 3) Issuing additional guidance and procedures, as necessary and consistent with this Directive, for considering and issuing stays of removal related to private immigration bills.

4.3. OPLA is responsible for assisting ERO, as necessary and appropriate, to address any relevant legal questions or issues associated with stays of removal requested or issued pursuant to this Directive.

5. Procedures.

5.1. Alien-beneficiaries who are subject to a final order of removal.

- 1) ERO will consider the request for a stay of removal consistent with the policy outlined in section 2.2 and will notify OCR and OPLA of its decision.
- 2) ERO must create an entry in the ENFORCE Alien Removal Module (EARM) and in the alien-beneficiary's Alien file (A-file) noting a stay has been issued pursuant to the private immigration bill process.

- 3) After obtaining clearance from the ICE Office of the Director, OCR will inform the appropriate Chair of the Committee or Subcommittee through a formal letter of ICE's decision regarding the request for stay of removal.

5.2. Alien-beneficiaries who have not been issued a final order of removal.

- 1) ERO must immediately inform OCR and OPLA when the final order of removal is issued against the alien-beneficiary.
- 2) OCR must immediately notify the relevant Chair of the Committee or Subcommittee that a final order of removal has been issued against the alien-beneficiary and inform the Chair of ICE's policy on stays of removal as outlined in section 2.2 of this Directive.

5.3. Initiation of removal of an alien-beneficiary whose final order of removal has been stayed pursuant to the private immigration bill process.

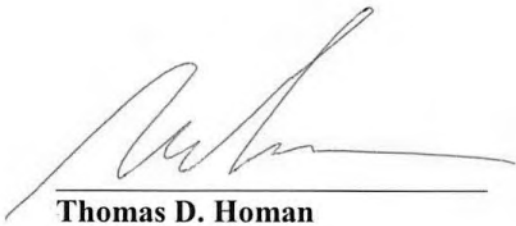
- 1) If, following the issuance of a stay of the alien-beneficiary's final order of removal, ICE obtains any evidence it believes warrants the immediate removal of the alien-beneficiary, ERO—in consultation with OPLA—may effectuate the removal of an alien-beneficiary consistent with this Directive.
- 2) OCR will notify the Chair of the Committee or Subcommittee that ICE has or is going to effectuate the removal of an alien-beneficiary who was subject to a stay pursuant to the private immigration bill process.

6. **Recordkeeping.** OCR maintains electronic copies of records generated pursuant to this Directive, including all Committee and Subcommittee request letters for stays of removal. ERO maintains records generated pursuant to this Directive, including stays of removal, in EARM and the alien-beneficiary's A-File.

7. **Authorities/References.** None.

8. **Attachments.** None.

9. **No Private Right Statement.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It 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. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



5

Thomas D. Homan
Acting Director
U.S. Immigration and Customs Enforcement

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Policy Number 11064.2: Detention and Removal of Alien Parents or Legal Guardians

Issue Date: August 29, 2017

Effective Date: August 29, 2017

Superseded: ICE Policy 11064.1: Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities (Aug. 23, 2013) and ICE Policy 11031.1: Juveniles Encountered During Fugitive Operations (Aug. 24, 2007).

Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive provides guidance regarding the detention and removal of alien parents and legal guardians of a minor child(ren), to include those who have a direct interest in family court or child welfare proceedings in the United States. It is intended to complement the detention standards and policies that govern the intake, detention, and removal of alien parents or legal guardians.
2. **Policy.** U.S. Immigration and Customs Enforcement (ICE) personnel are responsible for the prompt and faithful execution of U.S. immigration laws. In pursuing the enforcement of these laws against alien parents and legal guardians of a minor child(ren), or who have a direct interest in family court or child welfare proceedings involving a minor child(ren) in the United States, ICE personnel should remain cognizant of the impact enforcement actions may have on a lawful permanent resident (LPR) or U.S. citizen (USC) minor child(ren). This Directive in no way limits the ability of ICE personnel to make individual enforcement decisions on a case-by-case basis. The security and safety of any ICE employee, detainee, ICE detention staff, or member of the public will be paramount in the exercise of the procedures and requirements of this Directive.
3. **Definitions.** The following definitions apply for the purposes of this Directive only.
 - 3.1. **Family Court or Child Welfare Proceeding.** A proceeding in which a family or dependency court or child welfare agency adjudicates or enforces the rights of parents or minor child(ren) through determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or other legal obligations in the context of parental rights.
4. **Responsibilities.**
 - 4.1. **The Enforcement and Removal Operations (ERO) Executive Associate Director** is responsible for:
 - 1) Ensuring ERO employees comply with this Directive; and

2) Designating a Child Welfare Coordinator.

4.2. Field Office Directors (FOD) are responsible for designating a coordinator at the supervisory level in his or her Field Office to serve as the Field Point of Contact (POC) for the provisions listed in this Directive for his/her area of responsibility (AOR).

4.3. The Child Welfare Coordinator is responsible for:

- 1) Serving as the primary point of contact and subject matter expert for all ICE personnel regarding child welfare issues related to detained aliens;
- 2) With the assistance of ERO divisions responsible for data collection and analysis, evaluating, on an ongoing basis, information collected from ENFORCE, the Risk Classification Assessment, and other relevant ICE information technology systems regarding detained alien parents or legal guardians and sharing appropriate information with FODs and Field POCs on an ongoing basis; and
- 3) Providing guidance to FODs and Field POCs on:
 - a) Appropriate initial placement and transfer decisions for detained alien parents or legal guardians;
 - b) Appropriate provisions for escorted trips to family court or child welfare proceedings for detained alien parents or legal guardians;
 - c) Appropriate visitation within ICE facilities; and
 - d) Appropriate efforts, to the extent practicable, to allow a detained alien parent or legal guardian to make arrangements for their minor child(ren), including through increased access to counsel, consular officials, family and dependency courts, child welfare authorities' personnel, and/or family members or friends in order to arrange guardianship, or to obtain travel documents or otherwise make necessary travel arrangements, for his or her minor child(ren).
- 4) Coordinating as necessary with relevant ERO program offices, FODs, state or local family court or child welfare authority personnel, consular officials, and others to facilitate the timely response to issues or complaints received by ICE regarding the child welfare issues of detained aliens.

4.4. The ERO Field POCs are responsible for:

- 1) Addressing public inquiries related to the family ties of detained alien parents or legal guardians of a minor child(ren); and
- 2) Communicating with the Child Welfare Coordinator and completing all relevant training.

5. Procedures/Requirements.

5.1. Minor Child(ren) Encountered During Enforcement Actions.

- 1) ICE personnel should not take custody of or transport a minor child(ren) they encounter during an enforcement action who is either a USC or LPR, or who is otherwise not removable from the United States.
- 2) Absent indications of child abuse or neglect, ICE personnel should accommodate, to the extent practicable, an alien parent or legal guardian's efforts to make alternative care arrangements for his or her minor child(ren). ICE personnel should document the alien parent or legal guardian's request for transfer of custody of a USC or LPR minor child(ren) to a verifiable third party.
- 3) If the alien parent or legal guardian cannot make an alternative care arrangement for the minor child(ren), or if there is an indication that the minor child(ren) has been subject to abuse or neglect by a parent or other adult who may be asked to take custody of the minor child(ren), ICE personnel should contact the local child welfare authority or law enforcement agency to take custody of the minor child(ren).
- 4) Once a detained alien has been determined to be a parent or legal guardian of a USC or LPR minor child(ren), ICE personnel should enter this information in ENFORCE Alien Removal Module (EARM), or its successor system.

5.2. Initial Detention Placement and Subsequent Transfers of Detained Alien Parents or Legal Guardians.

- 1) If the alien's minor child(ren) or family court or child welfare proceedings are within the AOR of initial apprehension, the FOD must refrain from making an initial placement or from subsequently transferring the alien outside of the AOR of apprehension, unless deemed operationally necessary and otherwise consistent with applicable ICE policies.

5.3. Participation in Family Court or Child Welfare Proceedings by Detained Alien Parents or Legal Guardians.

- 1) Where practicable, the FOD must arrange for a detained alien parent or legal guardian's in-person appearance at a family court or child welfare proceeding when the detained alien parent or legal guardian's presence is required in order for him or her to maintain or regain custody of his or her minor child(ren) and:
 - a) The detained alien parent or legal guardian, or his or her attorney or other representative, timely requests with reasonable notice an opportunity to participate in such hearings;

- b) The detained alien parent or legal guardian, or his or her attorney or other representative, has produced evidence of a family court or child welfare proceeding, including but not limited to, a notice of hearing, scheduling letter, court order, or other such documentation;
 - c) The family court or child welfare proceedings are located within a reasonable driving distance of the detention facility where the detained alien parent or legal guardian is housed;
 - d) Transportation and escort of the detained alien parent or legal guardian would not be unduly burdensome on Field Office operations; and
 - e) Such transportation and/or escort of the detained alien parent or legal guardian to participate in family court or child welfare proceedings does not present security and/or public safety concerns.
- 2) If it is impracticable to transport the detained alien parent or legal guardian to appear in-person in a family court or child welfare proceeding, the FOD should accommodate the detained alien parent or legal guardian's appearance or participation through video or standard teleconferencing from the detention facility or the Field Office to the extent that it is technologically feasible and approved by the family court or child welfare authority. The detained alien parent shall have the responsibility for obtaining approval from the family court or child welfare agency.
 - 3) All actions taken pertaining to a detainee's participation in family court or child welfare proceedings should be documented in EARM, or its successor system.
 - 4) In all cases, if the detained alien parent or legal guardian does not wish to attend and/or participate in a family court or child welfare proceeding, ICE will not interfere with the detained alien parent or legal guardian's decision, which shall be documented in the detainee's Alien-File (A-File).

5.4. Visitation.

- 1) In the event an alien parent or legal guardian is detained, ICE will facilitate a means of regular visitation between the parent and minor child(ren).
- 2) Pursuant to ICE detention standards, at facilities where there is no provision for visits by minors, upon request, FODs must arrange for a visit by minor child(ren), step-child(ren), child(ren) under legal guardianship, and/or foster child(ren) within the first 30 days. After that time, upon request, ICE must consider a request for transfer, when practicable, to a facility that will allow such visitation. Upon request, FODs must continue monthly visits, if transfer is not approved, or until an approved transfer can be effected.¹

¹ See National Detention Standards 2000 (Section H.2.d); Performance-Based National Detention Standards

- 3) In some cases, parent-child visitation may be required by the family court or child welfare authority in order for a detained alien parent or legal guardian to maintain or regain custody of his or her minor child(ren). If a detained alien parent or legal guardian, or his or her family member, attorney, or other representative produces documentation (e.g., a reunification plan, scheduling letter, court order, or other such documentation) of such a requirement, FODs must facilitate, to the extent practicable, the required visitation between the detained alien parent or legal guardian and his or her minor child(ren).
 - a) Such special visitation may include contact visitation, within the constraints of safety and security for both facility staff and detainees.
 - b) These special arrangements must not limit or otherwise adversely affect the detained alien parent or legal guardian's normal visitation rights under the relevant detention standards, or the safe and efficient operation of the detention facility.
- 4) If in-person visitation is not practicable, FODs may permit parent-child visitation through video or standard teleconferencing from the detention facility or the Field Office to the extent it is technologically feasible and approved by the family court or child welfare authority when visitation is court-ordered.
- 5) All actions documenting parent-child visitation should be recorded in EARM or its successor system. Copies of visitation orders will be placed in the A-File.

5.5. Coordinating Care or Travel of Minor Child(ren) Pending Removal of a Parent or Legal Guardian.

- 1) Where detained alien parents or legal guardians who maintain their parental rights are subject to a final order of removal and ICE is effectuating their removal, FODs or their appropriate designees should accommodate, to the extent practicable, the detained parent or legal guardian's individual efforts to make arrangements for their minor child(ren). Such provisions may include the parent or legal guardian's attempt to arrange guardianship for his or her minor child(ren) to remain in the United States, or to obtain travel documents for the minor child(ren) to accompany them to their country of removal.
- 2) FODs must coordinate, to the extent practicable, within their local detention facilities and within the Field Office to afford detained alien parents or legal guardians access to counsel, consulates and consular officials, courts and/or family members in the weeks preceding removal in order to execute signed documents (e.g., powers of attorney, passport applications, appointments of guardians, or other permissions), purchase airline tickets, and make other necessary preparations prior to removal.

- 3) In addition, the FOD may, subject to security considerations, provide sufficient notice of the removal itinerary to the detainee or through the detained alien's attorney or other representative so that coordinated travel arrangements may be made for the alien's minor child(ren).

6. Recordkeeping.

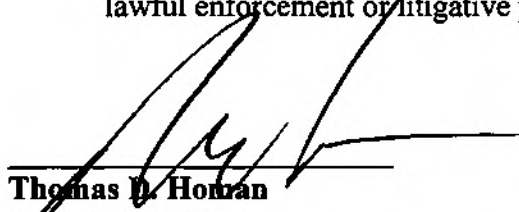
- 6.1. Court documentation, visitation orders, and family law case files will be maintained as part of the A-File. A-Files will be retained permanently and transferred to the National Archives after 100 years in accordance with the U.S. Citizenship and Immigration Services A-File records schedule (N1-566-08-011).
- 6.2. Information related to minor child(ren) encountered during enforcement actions and family court or child welfare proceedings will be stored in the Enforcement Integrated Database and retained for 75 years in accordance with DHS records schedule Biometric with Limited Biographical Data (DAA-0563-2013-001) item 6, Law Enforcement.

7. Authorities/References.

- 7.1. Executive Order 13,768, "Enhancing Public Safety in the Interior of the United States," 82 Fed. Reg. 8799 (Jan. 30, 2017).
- 7.2. Memorandum from DHS Secretary John Kelly, "Enforcement of the Immigration Laws to Serve the National Interest" (Feb. 20, 2017).
- 7.3. 2011 Performance-Based National Detention Standards.
- 7.4. 2008 Performance-Based National Detention Standards.
- 7.5. 2000 National Detention Standards.

8. Attachments. None.

9. **No Private Right Statement.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It 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. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



Thomas D. Homan
Acting Director
U.S. Immigration and Customs Enforcement

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inSight > Director > Public Affairs > News & Events > Broadcasts > A Message from the Office of the Principal Legal Advisor

Broadcasts
A Message from the Office of the Principal Legal Advisor

8/22/2018 TO ALL ICE EMPLOYEES

Court-Ordered Notice to ICE Employees About a Temporary Restraining Order Issued in Pending Family Separation Litigatic

(b)(5)

(b)(6); (b)(7)(C)
Executive Deputy Principal Legal Advisor
Office of the Principal Legal Advisor

Case No.: 18cv1832 DMS (MDD) - Court-Ordered Notice to ICE Employees About a Temporary Restraining Order Issued in Pending Family Separation

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Policy Number 11068.2: **Enhanced Oversight of Custody Determinations for Criminal Aliens Convicted of Multiple Felonies or an Aggravated Felony**

Issue Date:

Effective Date:

Superseded: Policy 11068.1: Enhanced Oversight of Level 1 Criminal Alien Releases

Federal Enterprise Architecture Number: 306-112-002

1. **Purpose/Background.** The purpose of this Directive is to provide guidance requiring additional supervisory controls and U.S. Immigration and Customs Enforcement (ICE) Headquarters oversight of discretionary releases of criminal aliens convicted of multiple felonies or an aggravated felony from Enforcement and Removal Operations (ERO) custody. This Directive applies only to custody decisions within the jurisdiction of ERO.
2. **Policy.** It is ICE policy to carefully consider, review, and monitor the release of criminal aliens convicted of multiple felonies or an aggravated felony. Deportation Officers must obtain senior level authorization prior to the discretionary release of any such criminal alien. The discretionary release (e.g., bond, parole, or other conditions of release) of any criminal alien convicted of two or more felonies who is not an aggravated felon must be approved in writing by an Assistant Field Office Director (AFOD), Deputy Field Office Director (DFOD), or Field Office Director (FOD).¹ Discretionary release of a criminal alien convicted of an aggravated felony must be approved in writing by a DFOD or FOD.

Releases required by law and custody determinations rendered by a judicial body, including releases pursuant to an order by an immigration judge or federal court, an administrative final grant of relief from removal, an unopposed termination of removal proceedings, or a release subject to the requirements of federal case law, including *Zadvydas v. Davis*, 533 U.S. 678 (2001), do not require additional approval by an AFOD, DFOD, or FOD. Section 5.1 describes the types of mandatory and discretionary releases.

3. **Definitions.** None.

¹ Such release determinations should be made consistent with the Memorandum from Secretary Jeh Charles Johnson, *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants* (Nov. 20, 2014), which directs that, irrespective of whether an alien falls within one of the Department's immigration enforcement priorities:

Absent extraordinary circumstances, or the requirement for mandatory detention, field office directors should not expend detention resources on aliens who are known to be suffering from serious physical or mental illness, or 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. To detain aliens in those categories who are not subject to mandatory detention, DHS officers or special agents must obtain approval from the ICE Field Office Director. If an alien falls within the above categories and is subject to mandatory detention, field office directors are encouraged to contact their local Office of Chief Counsel for guidance.

4. Responsibilities.

- 4.1. **The ERO Executive Associate Director (EAD)** is responsible for ensuring compliance with the provisions of this Directive and selecting members for the ERO Headquarters Review Panel.
- 4.2. **Deportation Officers** are responsible, through their assigned Supervisory Detention and Deportation Officer (SDDO), for obtaining authorization from an AFOD, DFOD, or FOD prior to the discretionary release of any criminal alien convicted of multiple felonies and authorization from a DFOD or FOD prior to the discretionary release of any criminal alien with an aggravated felony conviction.

5. Procedures.

5.1. Approval for Releases.

1) Deportation Officers:

- a. Prior to the discretionary release of any criminal alien convicted of multiple felonies, the Deportation Officer, through his or her SDDO, must obtain written approval from an AFOD, DFOD, or FOD. (b)(5)
- (b)(5)
- b. Prior to the discretionary release of any criminal alien with an aggravated felony conviction, the Deportation Officer, through his or her SDDO, must obtain written approval from a DFOD or FOD. (b)(5)
- (b)(5)
- c. No additional supervisory approval is required prior to the mandatory release of any alien pursuant to an order by an immigration judge or federal court, an administratively final grant of relief from removal, an unopposed termination of removal proceedings, or a release subject to the requirements of federal case law, including *Zadvydas*.

5.2. Case Management.

1) Deportation Officers:

- a. For release of a criminal alien convicted of a multiple felonies, Deportation Officers must document the relevant case and custody actions in the (b)(7)(E)
- This includes use of the existing *Zadvydas* Actions/Decision for aliens released pursuant to Post-Order Custody Review and due to the inability to obtain a travel document.

- b. Deportation Officers must provide clear release justification(s) in the narrative section of the alien's Record of Deportable/Inadmissible Alien (Form I-213) if a release determination is made during initial processing or in the (b)(7)(E) (b)(7)(E) for any subsequent custody decisions.
- c. Deportation Officers must capture custody re-determinations made by the Department of Justice Executive Office for Immigration Review (EOIR) or the Department of Homeland Security, in addition to other relevant Actions/Decisions depending on the facts of the case, in the (b)(7)(E) (b)(7)(E)
- d. Deportation Officers must regularly monitor released criminal aliens convicted of multiple felonies or an aggravated felony through their conditions of release, including any reporting or other supervision requirements.

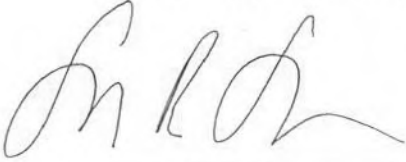
5.3 Headquarters Review Panel.

- 1) ICE will establish a Headquarters Review Panel comprised of appropriate senior headquarters and/or field managerial law enforcement officers designated by the ERO EAD or his/her designee, and an appropriate Office of the Principal Legal Advisor manager designated by the Principal Legal Advisor or his/her designee.
 - 2) One member of the Headquarters Review Panel will be designated as the Chair by the ERO EAD or his/her designee.
 - 3) The Headquarters Review Panel will meet monthly to review the discretionary release decisions for all criminal aliens convicted of felonies specified in the FBI Uniform Crime Reporting definition as "crimes of violence" to ensure compliance with this Directive.
 - 4) If the Headquarters Review Panel identifies any anomalies in the report or cases that appear not to satisfy the procedures in this Directive, the Chair of the Headquarters Review Panel will refer the matter to the Assistant Director for Field Operations to address compliance with the pertinent field office.
6. **Recordkeeping.** ERO will maintain the records related to custody determinations in EARM. These records are temporary, and can be destroyed one hundred (100) years after the end of the fiscal year in which the case closes or the last action is taken. (Enforcement Integrated Database (EID) N1-567-10-4).
7. **Authorities/References.**
- 7.1. Memorandum from Secretary Jeh Charles Johnson, *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants* (Nov. 20, 2014).
 - 7.2. ICE Policy No. 11002.1: Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture (Dec. 8, 2009).

7.3 *Zadvydas v. Davis*, 533 U.S. 678 (2001).

8. **Attachments.** None.

9. **No Private Right.** These guidelines and priorities are not intended to, do 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.



Sarah R. Saldaña

Director

U.S. Immigration and Customs Enforcement

From: (b)(6); (b)(7)(C)
Sent: Fri, 8 Feb 2019 19:55:09 +0000
To: (b)(6); (b)(7)(C)
Cc: Seguin, Debbie
Subject: HHS ZTP Hearing

Here is the CSPAN link: <https://www.c-span.org/video/?457545-1/gao-hhs-officials-testify-migrant-family-separation-policy>

Rough transcript compiled by cspan is listed.

From: Albence, Matthew
Sent: Thu, 14 Feb 2019 21:47:29 +0000
To: Seguin, Debbie
Subject: FW: NBC News: Rights groups sue Trump admin for making asylum seekers wait in Mexico

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @hq.dhs.gov>
Date: Thursday, Feb 14, 2019, 4:45 PM
Subject: NBC News: Rights groups sue Trump admin for making asylum seekers wait in Mexico

Rights groups sue Trump admin for making asylum seekers wait in Mexico

NBC News

Julia Ainsley

February 14, 2019 – 4:22 PM

<https://www.nbcnews.com/politics/immigration/rights-groups-sue-trump-admin-making-asylum-seekers-wait-mexico-n971781>

The Trump administration began turning back asylum seekers at the border between Tijuana and San Diego late last month.

Several immigrant rights groups filed a lawsuit in federal court Thursday challenging the Trump administration policy that requires asylum seekers, mainly from Central America, to wait in Mexico -- sometimes for months or even years — for U.S. immigration judges to hear their cases.

The lawsuit, filed in the Northern District of California, said the policy is "in violation of the humanitarian protections to which asylum seekers are entitled under United States and international law."

Under the direction of Department of Homeland Security Secretary Kirstjen Nielsen, Customs and Border Protection officers began turning back asylum seekers at the border between Tijuana and San Diego late last month. They began by denying entry to single men and recently started including families with children.

The plaintiffs point out that the areas where asylum seekers are forced to wait in Mexico are experiencing record levels of violence. In Tijuana in December two Central American boys who were part of a migrant caravan were lured out of a shelter and murdered.

The judge could temporarily block the policy, teeing up yet another fight between the Trump administration and immigration advocates. The plaintiffs, including the American Civil Liberties Union, have previously used lawsuits to block Trump administration immigration policies, including the travel ban, family separation policy and a recent policy that denied asylum to immigrants who crossed the border illegally.

The Trump administration has said they are within legal bounds to make asylum seekers wait in Mexico under a provision of immigration law that says immigrants can be returned to the country from which they last set foot. Challengers, however, say that law should not apply to asylum seekers.

DHS did not immediately respond to a request for comment.

From: (b)(6); (b)(7)(C)
Sent: Wed, 30 Jan 2019 22:39:01 +0000
To: Seguin, Debbie; (b)(6);
Subject: RE: Policy memo's or other guidance

Sure thing.

Sent with BlackBerry Work
(www.blackberry.com)

From: Seguin, Debbie <(b)(6); @ice.dhs.gov>
Date: Wednesday, Jan 30, 2019, 5:35 PM
To: (b)(6); (b)(7)(C) <(b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

(b)(5); (b)(6); (b)(7)(C)

Thanks,
Debbie

From: (b)(5); (b)(6);
Sent: Wednesday, January 30, 2019 5:13 PM
To: Seguin, Debbie <(b)(5); (b)(6); @ice.dhs.gov>; (b)(5); (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

Smaller document. (b)(5)

This is saved on the shared drive. (b)(7)(E)

(b)(7)(E)

From: Seguin, Debbie
Sent: Wednesday, January 30, 2019 4:37 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

Please save on the share drive and send link. I'm deleting it now

From: (b)(6); (b)(7)(C)
Sent: Wednesday, January 30, 2019 4:35 PM

To: Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

(b)(5)

(b)(5)

From: Seguin, Debbie
Sent: Wednesday, January 30, 2019 3:52 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

You should track all of your search terms. I think it can be tomorrow.

From: (b)(6); (b)(7)(C)
Sent: Wednesday, January 30, 2019 3:41 PM
To: Seguin, Debbie <Debbie.Seguin@ice.dhs.gov>; Shaw, Sara <Sara.Shaw@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

(b)(5)

If it needs to be COB today, I will need assistance. If it can bleed into tomorrow, I can probably have it wrapped up by tomorrow.

(b)(5)

From: Seguin, Debbie
Sent: Wednesday, January 30, 2019 3:34 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: Policy memo's or other guidance

Fysa. (b)(5) If too much we could ask policy unit to help. Just let us know.

From: Blank, Thomas
Sent: Wednesday, January 30, 2019 3:31 PM
To: Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

Let's start with what you can come up with. (b)(6); works in the S1 office so if we have to tell him to get some things on his own we can.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
(b)(6); (b)(7)(C)
Cell (b)(6); (b)(7)(C)

From: Seguin, Debbie
Sent: Wednesday, January 30, 2019 1:08 PM
To: Blank, Thomas <(b)(6);@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

(b)(5)

Please let me know how you'd like to handle.

From: Blank, Thomas
Sent: Wednesday, January 30, 2019 12:53 PM
To: Seguin, Debbie <(b)(6); (b)(7)(C);@ice.dhs.gov>
Subject: FW: Policy memo's or other guidance

Can you handle? I will advise who (b)(6); (b)(7)(C) is at some point.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
(b)(6); (b)(7)(C)
Cell (b)(6);

From: Kearney, Patrick <(b)(6); (b)(7)(C);@hq.dhs.gov>
Sent: Wednesday, January 30, 2019 12:21 PM
To: Blank, Thomas <(b)(6); (b)(7)(C);@ice.dhs.gov>
Subject: Policy memo's or other guidance

Tom,

Suspect someone on your staff has already pulled information, but can you have someone forward any ICE Policy Memo's addressing enforcement, zero tolerance or family separation - from 2017 forward.

I am assisting OLA in hearing prep and pulling together all relevant docs to support the boss.

v/r,

(b)(6); (b)(7)(C)

After crunch over next few weeks, I will come over and visit.

From: Blank, Thomas
Sent: Thu, 31 Jan 2019 14:40:28 +0000
To: Seguin, Debbie
Subject: RE: Policy memo's or other guidance

Debbie:

Also, please feel free to reach out directly to (b)(6); Nice fellow. Come by and I will advise you further.

Tom

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
(b)(6); (b)(7)(C)
Cell (b)(6);

From: Seguin, Debbie
Sent: Wednesday, January 30, 2019 1:08 PM
To: Blank, Thomas (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Policy memo's or other guidance

(b)(5)

Please let me know how you'd like to handle.

From: Blank, Thomas
Sent: Wednesday, January 30, 2019 12:53 PM
To: Seguin, Debbie <(b)(6); @ice.dhs.gov>
Subject: FW: Policy memo's or other guidance

Can you handle? I will advise who (b)(6); is at some point.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
(b)(6);
Cell (b)(6);

From: (b)(6); (b)(7)(C)@hq.dhs.gov>
Sent: Wednesday, January 30, 2019 12:21 PM

To: Blank, Thomas <(b)(6); [REDACTED]@ice.dhs.gov>
Subject: Policy memo's or other guidance

Tom,

Suspect someone on your staff has already pulled information, but can you have someone forward any ICE Policy Memo's addressing enforcement, zero tolerance or family separation - from 2017 forward.

I am assisting OLA in hearing prep and pulling together all relevant docs to support the boss.

v/r,

(b)(6); (b)(7)(C)
[REDACTED]

After crunch over next few weeks, I will come over and visit.

From: (b)(6); (b)(7)(C)
Sent: Tue, 2 Jul 2019 22:53:10 +0000
To: Seguin, Debbie
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

rgr! Thx for this. Let's chat tomorrow.

Sent with BlackBerry Work
(www.blackberry.com)

From: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Tuesday, Jul 02, 2019, 6:27 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

<https://oversight.house.gov/news/press-releases/cummings-announces-hearing-next-week-with-acting-dhs-and-cbp-heads-on-separation>

From: Seguin, Debbie
Sent: Tuesday, July 2, 2019 5:51 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

Family separation and detention conditions. (b)(5)

(b)(5)

From: (b)(6); (b)(7)(C)
Sent: Tuesday, July 2, 2019 5:45 PM
To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

Rgr. Thx for the heads-up.

Do we know what the topic is?

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C)
Sent: Tue, 2 Jul 2019 22:49:48 +0000
To: Seguin, Debbie
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

Rgr. And of course I'll need a full court press to get prepared.

Sent with BlackBerry Work
(www.blackberry.com)

From: Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Tuesday, Jul 02, 2019, 5:50 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

Family separation and detention conditions (b)(5)
(b)(5)

From: (b)(6); (b)(7)(C)
Sent: Tuesday, July 2, 2019 5:45 PM
To: Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

Rgr. Thx for the heads-up.

Do we know what the topic is?

Sent with BlackBerry Work
(www.blackberry.com)

From: Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Tuesday, Jul 02, 2019, 5:30 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: Letter for The Honorable Kevin K. McAleenan, Acting Secretary, U.S Department of Homeland Security

FYSA. I'll loop back with you once there is more information.

From: Davis, Mike P
Sent: Fri, 14 Jun 2019 20:44:29 +0000
To: (b)(6); (b)(7)(C) #ICE DD STAFF; (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C) Blank,
Thomas; Seguin, Debbie; Short, Tracy
Subject: RE: AD1 w/ Sen. Lindsey Graham Prep Materials

(b)(5)

Michael P. Davis
Executive Deputy Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b)(6); (office) | (b)(6); (mobile)
(b)(6); @ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C)
Sent: Friday, June 14, 2019 4:13 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov; #ICE DD STAFF (b)(7)(E)@ice.dhs.gov;
(b)(6); (b)(7)(C)@ice.dhs.gov
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6);
(b)(6); (b)(7)(C)@ice.dhs.gov; Blank, Thomas (b)(6);@ice.dhs.gov; Seguin, Debbie
(b)(6); (b)(7)(C)@ice.dhs.gov; Davis, Mike P (b)(6);@ice.dhs.gov; Short, Tracy
(b)(6);@ice.dhs.gov
Subject: RE: AD1 w/ Sen. Lindsey Graham Prep Materials

Adding Mike and Tracy, Mike provided the comments earlier this afternoon.

(b)(5); (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Senior Liaison
Office of Congressional Relations
U.S. Immigration and Customs Enforcement

(b)(6); (b)(7)(C) (cell)
(b)(6); (b)(7)(C) (desk)

From: (b)(6); (b)(7)(C)
Sent: Friday, June 14, 2019 4:02 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov; #ICE DD STAFF (b)(7)(E)@ice.dhs.gov;
(b)(6); (b)(7)(C)@ice.dhs.gov
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)@ice.dhs.gov; Blank, Thomas (b)(6);@ice.dhs.gov; Seguin, Debbie
(b)(6); (b)(7)(C)@ice.dhs.gov
Subject: RE: AD1 w/ Sen. Lindsey Graham Prep Materials

(b)(5)

From: (b)(6); (b)(7)(C)
Sent: Friday, June 14, 2019 2:39 PM
To: #ICE DD STAFF (b)(7)(E)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; (b)(6); (b)(7)(C)@ice.dhs.gov; Blank, Thomas (b)(6); (b)(7)(C)@ice.dhs.gov; Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov
Subject: AD1 w/ Sen. Lindsey Graham Prep Materials

Good Afternoon All,
Attached are the prep materials for AD1's 6/18 meeting with Chairman Lindsey Graham (R-SC); AD1's prep session for this meeting is scheduled for Tuesday, June 18th at 2:00 pm.

If you have questions or need additional information, please let me know.

(b)(6); (b)(7)(C)
Senior Liaison
Office of Congressional Relations
U.S. Immigration and Customs Enforcement
(b)(6); (b)(7)(C) (cell)
(b)(7)(C) (desk)

From: (b)(6);
Sent: Thu, 16 May 2019 15:28:25 +0000
To: (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C) Seguin, Debbie
Subject: RE: Review and Comment (b)(7)(E) - QFR 68 - Family Separation
ICATT (b)(7)(E)

Concur. Thanks.

From: (b)(6); (b)(7)(C)
Sent: Thursday, May 16, 2019 11:21 AM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>;
(b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Seguin,
Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

(b)(6);
(b)(7)(C)

Attached is a QFR asking if ERO circumvented processes during the height of ZTP to make more beds available. The response stats ICE performs it's duties in accordance with the law. Recommend clearing without comment.

Full writeup:

(b)(5)

(b)(5); (b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Thursday, May 16, 2019 11:12 AM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov> (b)(6);
(b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

Hi (b)(6);

This is overdue. Concur with (b)(6); and (b)(6); with clearing with no comment.

Thanks,

(b)(6); (b)(7)(C)

Policy Analyst
ICE, Office of Policy and Planning
Washington, DC 20536
Cell: (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) @ice.dhs.gov

From: (b)(6); (b)(7)(C)
Sent: Wednesday, May 15, 2019 2:07 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

Hi (b)(6);

(b)(5)

(b)(5); (b)(6); (b)(7)(C)

Regards,

(b)(6);

From: (b)(6); (b)(7)(C)
Sent: Wednesday, May 15, 2019 12:53 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>;
(b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

(b)(6); (b)(7)(C)

Do you mind giving this a second, quick look and let us know.

Thanks,

(b)(6); (b)(7)(C)
Policy Analyst
ICE, Office of Policy and Planning
Washington, DC 20536
Cell: (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) @ice.dhs.gov

From: (b)(6); (b)(7)(C)
Sent: Wednesday, May 15, 2019 11:52 AM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>;(b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: FW: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

(b)(6);
(b)(7)(C)

Did you have a chance to look at this?

(b)(5)

(b)(5)

(b)(6); (b)(7)(C)

Office of Policy and Planning – Chief, Regulations
Immigration and Customs Enforcement (ICE)
Department of Homeland Security

Office: (b)(6); (b)(7)(C)

Mobile: (b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)

Sent: Tuesday, May 14, 2019 6:36 PM

To: (b)(6); (b)(7)(C)@ice.dhs.gov>

Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>;

(b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: RE: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

Dear (b)(7)(E)

This is an SES clearance due Wednesday 5/15/2019 at 3pm.

SUMMARY: This is a QFR to the acting secretary from Congresswoman Schultz about the zero-tolerance policy and FOIA'd emails that lead the Congresswoman to ask if he had ever seen ERO behave outside the law to speed up deportations.

(b)(5); (b)(6); (b)(7)(C)

RECOMMENDATION: (b)(5)

(b)(6); (b)(7)(C)

Phone (b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Tuesday, May 14, 2019 5:27 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov> (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

(b)(6);
(b)(7)(C)

Please take the lead on this QFR; due by 3pm tomorrow, 5/15/19.

Thanks,

(b)(6);
(b)(7)(C)

From: ICATT.Alert
Sent: Tuesday, May 14, 2019 4:11 PM
To: #ICEPolicyTaskings (b)(7)(E) @ice.dhs.gov>
Subject: Review and Comment (b)(7)(E) QFR 68 - Family Separation ICATT (b)(7)(E)

Hello Policy,

A Clearance has been assigned to you. Please accept in 1 day

Clearance Name: (b)(7)(E) Assigned To Policy

Due Date: 05/15/2019 03:00 PM Eastern

Instructions:

Thank you.

From: (b)(6); (b)(7)(C)
Sent: Fri, 12 Apr 2019 23:53:35 +0000
To: Seguin, Debbie
Subject: FW: CHS - ICE ATD Response
Importance: High

(b)(5)

(b)(5) Thanks

From: (b)(6); (b)(7)(C)
Sent: Friday, April 12, 2019 3:53 PM
To: #ERO CHIEFS OF STAFF (b)(7)(E)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: CHS - ICE ATD Response
Importance: High

Good afternoon, ERO –

The House Homeland Security Committee (CHS) has offered us the opportunity to correct to record regarding termination of FCMP following statements by (b)(6); (b)(7)(C) (from the Women's Refugee Commission) at a March 26, 2019 hearing titled "The Department of Homeland Security's Family Separation Policy: Perspectives from the Border." (b)(6); specific statement regarding FCMP is at the bottom of this email chain.

Based on our June 9, 2017 notification to the Hill regarding termination of FCMP and (b)(6); nomination QFRs, I put together the following DRAFT response for your consideration:

(b)(5)

(b)(5)

We have a very short timeline to get a response back to CHS (I believe the deadline is Monday, but (b)(6); (b)(7)(C) can confirm), so please review and edit as appropriate.

V/R,

(b)(6);

From: (b)(6); (b)(7)(C)
Sent: Friday, April 12, 2019 1:02 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: ICE ATD Response

(b)(6);
(b)(7)(C)

We have a small window to supplement the record with the ICE perspective. (b)(5)

(b)(5)

Please connect with ero to get a comment ASAP.

Thank you,

(b)(6);

(b)(6); (b)(7)(C)

Assistant Director
ICE - Office of Congressional Relations

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Friday, Apr 12, 2019, 12:58 PM
To: (b)(6); (b)(7)(C) @mail.house.gov>
Subject: RE: ICE ATD Response

Hi (b)(6);

Happy to. We'll get something back to you ASAP. Thanks for the opportunity!

Thank you,

(b)(6);

(b)(6); (b)(7)(C)

Assistant Director
ICE - Office of Congressional Relations

From: (b)(6); (b)(7)(C) @mail.house.gov>
Date: Friday, Apr 12, 2019, 12:22 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: ICE ATD Response

The below exchange happened in a subcommittee hearing. Could ICE provide a formal response on this to us? We would like to send out a correct the record on it.

RICE: OK. Now, can you tell me, briefly can you explain -- I know briefly, but I only have five minutes. Can you explain the family case management program and can you explain what DHS' justification was for ending it?

BRANE: The program was an alternative to detention that involved case managers assigned to families who were seeking asylum generally. They were -- the case manager worked with the family to ensure that they had a place to live, that they knew when their appointments were, when their hearing were, maybe connected them to pro bono attorneys if they could. And the program was by all accounts extremely successful. The government itself found that it was 100 percent successful. Later studies have found that it was 99 percent successful in ensuring appearance to all hearings and appointments. It only costs about \$35 a day as compared to many hundreds and hundreds of dollars for detaining or separating families. The administration terminated it early in June of 2017 before it was intended to -- to end. It had already been sort of approved for many more years. And they gave no reason as far as I know.



(b)(6); (b)(7)(C)

Republican Subcommittee Director, Committee on Homeland Security

p: (b)(6); w: homeland.house.gov

e: (b)(6); @mail.house.gov t: @HomelandGOP

~~This email and any related communications, documents, notes, draft legislation, recommendations, reports, or other materials generated or received by the Members or staff of the U.S. House of Representatives Committee on Homeland Security are congressional records and remain subject to the Committee's control, and are entrusted to your agency only for use in handling this matter. Any such documents created or compiled by an agency in connection with any response to this Committee document or any related Committee communications, whether made by phone, email, or document, including any replies to the Committee, are also records of the Committee and remain subject to the Committee's control. Accordingly, the aforementioned documents are not "agency records" for purposes of the Freedom of Information Act or any other law, and should be segregated from agency records.~~

From: (b)(6); (b)(7)(C)
Sent: Wed, 3 Apr 2019 12:43:38 +0000
To: (b)(6); (b)(7)(C) Davis, Mike P; (b)(6); (b)(7)(C) Seguin, Debbie
Cc: Loiacono, Adam V (b)(6); (b)(7)(C); Short, Tracy
Subject: RE: Oversight Counsel Call

Ok. (b)(5)

(b)(5)

Thanks,

(b)(6);
(b)(7)(C)

(b)(6); (b)(7)(C)

Chief, District Court Litigation Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Wednesday, Apr 03, 2019, 8:40 AM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>, Davis, Mike P <(b)(6); @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov>, Kelly, Christopher S (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy (b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

(b)(5); (b)(7)(E)

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Wednesday, Apr 03, 2019, 8:36 AM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>, Davis, Mike P <(b)(6); @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy (b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

(b)(6);
(b)(7)(C)

(b)(5); (b)(7)(E)

Thanks,

(b)(6);

(b)(6); (b)(7)(C)

Chief, District Court Litigation Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Wednesday, Apr 03, 2019, 8:03 AM
To: Davis, Mike P <(b)(6); @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie <(b)(6); @ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy <(b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

That's fine (b)(5)

(b)(5)

I'll forward the invite upon receipt.

Sent with BlackBerry Work
(www.blackberry.com)

From: Davis, Mike P <(b)(6); @ice.dhs.gov>
Date: Wednesday, Apr 03, 2019, 7:54 AM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie <(b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy <(b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

(b)(6); (b)(7)(C)

My EA sent out an invite for tomorrow at 3 in the OPLA conference room. Will you folks be able to access whatever computer systems you need in order to provide OGC with a demo from the OPLA conference room, or would you prefer to host in an ERO meeting space?

Thanks,
Mike

Michael P. Davis
Executive Deputy Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b)(6); (b)(7)(C) (office) | (b)(6); (b)(7)(C) (mobile)
(b)(6); (b)(7)(C)@ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C)
Sent: Monday, April 1, 2019 8:17 PM
To: Davis, Mike P <(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Short, Tracy <(b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Oversight Counsel Call

I'll circle back with (b)(6); (b)(7)(C) and company tomorrow morning to confirm.

Sent with BlackBerry Work
(www.blackberry.com)

From: Davis, Mike P <(b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Monday, Apr 01, 2019, 8:16 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Short, Tracy <(b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Oversight Counsel Call

Sure. Can the ERO team be available on Thursday? I let Chad know that tomorrow afternoon wasn't going to work.

Michael P. Davis
Executive Deputy Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b)(6); (b)(7)(C) (office) | (b)(6); (b)(7)(C) (mobile)

(b)(6); (b)(7)(C) @ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C) @ice.dhs.gov

Date: Monday, Apr 01, 2019, 8:07 PM

To: Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov, (b)(6); (b)(7)(C) @ice.dhs.gov, Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov

Cc: Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov, (b)(6); (b)(7)(C) @ice.dhs.gov, (b)(6); (b)(7)(C) @ice.dhs.gov, Short, Tracy (b)(6); (b)(7)(C) @ice.dhs.gov

Subject: RE: Oversight Counsel Call

Mike,

Since we didn't circle back on this one today. Can we discussed tomorrow to ensure we have the time and location solidified?

Thanks.

Sent with BlackBerry Work
(www.blackberry.com)

From: Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov

Date: Saturday, Mar 30, 2019, 5:48 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov, (b)(6); (b)(7)(C) @ice.dhs.gov, Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov

Cc: Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov, (b)(6); (b)(7)(C) @ice.dhs.gov, (b)(6); (b)(7)(C) @ice.dhs.gov, Short, Tracy (b)(6); (b)(7)(C) @ice.dhs.gov

Subject: RE: Oversight Counsel Call

Thanks so much. I let Chad know that Tuesday was looking like it would work. We can huddle up Monday morning to confirm. Have a great weekend!

Michael P. Davis

Executive Deputy Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(b)(6); (b)(7)(C) (office) | (b)(6); (b)(7)(C) (mobile)

(b)(6); (b)(7)(C) @ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information~~

~~(attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C) @ice.dhs.gov
Date: Saturday, Mar 30, 2019, 5:40 PM
To: Davis, Mike P <(b)(6); @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie <(b)(6); @ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy <(b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

That shouldn't be an issue.

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(www.blackberry.com)

From: Davis, Mike P <(b)(6); @ice.dhs.gov>
Date: Saturday, Mar 30, 2019, 5:37 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie <(b)(6); @ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy <(b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

Perfect. Can ERO provide the meeting space?

Michael P. Davis
Executive Deputy Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b)(6); (b)(7)(C) (office) | (b)(6); (b)(7)(C) (mobile)
(b)(6); (b)(7)(C) @ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Saturday, Mar 30, 2019, 5:28 PM
To: Davis, Mike P <(b)(6); @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie <(b)(6); @ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Short, Tracy <(b)(6); @ice.dhs.gov>
Subject: RE: Oversight Counsel Call

Mike,

That should work for us. I asked the POCs to advise if they were going to be out of the office next week and haven't received everyone's response as of yet. Can I confirm on Monday morning? I'll reach out now and if I hear back over the weekend, I'll let you know. If you need to respond today, let's proceed with Tuesday afternoon.

(b)(6);
(b)(7)(C)

Sent with BlackBerry Work
(www.blackberry.com)

From: Davis, Mike P <(b)(6); [redacted]@ice.dhs.gov>
Date: Saturday, Mar 30, 2019, 5:20 PM
To: (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, Seguin, Debbie (b)(6); [redacted]@ice.dhs.gov>
Cc: Loiacono, Adam V (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, Short, Tracy (b)(6); [redacted]@ice.dhs.gov>, (b)(6); [redacted]@ice.dhs.gov>
Subject: RE: Oversight Counsel Call

(b)(6); (b)(7)(C) [redacted] has proposed Tuesday afternoon for the meeting. Would that work for you and your POCs, (b)(6); [redacted]?

(b)(6); [redacted] are you available then?

Michael P. Davis
Executive Deputy Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b)(6); (b)(7)(C) [redacted] (office) (b)(6); (b)(7)(C) [redacted] (mobile)
(b)(6); [redacted]@ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>
Date: Thursday, Mar 28, 2019, 8:51 PM
To: Davis, Mike (b)(6); [redacted]@ice.dhs.gov>, Seguin, Debbie (b)(6); [redacted]@ice.dhs.gov>
Cc: Loiacono, Adam V (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, (b)(6); (b)(7)(C) [redacted]@ice.dhs.gov>, Short, Tracy (b)(6); [redacted]@ice.dhs.gov>, (b)(6); [redacted]@ice.dhs.gov>
Subject: RE: Oversight Counsel Call

(b)(6); (b)(7)(C) a LESA analyst and myself would like to present to provide the briefing for ERO. Thanks

Sent with BlackBerry Work
(www.blackberry.com)

From: Davis, Mike P <(b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Thursday, Mar 28, 2019, 20:33
To: (b)(6); (b)(7)(C)@ice.dhs.gov>, Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, Short, Tracy <(b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Oversight Counsel Call

(b)(5)
(b)(5) Next week should be fine. Would (b)(6); (b)(7)(C) be the best person to brief Chad?

Michael P. Davis
Executive Deputy Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b)(6); (b)(7)(C) (office) (b)(6); (b)(7)(C) (mobile)
(b)(6); (b)(7)(C)@ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Thursday, Mar 28, 2019, 8:17 PM
To: Seguin, Debbie <(b)(6); (b)(7)(C)@ice.dhs.gov>, Davis, Mike P <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: Loiacono, Adam V <(b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, Short, Tracy <(b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Oversight Counsel Call

Would it be possible to seek some more clarity on this request?

(b)(5); (b)(6); (b)(7)(C)
(b)(5) Thanks

From: Seguin, Debbie

Sent: Thursday, March 28, 2019 7:46 PM

To: Davis, Mike P <(b)(6); [REDACTED]@ice.dhs.gov> (b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>

Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>; (b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>;

(b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>; Short, Tracy <(b)(6); [REDACTED]@ice.dhs.gov>

Subject: RE: Oversight Counsel Call

(b)(6); [REDACTED]

Should be someone from ERO. Can you please provide POC?

Thanks,
Debbie

Sent with BlackBerry Work
(www.blackberry.com)

From: Davis, Mike P <(b)(6); [REDACTED]@ice.dhs.gov>

Date: Thursday, Mar 28, 2019, 7:42 PM

To: Seguin, Debbie <(b)(6); [REDACTED]@ice.dhs.gov>; (b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>

Cc: Loiacono, Adam V <(b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>; (b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>;

(b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>; Short, Tracy <(b)(6); [REDACTED]@ice.dhs.gov>

Subject: RE: Oversight Counsel Call

Debbie, (b)(6); [REDACTED]

Who would you like me to have coordinate Chad's visit (b)(5) [REDACTED]

(b)(5) [REDACTED]

Thanks,
Mike

Michael P. Davis

Executive Deputy Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(b)(6); (b)(7)(C) [REDACTED] office | (b)(6); (b)(7)(C) [REDACTED] (mobile)

(b)(6); [REDACTED]@ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C) [REDACTED]@ice.dhs.gov>

Date: Thursday, Mar 28, 2019, 9:45 AM

To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>

Cc: Loiacono, Adam V (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, Short, Tracy (b)(6);@ice.dhs.gov>

Subject: RE: Oversight Counsel Call

Adding Tracy.

Michael P. Davis

Executive Deputy Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(b)(6); (b)(7)(C) (office) | (b)(6); (b)(7)(C) (mobile)

(b)(6); (b)(7)(C)@ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6); (b)(7)(C)

Sent: Thursday, March 28, 2019 9:24 AM

To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>

Cc: Loiacono, Adam V (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: Oversight Counsel Call

Debbie, (b)(6); (b)(7)(C)

(b)(5); (b)(6); (b)(7)(C)

(b)(5) Any concerns? Can you please give me a POC to put Chad in touch with to schedule this?

Thanks,

Mike

Michael P. Davis

Executive Deputy Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(b)(6); (b)(7)(C) (office) | (b)(6); (b)(7)(C) (mobile)

(b)(6); (b)(7)(C)@ice.dhs.gov

~~Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.~~

From: (b)(6);
Sent: Wed, 10 Apr 2019 22:56:38 +0000
To: (b)(6); (b)(7)(C)
Cc: Seguin, Debbie
Subject: RE: Review and Comment (b)(7)(E) - QFR 1 - Fingerprint Prohibition
ICATT: (b)(7)(E)

Concur. Thanks.

From: (b)(6); (b)(7)(C)
Sent: Wednesday, April 10, 2019 4:37 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Review and Comment (b)(7)(E) - QFR 1 - Fingerprint Prohibition ICATT (b)(7)(E)

(b)(6);

Attached is a QFR asking about the status of enforcement actions resulting from information received through the HHS MOA. (b)(5)

(b)(5) Recommend clearing without comment.

Thanks,

(b)(6);

From: (b)(6); (b)(7)(C)
Sent: Wednesday, April 10, 2019 4:32 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: RE: Review and Comment (b)(7)(E) - QFR 1 - Fingerprint Prohibition ICATT (b)(7)(E)

Hi (b)(6);

This tasking requires SES clearance and is due by 9am tomorrow (Thursday).

Background: QFR from the hearing on the Oversight of the Trump Administration's Family Separation Policy regarding fingerprint prohibition. (b)(5)

(b)(5)

(b)(5); (b)(6); (b)(7)(C)

Regards,

(b)(6); (b)(7)(C)

Policy Analyst
ICE, Office of Policy and Planning
Washington, DC 20536
Cell: (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) @ice.dhs.gov

From: (b)(6);

Sent: Wednesday, April 10, 2019 4:13 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: FW: Review and Comment (b)(7)(E) QFR 1 - Fingerprint Prohibition ICATT: (b)(7)(E)

(b)(6);
(b)(7)(C)

I thought you may want to start looking at this now, as it is due by 9am tomorrow.

Thanks,

(b)(6);

From: ICATT.Alert

Sent: Wednesday, April 10, 2019 3:42 PM

To: #ICEPolicyTaskings (b)(7)(E) @ice.dhs.gov>

Subject: Review and Comment (b)(7)(E) QFR 1 - Fingerprint Prohibition ICATT: (b)(7)(E)

Hello Policy,

A Clearance has been assigned to you. Please accept in 1 day

Clearance Name: (b)(7)(E) Assigned To Policy

Due Date: 04/11/2019 09:00 AM Eastern

Instructions:

Please review and clear QFR 1 - Fingerprint Prohibition.

Thank you.

these communications/information in the following priority order: 1) From DHS Headquarters, 2) from CBP, and 3) from ICE.

- DHS Responses to IG investigations entitled "Family Separation Issues under the Zero Tolerance Policy" and "Results of Unaccounted Inspections into Conditions for Unaccompanied Alien Children in CBP Custody."

(b)(6); (b)(7)(C)

Chief, District Court Litigation Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Direct: (b)(6); (b)(7)(C)

Main: (b)(6); (b)(7)(C)

Mobile: (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov

From: (b)(6); (b)(7)(C)

Sent: Tuesday, March 19, 2019 2:06 PM

To: (b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: RE: Document Pull for HJC and CHS Letters

Thanks!

Have the requests that are crossed out already completed? If so, what it is pending from Tranche #2 is the below...

- Request #9: Documents or communications relating to the policies, processes, or resources needed to identify, track, and reunify family members separated between 1.20.17 and 4.23.18.

(b)(5)

○ Start Date: January 20th, 2017

○ End Date: April 23rd, 2018

- Request #10: Documents or communications relating to the creation of procedures or the allocation of resources to support the reunification of families separated between 4.23.18 and 6.20.18.

(b)(5)

○ Start Date: January 20th, 2017

○ End Date: June 20th, 2018

- Request #11: Documents and communications referring or relating to the conclusions and recommendations in DHS's Office of Inspector General's September 2018 reports on "Family Separation Issues under the Zero Tolerance Policy" and "Results of Unaccounted Inspections into Conditions for Unaccompanied Alien Children in CBP Custody."

- The Staff stated that they are interested in learning more about the pilot program in the El Paso, Texas Sector. The Staff stated that they would like to know what was decided, who made the decisions, and what was communicated in regards to the pilot program and subsequent policy formation and implementation. Specifically, they would like these communications/information in the following priority order: 1) From DHS Headquarters, 2) from CBP, and 3) from ICE. In regard to ICE, they would like to know what was communicated by ICE in regard to capacity issues. Additionally, the Staff stated that they want to know what communications DHS Headquarters and CBP had with DOJ on this subject matter.

(b)(5)

- Start Date: When the draft DHS IG report was sent to DHS.
- End Date: September 27th, 2018 – when the DHS IG report was published with DHS's responses.

From: (b)(6); (b)(7)(C)

Sent: Tuesday, March 19, 2019 1:56 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov>

Cc: Davis, Mike P <(b)(6); @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>;

(b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: RE: Document Pull for HJC and CHS Letters

(b)(6); (b)(7)(C)

(b)(5)

Thanks,

(b)(6);

(b)(6); (b)(7)(C)

Chief, District Court Litigation Division

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
Direct: (b)(6); (b)(7)(C)
Main: (b)(6); (b)(7)(C)
Mobile: (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) @ice.dhs.gov

From: (b)(6); (b)(7)(C)
Sent: Tuesday, March 19, 2019 1:37 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov
Cc: Davis, Mike P (b)(6); @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
(b)(6); (b)(7)(C) @ice.dhs.gov
Subject: RE: Document Pull for HJC and CHS Letters

Where could I find the letter with the original request?

From: (b)(6); (b)(7)(C)
Sent: Tuesday, March 19, 2019 12:57 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov
Cc: Davis, Mike P (b)(6); @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
(b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov
(b)(6); (b)(7)(C) @ice.dhs.gov
Subject: RE: Document Pull for HJC and CHS Letters

Hi (b)(6);

I'm not sure actually – adding (b)(6); and (b)(6);

V/R,

(b)(6);

From: (b)(6); (b)(7)(C)
Sent: Tuesday, March 19, 2019 12:40 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov
Cc: Davis, Mike P (b)(6); @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov
Subject: FW: Document Pull for HJC and CHS Letters

(b)(6); (b)(7)(C)

Just following up since I haven't seen a response or any other action since the meeting on Thursday afternoon. (b)(5); (b)(6); (b)(7)(C)

(b)(5) Has that been resolved?

(b)(6);
(b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Wed, 20 Mar 2019 19:50:37 +0000
To: Seguin, Debbie
Cc: Albence, Matthew; (b)(6); (b)(7)(C) Blank, Thomas; (b)(6); (b)(7)(C)
Subject: RE: Document Pull for HJC and CHS Letters

10-4, will have it to you shortly. Thanks

From: Seguin, Debbie
Sent: Wednesday, March 20, 2019 3:49 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

Adding Matt for awareness as (b)(6) just reached out for an update. Would appreciate a quick turn from OCR. Thank you.

From: (b)(6); (b)(7)(C)
Sent: Wednesday, March 20, 2019 1:28 PM
To: Seguin, Debbie <(b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

Will do. Thanks

From: Seguin, Debbie
Sent: Wednesday, March 20, 2019 1:27 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Document Pull for HJC and CHS Letters

(b)(6);

This issue appears to be bubbling up in many forms. (b)(5)

(b)(5)

Much appreciated.
Debbie

From: Albence, Matthew
Sent: Wed, 20 Mar 2019 19:52:15 +0000
To: Seguin, Debbie
Subject: RE: Document Pull for HJC and CHS Letters

I can't manage things I don't know about....

From: Seguin, Debbie
Sent: Wednesday, March 20, 2019 3:49 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

Adding Matt for awareness as (b)(6); just reached out for an update. Would appreciate a quick turn from OCR. Thank you.

From: (b)(6); (b)(7)(C)
Sent: Wednesday, March 20, 2019 1:28 PM
To: Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

Will do. Thanks

From: Seguin, Debbie
Sent: Wednesday, March 20, 2019 1:27 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Document Pull for HJC and CHS Letters

(b)(6);

This issue appears to be bubbling up in many forms. (b)(5)

(b)(5)

Much appreciated.
Debbie

From: (b)(6); (b)(7)(C)
Sent: Wed, 20 Mar 2019 15:28:05 +0000
To: (b)(6); (b)(7)(C) Seguin, Debbie
Subject: FW: Agenda and Materials -- HOCR, HJC, and CHS Oversight Document Production
Attachments: DHS OLA Oversight Letters 2019.01.30.xlsx, Oversight Production Meeting Agenda Feb 19 2019.docx, Internal Deliberative Document re Possible Dates for HORC Document Production Request (GFB) (2.15.19).docx, Internal Deliberative Document Read Out from DHS and CHS Majority Meeting re Scoping of Jan 4 2019 Letter (2.14.19).docx, Internal Deliberative Document Read Out from 2.5.19 Meeting with HJC Majority Staff re Document Production Request (GFB) (2.14.19).docx

FYI

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Tuesday, Mar 19, 2019, 1:46 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Agenda and Materials -- HOCR, HJC, and CHS Oversight Document Production

This looks like the start of it all (b)(6) asked me to cover one of the early meetings, but I heard nothing back afterward.

From: (b)(6); (b)(7)(C)
Sent: Tuesday, February 19, 2019 2:18 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Agenda and Materials -- HOCR, HJC, and CHS Oversight Document Production

(b)(6); (b)(7)(C)

FYI, the Cummings request is the only one I can speak to. Will defer to you/your office for the rest.

Thanks,

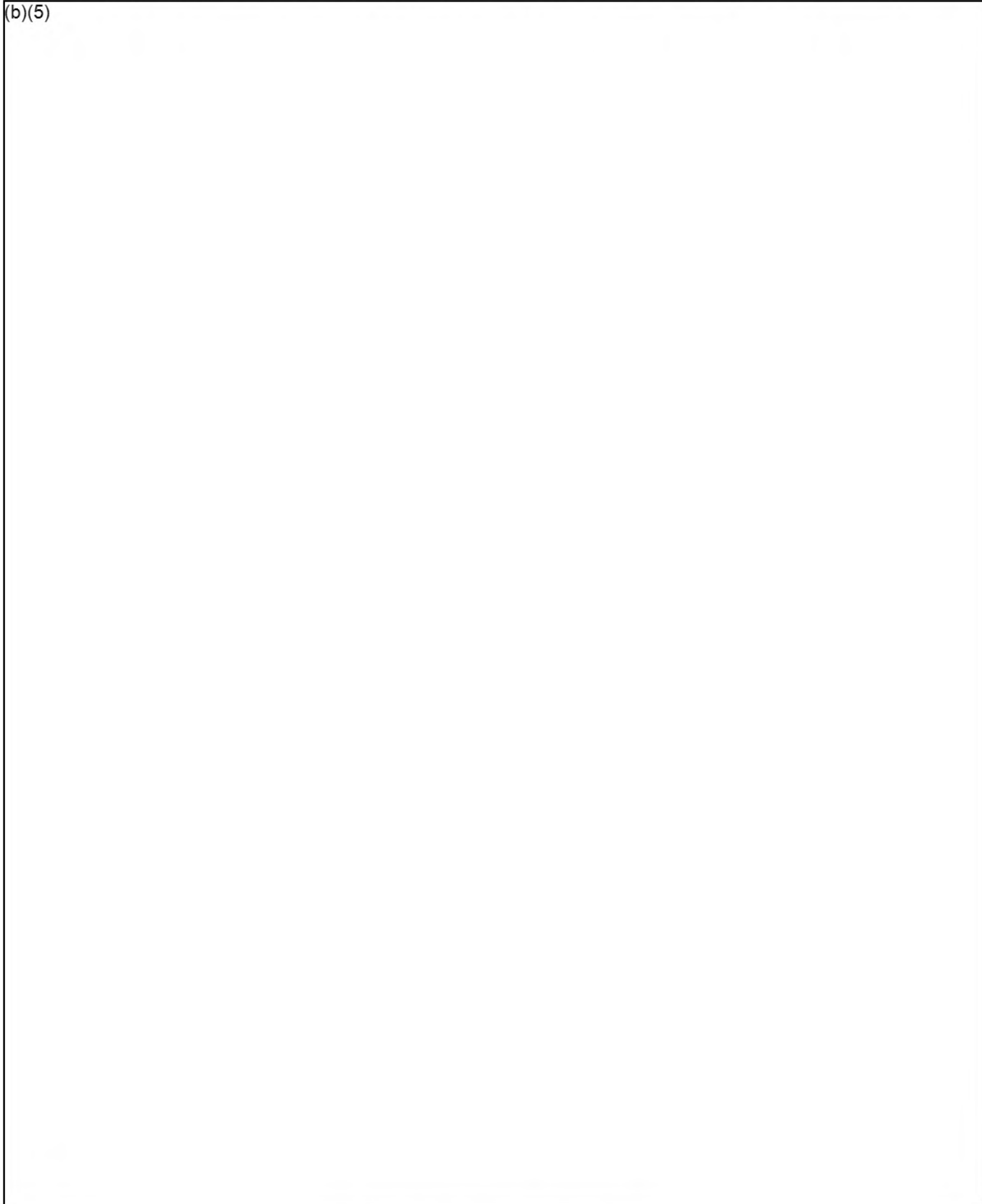
(b)(6);

(b)(6); (b)(7)(C)

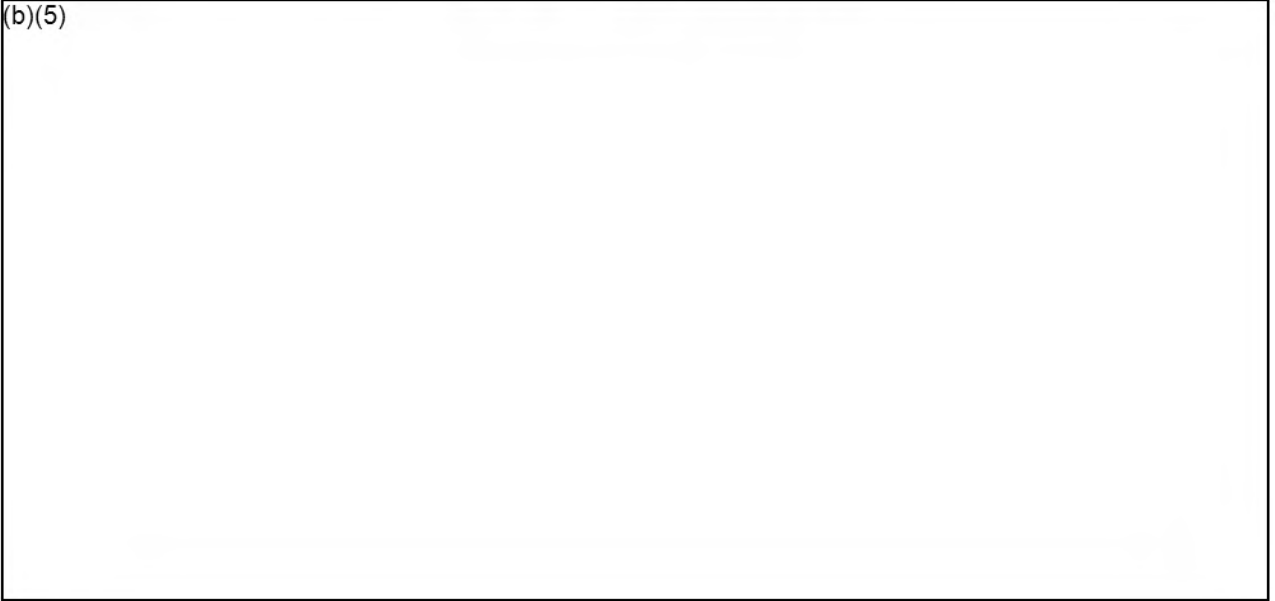
Chief, District Court Litigation Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
Direct: (b)(6); (b)(7)(C)
Main: (b)(6); (b)(7)(C)
Mobile: (b)(6); (b)(7)(C)

HORC Document Production Request from 7.5.18 Letter to DHS Secretary Nielsen

(b)(5)



(b)(5)



(b)(5)

(b)(5)

(b)(5)

(b)(5)

From: (b)(6); (b)(7)(C)
Sent: Thu, 21 Mar 2019 00:26:24 +0000
To: Seguin, Debbie
Subject: RE: Document Pull for HJC and CHS Letters

Yeah. I just know this is going to get lost with the tasking teams, but have to let him figure it out. Ah leadership.

Sent with BlackBerry Work
(www.blackberry.com)

From: Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Wednesday, Mar 20, 2019, 7:37 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

I had advised meeting and POCs this morning. But this is the route they decided to take. It's really a toss-up at this point. ES can help with tracking responses. I'm going to talk to them again tomorrow to at least give COSs heads up and explain the situation in a meeting.

From: (b)(6); (b)(7)(C)
Sent: Wednesday, March 20, 2019 6:14 PM
To: Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Document Pull for HJC and CHS Letters

ES? Would be better going direct to COSs.

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Wednesday, Mar 20, 2019, 6:04 PM
To: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>, Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov> (b)(6); (b)(7)(C) @ice.dhs.gov>, Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov>, Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

All,

Attached is a spreadsheet -with great thanks (b)(6); (b)(7)(C) that lays out the current state of the HOCR, CHS, and HJC document production requests. (b)(5)

(b)(5)

(b)(5)

Please let me know if you have any questions.

Thank you,

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)

Sent: Wednesday, March 20, 2019 3:57 PM

To: Seguin, Debbie (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>

Cc: Albence, Matthew (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Davis, Mike

P (b)(6); (b)(7)(C)@ice.dhs.gov>; Loiacono, Adam V (b)(6); (b)(7)(C)@ice.dhs.gov>

Subject: RE: Document Pull for HJC and CHS Letters

Debbie,

I offered to help OCR put the information together since I've been working on one of the congressional requests and have been on some of the OLA calls, but have been tied up with other taskings. So, the delay is not OCR's fault.

I'm working on it now. I would note that the requests for updates on 2 of the congressional requests (HJC and CHS) are coming from different people at DHS. I provided an update on the HJC and CHS requests to (b)(6); (b)(7)(C) yesterday. (b)(5)

(b)(5)

More soon.

Thanks,

(b)(6);

(b)(6); (b)(7)(C)

Chief, District Court Litigation Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
Direct: (b)(6); (b)(7)(C)

Main: (b)(6); (b)(7)(C)

Mobile: (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov

From: Seguin, Debbie

Sent: Wednesday, March 20, 2019 3:49 PM

To: (b)(6); (b)(7)(C)@ice.dhs.gov>

Cc: Albence, Matthew (b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)@ice.dhs.gov>; (b)(6); (b)(7)(C)@ice.dhs.gov>; Blank, Thomas

From: (b)(6); (b)(7)(C)
Sent: Wed, 20 Mar 2019 23:36:51 +0000
To: Seguin, Debbie
Cc: Albence, Matthew; Blank, Thomas; Davis, Mike P (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) Loiacono, Adam V (b)(6); (b)(7)(C)
Subject: RE: Document Pull for HJC and CHS Letters

Will do. Thanks Debbie

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Assistant Director
ICE - Office of Congressional Relations

From: Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Wednesday, Mar 20, 2019, 7:35 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>, Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>, Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>, Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

I have informed the DHS COS that ICE will provide an initial production to OGC beginning 3/28/2019. Appreciate everyone's efforts in pulling the status together. Please keep me updated.

Thank you,
Debbie

From: (b)(6); (b)(7)(C)
Sent: Wednesday, March 20, 2019 7:16 PM
To: Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov>; Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; (b)(6); (b)(7)(C) @ice.dhs.gov>; Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov>; Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov>; Velazquez, Ricardo L (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Document Pull for HJC and CHS Letters

10-4, Debbie. Interim deadline for initial document production back to OGC is March 28. Please let me know if you have any questions.

Thanks,

(b)(6);

From: Seguin, Debbie

Sent: Wednesday, March 20, 2019 6:58 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov; Albence, Matthew

(b)(6); (b)(7)(C) @ice.dhs.gov

Cc: (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
(b)(6); (b)(7)(C) @ice.dhs.gov; Davis, Mike P (b)(6); @ice.dhs.gov;
Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov

Subject: RE: Document Pull for HJC and CHS Letters

Thank you (b)(6). As discussed, we need to provide a response to the DHS FO as to the estimated timeline to produce documents to OGC for review. For instance, the tasking that was sent out today, what is the stated deadline and once received how long will it take for the documents to be reviewed and redacted as appropriate?

Thanks again.

From: (b)(6); (b)(7)(C)

Sent: Wednesday, March 20, 2019 6:04 PM

To: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov; Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov

Cc: (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
(b)(6); (b)(7)(C) @ice.dhs.gov; Davis, Mike P (b)(6); @ice.dhs.gov;
Loiacono, Adam V (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov

Subject: RE: Document Pull for HJC and CHS Letters

All,

Attached is a spreadsheet -with great thanks to (b)(6); that lays out the current state of the HOCR, CHS, and HJC document production requests. (b)(5)

(b)(5)

(b)(5) Please let me know if you have any questions.

Thank you,

(b)(6);

From: (b)(6); (b)(7)(C)

Sent: Wednesday, March 20, 2019 3:57 PM

To: Seguin, Debbie (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov

Cc: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
(b)(6); (b)(7)(C) @ice.dhs.gov; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov;
(b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; Davis, Mike