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A REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY'S POLICIES AND PROCEDURES FOR THE APPREHENSION, DETENTION, AND RELEASE OF NONCITIZENS UNLAWFULLY PRESENT IN THE UNITED STATES

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON
NATIONAL SECURITY

AND THE

SUBCOMMITTEE ON HEALTH CARE, BENEFITS,
AND ADMINISTRATIVE RULES,

OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
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A REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY'S POLICIES AND PROCEDURES FOR THE APPREHENSION, DETENTION, AND RELEASE OF NONCITIZENS UNLAWFULLY PRESENT IN THE UNITED STATES

Wednesday, February 25, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, JOINT WITH THE
SUBCOMMITTEE ON HEALTH CARE, BENEFITS, AND
ADMINISTRATIVE RULES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittees met, pursuant to notice, at 10:04 a.m., in room 2154, Rayburn House Office Building, Hon. Ron DeSantis [chairman of the Subcommittee on National Security] presiding.

Present from the Subcommittee on National Security: Representatives DeSantis, Mica, Hice, Russell, Lynch, and Lieu.

Present from the Subcommittee on Health Care, Benefits, and Administrative Rules: Representatives Jordan, Walberg, DesJarlais, Meadows, DeSantis, Walker, Hice, Carter, Cartwright, Norton, Watson Coleman, and Cooper.

Also present: Representatives Salmon and Lujan Grisham.

Mr. DESANTIS. The subcommittee will come to order.

Without objection, the chair is authorized to declare a recess at any time.

The American people have every right to expect the government to abide by the laws of the land, especially those laws that impose duty on government officials to protect the safety and security of the American people. The Nation's immigration laws both recognize the valuable contribution illegal immigrants make to American society and provide a framework to safeguard the Nation's sovereignty and the public safety.

The U.S. Government has a responsibility to execute the laws of the land, yet today's hearing will demonstrate that the Federal Government is failing to enforce the laws that protect the public safety.

The attacks of September 11, 2011, tragically demonstrated the importance of our immigration laws in protecting the American people. The staff report of the 9/11 Commission on Terrorist Travel found that, "every hijacker submitted a visa application," containing false Statements; that, "at least 2 hijackers and as many

as 11 of the hijackers presented to INS inspectors at ports of entry passports manipulated in a fraudulent manner"; and that two of the hijackers overstayed the terms of their admission.

The 9/11 attacks were an act of war against our country by a terrorist group who exploited the lack of enforcement of our immigration system in service of their murderous ends.

Today, we will hear from Jamiel Shaw, Sr., whose son, Jamiel II, was murdered by a gang member who was in the country illegally on March 2, 2008. The murderer had a long criminal history and was facing pending felony charges, yet he was released into American society a mere 2 days before he killed Jamiel Shaw II.

As a high school football player, Jamiel II received interest from schools such as Stanford and Rutgers. As his dad will testify, he was a good kid who was trying to pursue his dreams and make something of himself. The tragic fact is this: Had the government simply fulfilled its responsibility to protect the public and faithfully executed the law, Jamiel Shaw II would be alive today.

The government's failures to safeguard the public appear to have grown more severe since the murder of Jamiel Shaw II. For example, in 2013 the Department of Homeland Security freed 36,007 convicted criminal aliens from detention. According to the Center for Immigration Studies, this group included aliens convicted of hundreds of violent and serious crimes, including homicide, sexual assault, kidnapping, and aggravated assault.

The vast majority of these releases from custody were discretionary, not required by law and, in fact, in some instances, apparently contrary to law. Nor were they the result of local sanctuary policies.

Unfortunately, since 2013, 1,000 of these same released criminal convicts had been convicted yet again for additional offenses. In other words, people have been victimized because the government has failed to repatriate these criminal convicts to their home countries, as provided for under the law.

Concerns about Immigration and Customs Enforcement's effective use of its resources to protect the American people have been intensified by the DHS November 20, 2014, guidance on the apprehension, detention, and removal of illegal immigrants present in the United States. In that guidance, the Department appropriately designated aliens who pose a danger to the national security and who have been convicted of aggregated felonies as the highest priority for removal. Even that designation, though, contains significant caveats that could allow such aliens to remain at large in the United States and to continue their criminal activities.

Of equal concern is the fact that the Department has identified as a lesser priority for apprehension, detention, and removal other criminal aliens, including aliens who have been convicted of what the agency has categorized as the, "significant misdemeanors" of domestic violence, sexual abuse or exploitation, burglary, firearm offenses, and drug distribution or trafficking.

The subcommittee will examine how effective the Department of Homeland Security has been in using its resources and authority to identify, apprehend, detain, and remove aliens who pose a danger to the people of the United States and the ramifications of the

Department's newly adopted policy in fulfilling this crucial obligation.

I look forward to hearing from our witnesses today. I thank them for their time, and, in advance, I thank them for their testimony.

And I will now recognize my colleague from Massachusetts, the ranking member, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you very much, Mr. Chairman. I want to thank you for holding this hearing, joint hearing.

And I want to thank our witnesses for being with us this morning and helping the committee with its work.

Let me begin by expressing my sincere sorrow to the families of Jamiel Shaw and Grant Ronnebeck for the loss of their loved ones. Jamiel's father, Mr. Jamiel Shaw, Sr., and Grant's uncle, Mr. Mike Ronnebeck, are here with us today.

And I would like to thank you both for helping the committee work through our issues here with this law and as we examine the Department of Homeland Security's revised immigration enforcement policies and procedures. And I thank you, as well, for your willingness and your strength in trying to turn your personal tragedy into something positive as a way of honoring your son and your nephew.

Just for the record, I want to indicate that I am a cosponsor of the Jamiel Shaw Act that Mr. Walter Jones of North Carolina has recently filed in memory of your son and that would require notification by the FBI of any crimes committed by undocumented workers, any individual not in this country legally.

Importantly, the department-wide memo issued by Department of Homeland Security Secretary Jeh Johnson in November 2014 provides enhanced guidance for those Federal agencies responsible for carrying out immigration enforcement and removal activities by specifying and prioritizing threats to our national security, public safety, and border security, including persons convicted of criminal street gang activity and other felonies. The Department is now seeking to better ensure that its limited resources are dedicated to addressing the most serious law enforcement cases for the benefit and safety of the American people.

I understand that there are many inside and outside of government who continue to raise concerns over the effectiveness of the Department of Homeland Security's enforcement efforts. In fact, the underlying premise of today's hearing appears to be, in part, the premise that the 700,000-plus employees of the Department of Homeland Security, including U.S. Immigration and Customs Enforcement, are not enforcing our immigration laws. I do not believe that that is the case.

Just to be clear, the Department of Homeland Security has detained and removed more people since 2008 than during any other period in its history. According to the Migration Policy Institute, approximately 1.95 million people were removed between 2008 and 2013, which is about the same number removed during the entire 8 years during the Bush Administration.

In addition, the administration continues to focus resources on targeting immigrants who are criminals, threats to national security, and public safety risks. Eighty-five percent of the Immigration and Customs Enforcement removals from the United States in Fis-

cal Year 2014 were convicted criminals. So that is 85 percent of the removals were of illegal aliens who were criminals.

So, while I have my own questions and concerns regarding our enforcement policy, I cannot agree that the laws are not at all being enforced. The facts show that they indeed are.

I think it is important that we also understand that current law requires detainees who have served their time be released. Based on what I have read, it appears that most of the detainees released by the Department in Fiscal Year 2013 were released as required by the 2001 Supreme Court decision in Zadvydas v. Davis or other mandatory laws.

Notably, the Zadvydas case found that the indefinite detention of a noncitizen who has been ordered removed but whose removal is not likely to occur in the reasonably foreseeable future raises serious constitutional due process concerns.

The Department also released some detainees either due to eligibility for bond, pursuant to section 236 of the Immigration and Nationality Act, or for reasons as deteriorated health or advanced age.

In light of these legal and constitutional issues, I very much welcome the opportunity to hear from Department of Homeland Security today. However, it is my understanding that the Department was invited to testify only 3 days ago, which I do not believe constitutes adequate notice for a congressional hearing. I must also mention that the DHS has indicated its willingness to work with our committee and testify on this topic in early March.

And, moreover, we should remember that Department of Homeland Security is currently less than 2 days away from a full agency shutdown. While I strongly believe that Congress must serve an important role in debating and shaping our Nation's immigration policy, we should not be holding our Homeland Security funding hostage. We should not be threatening to furlough approximately 30,000 Department of Homeland Security employees, and we shouldn't be risking the much-needed funding for the very law enforcement efforts that we are seeking to secure here.

This is especially true at a time when the Department and its more than 240,000 dedicated employees continue to remain on high alert amidst the threat of international terrorism, increased cyber attacks on our Nation's government and private institutions, and natural disasters and emergencies.

Mr. Chairman, again, I thank you for holding this hearing. I look forward to hearing from our witnesses today and hearing from the Department in the near future as we review our national immigration enforcement policies. And I also look forward to working with you in a bipartisan manner as we examine key policy issues relating to our national security.

Thank you, Mr. Chairman. I yield back.

Mr. DESANTIS. The gentleman yields back.

I ask unanimous consent that our colleague from the Fifth District of Arizona, Congressman Matt Salmon, be allowed to fully participate in today's hearing.

Mr. LYNCH. No objection.

Mr. DESANTIS. Without objection, so ordered.

I now recognize Mr. Jordan, chairman of the Subcommittee on Health Care, Benefits, and Administrative Rules, for his opening Statement.

Mr. JORDAN. I thank the chairman for having this hearing, and I will try to be brief.

And I want to thank our witnesses, in particular Mr. Shaw and Mr. Ronnebeck, for being here today and, as family members, what they have had to go through.

We appreciate you coming forward.

Look, we are having an important debate here in Congress regarding the Department of Homeland Security. And the debate centers around—and Mr. Lynch touched on this at the close of his remarks—centers around the unconstitutional actions of this President last November.

And so many people know what he did was unconstitutional. We don't have to take conservative or Republican—we have all kinds of legal scholars, both liberal and conservative, who say it is unconstitutional. And now we have a Federal judge who says it is unlawful.

And yet we invited the Secretary of the Department of Homeland Security to come and testify today, and in the midst of all this and people like Mr. Shaw and Mr. Ronnebeck coming here to testify, Secretary Johnson said he couldn't make it. And he couldn't even send a designee.

Now, you would think, with this debate being as big as it is, the Department could at least come to Congress this week and testify. I have seen Mr. Johnson on TV every day for the last week and a half, yet he can't make it to a committee in front of Congress with this panel? It is ridiculous, just ridiculous.

So I appreciate this hearing, but the frustrating part is we don't have the Department here to answer all kinds of important questions—an important question like this: How can Congress fund something we all believe is unconstitutional and a Federal judge has said is unlawful? How can we do that? But yet that is the position the other side wants to take.

Mr. Lynch just used the term "hold hostage" the DHS funding. We are not holding anything hostage. We are upholding the Constitution, and we are funding the Department of Homeland Security. That is the bill that passed. That is the commonsense bill that passed the House of Representatives.

And yet Secretary Johnson is unwilling to come to the committee today and answer our questions. It makes no sense. He can go on TV and talk about it all—he was on every single show this weekend, but he can't come here in front of Congress, take a few minutes of his time to maybe answer questions that families who are here have. He can't do it. Can't do it.

So I appreciate the chairman having this hearing, but it would have been better if the Department of Homeland Security would have had the courage to come here today and answer not just our questions but the questions the American people have about this important issue on this important date during this important debate.

With that, I yield back, Mr. Chairman.

Mr. DESANTIS. The gentleman yields back.

And the chair will now recognize the ranking member of the Subcommittee on Health Care, Benefits, and Administrative Rules, Mr. Cartwright, for his opening Statement.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

And I also thank the witnesses for coming today.

And I want to join my colleagues today in thanking you, particularly, Mr. Shaw and Mr. Ronnebeck, and expressing my deepest condolences for your loss and the loss of your families.

Let me begin by saying I just returned from the Texas-Mexico border last week, where I visited both the Pharr-Reynosa International Bridge and also the Donna International Bridge in south Texas. I was with Commissioner of U.S. Customs and Border Protection Gil Kerlikowske and also Edward Avalos, the Under Secretary for Marketing and Regulatory Programs at the United States Department of Agriculture. I met with individuals from CBP, Customs and Border Protection, who work tirelessly to ensure that our international border is secure.

During the trip, what I witnessed was how vitally important our trade relationship with Mexico is. My own State of Pennsylvania exports $3.44 billion worth of goods to Mexico every year, accounting for almost a quarter-million jobs. Chemical exports make up our top export sector in Pennsylvania, accounting for $868 million a year and fully 25 percent of the State's total exports to Mexico. In addition, another $632 million in primary metal manufacturers are exported to Mexico.

I spent some time on South Main Street in McAllen, Texas, where I saw block upon block of thriving stores catering to Mexican nationals who come across the border to the U.S. to do their shopping and then they return home to Mexico.

Our working relationship with Mexico is enormously important to our safety and our economic security, and, as I saw last week, DHS's work is vital to that mission. In fact, the men and women of DHS do more than secure our border from undocumented immigrants; they also inspect our imported fruits and vegetables—I saw this—so as to prevent harmful insects from infecting the crops in our country.

Without their important work, our agricultural industry could stand to lose billions and billions of dollars. Mexico is the largest supplier for fresh and frozen fruit to the U.S. It accounts for over 30 percent of the volume and the value of fresh and frozen fruit imports. These men and women at DHS are integral to keeping our food supply safe.

My trip also confirmed that the administration is shifting resources to the border to strengthen enforcement efforts. The administration has been sending hundreds of additional Border Patrol and Immigration and Customs Enforcement, ICE, agents to the border and increasing ground surveillance systems. I spent time in one of the booths where they interview people coming across the border, and I saw the technology at work there.

According to the DHS data, the number of Border Patrol agents increased from 17,499 in 2008 to fully 21,391 at the end of 2013. In addition, in Fiscal Year 2014, DHS conducted 414,000 removals and 162,000 returns. CBP made 486,000 apprehensions.

I appreciate today's hearing to examine the President's priorities outlined in the November 20 memorandum. It seems to me the President is enforcing our laws and focusing his limited resources on targeting immigrants who are criminals, threats to national security, and public safety risks.

ICE only has the capability of removing 400,000 illegal immigrants per year, just 4 percent of the total illegal immigrant population. Given these limited resources, it is very important that we spend the money wisely.

I am, however, troubled by this hypocritical effort of some of my colleagues who are threatening to hold the DHS funding bill hostage—that is an apt expression—unless it defunds the President's immigration actions. It is exactly the type of Washington politics the American people are tired of. The American people sent us here to pass laws, to work together to solve problems, not to defund enforcement efforts at our border.

In our district, in addition, in northeastern Pennsylvania, our fire companies rely heavily on fire grants to provide much-needed safety and firefighting capability. That will be stopped if DHS funding is stopped and there is a DHS shutdown. That is ridiculous, and it is counterproductive.

I also have questions about some of the President's actions, but I will not support these destructive efforts by my colleagues.

And, with that, I yield back, Mr. Chairman.

Mr. DESANTIS. Thank you.

I will hold the record open for 5 legislative days for any Members who would like to submit a written Statement.

We will now recognize our panel of witnesses. I am pleased to welcome Mr. Scott Jones, Sheriff, Sacramento, California, County Sheriff's Department; Mr. Jamiel Shaw, Sr., father of Jamiel Shaw II; Ms. Jessica Vaughan, director of policy studies at the Center for Immigration Studies; and Mr. Gregory Chen, director of advocacy at the American Immigration Lawyers Association.

And I am now happy to yield to my colleague from Arizona, Mr. Salmon, to introduce one of our witnesses that hails from his district.

Mr. SALMON. Mr. Chairman, thank you so much for giving me the opportunity to introduce Mike Ronnebeck.

Mike, it was great talking to you yesterday. Break a leg today. I am sure you are going to do great, and your brother and your family is going to be really proud of what you have done.

Sadly, Mike is here to tell you about his nephew, my constituent, Grant Ronnebeck, who was just 21 years old, who was gunned down at a Mesa convenience store over a package of cigarettes by an illegal immigrant who was out on bond awaiting a deportation hearing.

This is a clear example of why we need to address the failed catch-and-release policies of the Obama Administration.

As of October 2014, the Maricopa County Sheriff's Office reported that 35.4 percent of illegal immigrants arrested within the county and given detainers or holds by ICE are repeat offenders. That means that they are caught, arrested, and then they are flagged by ICE, and then they don't know what happens to them.

Charges against these illegal immigrants have included kidnapping, aggravated assault with a deadly weapon, armed robbery, sexual abuse, and child molestation. I believe there is simply no excuse for ICE to be releasing individuals like this back out onto our streets to endanger and kill hardworking Americans.

Shockingly, these violent individuals do not roam our streets due to our lack of knowledge about them; in fact, they do it in spite of it. In a recent Statement by ICE, the agency acknowledged that the Maricopa County Superior Court had notified the agency about this individual's status and his criminal history but that he had been released pending the outcome of his case in immigration court due to the Obama Administration policy.

Thank you for inviting Mike today to tell this story of his nephew and this vicious crime that has so devaStated our community in Mesa, Arizona.

God bless you, Mike.

Mr. DESANTIS. Thank you, Mr. Salmon.

Welcome, all.

Pursuant to committee rules, all witnesses will be sworn in before they testify.

If you can please rise and raise your right hands.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

All witnesses answered in the affirmative.

Thank you, and please be seated.

In order to allow time for discussion, please limit your testimony to 5 minutes. Your entire written Statement will be made part of the record.

And, with that, Mr. Jones, you are up for 5 minutes.

WITNESS STATEMENTS

STATEMENT OF SCOTT R. JONES

Sheriff JONES. Good morning, Mr. Chairman and Members. Thank you for allowing me to be here today.

I am Scott Jones, sheriff of Sacramento County, California, one of the largest sheriff's departments in the country and a constituency of over 1.4 million people.

I was invited here today to talk about the national policy on immigration and how it is affecting law enforcement at the local level. And I can most easily describe that as there is a lack of coherent national immigration policy, or what I refer to as anti-policy, which is an unwillingness by the Federal Government to enforce the existing policies and laws or, worse yet, failing to challenge contrary laws and policies promulgated by the States, advocacy groups, and court decisions.

I have identified a number of other problems, including the inability to adequately identify undocumented persons in this country, that I have put in your reading materials, and I hope you have an opportunity to read it. But I want to center my comments today about the Secure Communities and its progeny, the Priority Enforcement Program, and why that program is not working.

Both of those programs are dependent on detainers—ICE serving a detainer on a local jail facility that says basically, after the local charges are cleared, we want you to hold this person for no more than 48 hours, someone we've already identified is in this country illegally, so we can come to the jail, take custody of them, and do whatever's appropriate for their purposes. It is crucial for the success of the Priority Enforcement Program. It is crucial for the safety of each of our communities.

It is important to note that the Federal Government in the initial stages of these programs were adamant that these detainers were mandatory, not permissive or mere suggestions. Over the last couple of years, as States and advocacy groups became emboldened and talked about how their assertion was that they were mere requests and not mandatory, the Federal Government remained conspicuously silent for a couple of years and now, lately, has capitulated to these advocacy groups that they are mere requests, not mandatory, despite the mandatory nature of this statutory language.

As a result, in-custody ICE arrests in California—perhaps the Nation, but I know in California—are down 95 percent over 1 year ago today.

So who is making immigration policy if not the Federal Government? In the lack of the Federal Government coming up with clear, coherent immigration policy, there is a policy vacuum. So who's filling that? The States, by coming up with their own statutory schemes on immigration.

It's important to note that immigration is a plenary function of the Federal Government. The States have no legal or statutory authority to come up with any immigration laws whatsoever. The Supremacy Clause of the Constitution says that wholly Federal questions are within the exclusive province of the Federal Government. Yet they feel emboldened to change and continually add to and modify immigration law because they know the Federal Government will not challenge them at all.

Also filling this policy vacuum is court decisions and advocacy groups. In Clackamas County, Oregon, there was a district court decision that decided that a detainer, ICE detainer, amounted to an unlawful detention without probable cause. Now, this law is only applicable to Clackamas County, Oregon, yet the ACLU used this as a vehicle to write a letter to every single sheriff threatening a lawsuit based on this court decision and said that we cannot honor any ICE detainer for any person, despite their crimes, for any reason.

In looking to the Federal Government to intervene, to appeal, to challenge that court decision, there is nothing. And so sheriffs across this country are left with no alternative other than to not honor any ICE detainers. So anybody coming in on fresh charges throughout California and, indeed, most of the country is getting in and out of custody through bail, law, or any other release mechanism without appropriate identification and scrutiny from ICE. The detainer is not working.

So the ACLU, in effect, has created, established, and effected national policy on immigration and will continue to do so unless the Federal Government takes up its charge to do so. Make no mistake

about it: The safety and security of this Nation and its communities is eroding at an unprecedented rate, and the Federal Government has been a spectator at best and a willing participant at worst.

So what must be done? First of all, the Federal Government must take the lead in the national immigration discussion and, by doing that, challenge any contrary law, policy, advocacy, or assertion by courts' decision, by advocacy groups, or by States that challenge the supremacy of the Federal Government's plan.

They must stand with their law enforcement partners, like myself. If they don't, if they continue not to stand with us, then we are left to blow in whatever political wind is blowing in our States and in our communities, and we, too, will become de facto vehicles and instruments for advocacy groups like the ACLU.

They must fix the broken detainer system—it does not work—by either changing their stance on their policy, by changing the law, or by changing their practice. There are ways to do it.

I remain deeply committed to this issue and will do whatever I can as an individual for the purposes of advancing this.

I thank you very much for your time, and I will take any questions that the committee may have.

[Prepared Statement of Sheriff Jones follows:]

THE INTRACTABLE IMMIGRATION CRISIS

SCOTT JONES: SACRAMENTO COUNTY (CA) SHERIFF

INTRODUCTION

The Sacramento County Sheriff's Department is one of the largest Sheriff's Departments in America. We have over 1300 full-time deputy sheriffs, and a constituency of over 1.4 million persons, covering 1,000 square miles. Unlike most counties, the largest population center in Sacramento County is in its unincorporated portion, with a population of almost 600,000 ranging from rural and suburban, to densely populated urban areas. We operate two large jails, with an average daily population (ADP) of about 4,500 inmates. Since one of our jails is next door to the federal courthouse, we house federal and ICE inmates under contract.

I have worked my entire adult career in the Sheriff's Department, starting in corrections in 1989, and elected Sheriff in 2010. I have a bachelor's degree in criminal justice, and a juris doctor (law) degree. During my entire career, both historically and currently, we have enjoyed a particularly positive relationship with our federal partners, including legacy INS and ICE.

THE PROBLEM

The problem with the current immigration policy can be simply stated as there is NO coherent, sustainable immigration policy. Worse than that, there is anti-policy (an unwillingness to support even current promulgated policy or challenge contrary policies), and each State has their own policy and laws on immigration.

Sacramento is extremely diverse demographically, with a large population of undocumented immigrants. Additionally, California is home to an estimated 24% of ALL undocumented immigrants. The vast majority are law abiding and hard working men, women and families who want nothing more than to live the American Dream. I want that for them also. Further, our State and National economies are dependent on this population in many respects. That being said, there is a segment in every population—including the undocumented population—that will choose crime, drugs, violence, and gangs as a way of life. Worse yet, in many instances they victimize other

undocumented persons because they know that their victims are often too afraid to call police for help because of their uncertain and ever-changing place in our communities.

I and most other public safety leaders in California have no interest in enforcing immigration law. Our focus is keeping communities safe and ensuring that the entire community (including our undocumented population) is protected and willing to call us if they need help. Of course, that presupposes that there are people or entities that ARE concerned with enforcing immigration law. That are interested in protecting our communities from dangerous undocumented immigrants. That are adequately identifying them, detaining them when necessary, and removing criminals that the rest of my community needs to be protected from. None of that is happening to any satisfactory degree.

Inadequate Identification

Law enforcement has no confidence in the identification presented by someone in this country illegally. Most of the criminal element of this population have many aliases, and simply change their name at will. In a reasonable world, every single undocumented person would be adequately identified at arrest, be linked to his or her own criminal past, and be held accountable for their current transgressions. That is what happens with U.S. citizens, but not for those who are not citizens. That was the purpose of Secure Communities; persons in this country would be identified **before** being released from custody, and theoretically held accountable for their crimes, warrants, and criminal past.

Further, for those states that issue **driver's licenses** (including California), they are mostly predicated on forged birth certificates or inadequate documentation. In fact, in California an undocumented immigrant needs NO government documentation; he or she only needs to interview with a DMV employee who can "verify" their identity. Further, most if not all state DMV's do NOT share any identification or data with ICE.

Thus, law enforcement has little idea and no confidence who they are dealing with. The level of desperation a suspect feels because of his past *he* knows about will not be known by the officer. An encounter which is casual by the officer's standard can be one of utter desperation and potential violence on the part of the suspect, and the officer would have no way to know. This is exactly what happened to my deputy Danny Oliver a few months ago, who was shot and killed during a "casual encounter" with a

four-times removed suspect operating under an alias. He simply continued to escape consequence for each of his prior illegal entries.

Law enforcement across this country does not have access to ICE databases in the field to give them critical information for their own safety.

THE FALLACY OF THE 'PRIORITY ENFORCEMENT PROGRAM' (PEP)

Secure Communities, until it was repealed with the November 20, 2014 Executive Memo, was designed to identify each undocumented person prior to their release from custody, by allowing ICE to serve detainers on local jails to hold those who were arrested for new crimes in custody for "no more than 48 hours," if there was reason to believe they were in the country illegally. This resulted in identifying and removing many criminals that had extensive criminal and violent histories. Presumably, the current administration felt that this cast too broad a net and repealed Secure Communities in favor of the Priority Enforcement Program (PEP), or "Secure Communities *lite*". Under PEP, only the top priority undocumented persons are targeted for removal. Unfortunately, prior removal, multiple felony arrests, youths with extensive gang activity, misdemeanor convictions, and many felony convictions (as long as they aren't 'aggravated felonies') won't get you in the first priority. This coupled with many states' rush to reduce felonies to misdemeanors[1] means that many undocumented criminals do not even rise to the level of concern or care for the federal government and its law enforcement agencies. Further, even those in the first priority that are targeted for removal are often released pending their court proceedings, and escape their fate altogether.

Now let me demonstrate why even PEP is not working

DETAINERS vs. "REQUESTS"

The success of either Secure Communities or the watered down Priority Enforcement Program is absolutely dependent upon ICE being able to adequately identify each undocumented person who is arrested to determine which priority they fall under. As such, both programs have local jails submitting fingerprints to ICE, which in turn gives their agents definitive information on which they can act. In the past, they relied on ICE

[1] E.g. California's Proposition 47 which reduced many felonies to misdemeanors, including commercial burglary, theft of most guns, most identify theft, "purse snatching", shoplifting regardless of number of priors, etc.

detainers when necessary to have the local jails hold the undocumented arrestee for "no more than 48 hours" so ICE could determine with accuracy who the arrestee is and whether further action would be appropriate.

However, many states asserted that the mandatory language of detainer law is merely a "request" and not a legal demand. Several years ago, the federal government asserted this law was mandatory. For the last couple years, the federal government refused to take a position, and recently have agreed with advocacy groups that the detainer is merely a request. Thus, arrestees are not being kept in custody long enough to determine their proper identity and whether they qualify for removal or further action by ICE. While their newer "Request for Notification" may be effective for most *sentenced* inmates with a certain release date, those that are arrested on fresh charges who get citation releases, who are released on their own recognizance, who bail out, or who get released from court are NOT subject to such requests for notification because they are getting out too quickly and without enough advance notice to ICE. According to ICE officials, in-custody arrests are down 95% from just a year ago. That means that the overwhelming majority of undocumented persons who are arrested are released right back into the community without any review or action by ICE, *regardless of which 'priority' they fall under.* Once back in the community, ICE can either choose to utilize precious resources to go find them again, or simply allow the cycle to continue.

WHO IS MAKING POLICY?

State Action Challenges

As mentioned previously, the federal government—specifically the Executive Branch—deliberately chooses not to challenge any erosion of the immigration framework. As a result, there are 50 different immigration laws in effect in this country. Fundamentally, the states have no authority to promulgate immigration law; it is a plenary function of the United States government under the Constitution. The Supremacy Clause ensures that jurisdiction for wholly federal questions resides squarely and exclusively with the federal government. Yet, the federal government challenges none, and simply allows the States to issue new and ever-changing edicts. This lack of challenge by the federal government not only fosters 50 different immigration laws, but also emboldens States and organizations like the ACLU—who believe nobody should be incarcerated OR deported—to craft policy and use the courts to establish new restrictions, confident that they will get no challenge from the federal government.

Court Challenges

The ACLU continues to sue local jails, municipalities, and law enforcement agencies all over the country on a variety of immigration-related issues. They are currently suing us over immigration issues. A case of note from a lower court out of little Clackamas County, Oregon invalidated detainers as amounting to a detention without probable cause. This case was brought by the ACLU. This case is not mandatory law on any other jurisdiction than Clackamas County, yet it had every other Sheriff (because they run corrections) in the country watching what the federal government would do to challenge that decision; to defend the supremacy of the federal government. Their response was nothing. They by deliberate decision did not challenge that court decision, which had the effect of causing every other Sheriff in the country to have to make a painful decision to NOT cooperate with ICE and detainers in any way. As a result, I and most other California sheriffs now do not honor ANY ICE detainers for any reason, because ICE is not allowed to stand with us against any challenge. The result is that almost all undocumented persons that are arrested are released without any scrutiny from ICE at all. Thus, the ACLU has affected national immigration policy with one successful court decision in Oregon, and will continue to do so as long as they are able find jurists willing to engage in judicial activism to effectively change the law, without fear of federal challenge[2].

Immigration law, and necessarily the safety of this country, is eroding at an unprecedented rate and the federal government is a spectator at best, and a willing participant at worst.

THE PROBLEM WILL CONTINUE TO GET WORSE, UNLESS...

- Unless the federal government is willing to challenge actions of the ACLU—who believes that NOBODY should be incarcerated or deported—and advocacy groups, then immigration policy will continue to be established, modified, and promulgated by these groups and not, as it should, by a federal government that exhibits leadership and political courage, despite the possibility that they may receive criticism or lost votes from certain groups.
- Unless the federal government stops capitulating on whether an immigration detainer is a federal law or only a request, the overwhelming majority of deportable aliens will continue to escape both incarceration and removal.

[2] Contrast the federal government's unwillingness to engage in this legal challenge with how fast an appeal was filed for the recent Injunction issued on the President's executive action.

- Unless the federal government is willing to challenge the 50 States' constantly evolving immigration laws and policies by asserting their federal supremacy over the immigration issue, we continue to grow further from a resolution on the immigration crisis and people remain at risk. Of course, this will require the federal government to come up with a plan of their own.
- Unless the Executive Branch by policy and practice is willing to take consistent enforcement action, and request or demand information from DMV's, and local, state, federal and tribal law enforcement agencies, *communities* will continue to be at greater and greater risk. And as long as ICE is unwilling to share status data and criminal history with local law enforcement agencies, *officers* will continue to be at grave risk.
- Unless the federal law enforcement agencies are allowed to stand with their law enforcement partners, local law enforcement agencies will be relegated to standing alone in whatever political winds are blowing in their State or community. As such, they too will become vehicles of the ACLU and other groups on these issues.
- Unless these policies change, we will continue to be an attractive destination for anyone who wishes to enter our country illegally, and we should expect increased numbers of illegal entrances.
- And Unless the federal government changes their posture of turning the other way to illegal immigration, the chances that terroristic elements entering and remaining in our country without record seems a logical certainty.

I remain deeply committed to assisting in this national effort in whatever way I possibly can. Thank you for your time.

Sheriff
Scott Jones

Sacramento County Sheriff's Department

Scott Jones started with the Sacramento County Sheriff's Department in 1989 as a Security Officer at the then-brand new Main Jail. As a deputy, he worked in corrections, patrol, and Legal Affairs. He was assigned as the Department's legal advisor for over seven years. He promoted through the ranks to Sergeant, Lieutenant and finally Captain. He commanded such Bureaus and Divisions as Internal Affairs, Legal Affairs, the Main Jail, and Centralized Investigations Division, and served as an assistant to both the Chief of Corrections and Sheriff McGinness.

Sheriff Jones ran unopposed in 2014 and was reelected sheriff for a 2nd Term. As Sheriff, Scott instituted an annual strategic planning process that prioritizes projects and continues to drive the Department forward. In 2012, he parlayed a federal COPS grant award into a one-of-a-kind multi-jurisdictional, multi-agency gang violence reduction IMPACT Division that has had phenomenal results in youth outreach, reducing gang-related assaults and homicides, and getting weapons off the street.

Sheriff Jones has earned a Bachelor's Degree in Criminal Justice from CSU Sacramento, and a Juris Doctor (Law) degree from Lincoln Law School. He is also a graduate of the West Point Leadership Program.

Sheriff Jones sits on many community and law enforcement boards, including as Vice President of the California Peace Officers Association (CPOA).

In addition to his duties with the Sheriff's Department, Sheriff Jones is also an adjunct professor at both the community college and state college levels, teaching liability and discipline to newly promoted law enforcement supervisors and managers

Sheriff Jones is married to his wife Christy, and they have four children; Alexandria, Sarah, Christopher and Andrew.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name:

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Sheriff, Sacramento County Sheriff's Department

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

Please see attached

I certify that the above information is true and correct.
Signature: Scott Jones Date: 2/23/2015

Cost Center	Grant Number	Description	Grant Amount	Period	Federal	Federal Pass Through	Federal Department	State Department	Grantor
7407474200	EMW-2011-PU-K00	FY2011 Port Security Grant Program*	117,475	04/02/12 - 06/30/14	X		US Dept. of Homeland Security - FEMA		US Dep FEMA
7407474100	EMW-2010-PU-TO-	FY2010 Port Security Grant Program*	301,215	01/19/11 - 09/30/15	X		US Dept. of Homeland Security - FEMA		US Dep FEMA
7407474210	EMW-2012-PU-000	FY2012 Port Security Grant Program*	24,125	09/01/12 - 09/01/14	X		US Dept. of Homeland Security - FEMA		US Dep FEMA
7407474300	#C895611	Boating & Waterways - Equipment Grant	65,000	01/15/14 - 11/30/14	X			State Parks & Recreation	State P
7407474216	EMW-2014-PU-003	Port Security Grant Funding	438,146	9/1/14-08/31/16	X		US Dept. of Homeland Security - FEMA		US Dep FEMA
7407422100	BSCC 528-13	Residential Substance Abuse Treatment (RSAT)*	185,285	07/22/13 - 06/3014	X	X	USDOJ-NIJ	Board of State & Community Corrections	USDOJ
7407422110	BSCC 528-14	Residential Substance Abuse Treatment (RSAT)*	216,800	07/01/14 - 06/3015	X	X	USDOJ-NIJ	Board of State & Community Corrections	USDOJ
7407422200	L13AC00086	Wild Horse Training & Adoption Program(COOPERATIVE AGREEMENT)	163,950	05/30/13 - 09/30/17	X		Federal Bureau of Land Management		Federal Manage
7407422500	2012RVBX0001	Second Chance Act Tech Careers Training	747,057	10/01/12 - 09/30/14	X		USDOJ Office of Justice Programs		USDOJ
7407421000		State Criminal Alien Assistance Program	Varies	07/01/12 - 06/30/13	X		USDOJ - BJA		USDOJ
7407477156	2009CKWX0306	COPS Technology Program	150,000	03/11/09 - 09/10/13	X		DOJ-COPS		DOJ-CO
7407435932	2012-DG-BX-0007	Intellectual Property Enforcement	205,258	10/01/12 - 09/30/13	X		DOJ-Office of Justice Programs		DOJ-Of
7407435914	2010-MC-CX-K003	Internet Crimes Against Children*	983,415	04/01/10 - 09/30/13	X		DOJ-Office of Juvenile Justice		DOJ-Of
7407466900	2010ULWX0006	COPS Hiring Program*	21,382,750	09/01/10 - 02/27/14	X		DOJ-COPS		DOJ-CO
7407435815	2013-MC-FX-K004	Internet Crimes Against Children*	704,385	07/01/13 - 06/30/15	X		DOJ-Office of Juvenile Justice		DOJ-Of
7407466911	2011ULWX0004	COPS Hiring Program*	11,306,450	09/01/11 - 08/31/15	X		DOJ-COPS		DOJ-CO
	2014-00093	Homeland Security - Commlink Equipment	45,180	09/01/14 - 12/31/15	X	X	US Dept. of Homeland Security		US Dep
7407437801	2013-41	Domestic Cannabis Eradication Suppression Prog*	48,000	01/01/13 - 12/31/13	X		USDOJ - Drug Enforcement Admin		USDOJ Admin
7407437800	2014-39	Domestic Cannabis Eradication Suppression Prog*	50,000	01/01/14 - 12/31/14	X		USDOJ - Drug Enforcement Admin		USDOJ Admin

Grants active 2012-present

* Some grants are listed multiple times as we received a different grant award each year.

Mr. DESANTIS. Thank you, Mr. Jones.

The chair now recognizes Jamiel Shaw, Sr., for 5 minutes.

STATEMENT OF JAMIEL SHAW, SR.

Mr. SHAW. Good morning, Chairman DeSantis and Ranking Member Lynch. My name is Jamiel Shaw. My son, Jamiel Andre Shaw II, was murdered by a DREAMer, a DACA recipient, a child brought to this country by no fault of his own. My family's peace and freedom were stolen by an illegal alien from Mexico. He was brought here by his illegal alien parents and allowed to grow up as a wild animal.

Some people believe that if you are brought over by no fault of your own that it makes you a good person. They want us to believe that DREAM Act kids don't murder. I am here to debunk that myth. Kids brought over the border by no fault of their own do kill Americans.

How many Americans killed by illegal aliens are too many? One? Two? Hundred? Thousand? Hundred thousand? Ask any parent whose child was murdered by an illegal alien how many is too many. As one of those parents, I am here to tell you that one is too many.

My son, Jamiel Shaw II, was murdered while walking on his own street. Three houses down from his home, an illegal alien on his third gun charge was visiting a neighbor when my son was coming home. He shot my son in the stomach and then in the head, killing him. Do black lives really matter, or does it matter only if you are shot by a white person or a white policeman?

The district attorney proved in court that my son was murdered because he was black and wearing a Spiderman backpack. Jamiel's mother, Army Sergeant Anita Shaw, who was serving in Iraq fighting for their freedom, called me from Iraq to ask was it true that Jazz was dead. And "Jazz" is the name we call our son, his nickname.

How many other military families have made that same phone call from some foreign land, in disbelief that their sons or daughters have been killed in America by illegal alien invaders? Do military families matter?

DREAM Act kids have turned my family's American Dream into a nightmare. The illegal alien DREAMer that murdered my son only served 4 months of an 8-month sentence for assault with a deadly weapon and battery on a police officer. He was released from the county jail the day before he executed my son.

Why was this violent illegal alien allowed to walk the streets of America instead of being deported? Why was ICE not called to pick up this violent invader? We were promised that the Federal Government would keep us safe from violent illegal aliens. Article IV, section 4 of the U.S. Constitution guarantees us protection against invasion.

I see in here black politicians, black athletes, black stars say, "Hands up, don't shoot." My son was shot in the head by an illegal alien gangbanger while he lay on his back with his hands up. He still shot him through his hand into his head and killed him.

My son thought he could walk down the street and not be murdered by an illegal alien, that he could depend on the government

to secure our borders and keep the bad people out. Yes, black families matter. Yes, military families matter. All families matter. But the duty of the U.S. Government is to always put American families first.

Honorable Chairman—I had a different name, I'm sorry—Honorable Chairman, Ranking Member, today's hearing was called to review the Department of Homeland Security's policies and procedures for the apprehension and detention and release of noncitizens unlawfully present in the United States.

In his November 20, 2014, speech to the Nation on immigration, President Obama said, "If you are a criminal, you'll be deported. If you plan to enter the U.S. illegally, your chances of getting caught and sent back just went up." The President said he wanted to work with both parties to pass a more permanent legislative solution.

The President also said, "And to those Members of Congress who question my authority to make our immigration system work better or question the wisdom of me acting where Congress has failed, I have one answer: Pass a bill."

In three of the past four Congresses, Representative Walter Jones has introduced the Illegal Alien Crime Reporting Act, which would address many of the issues this hearing was called to discuss, but could never get a hearing. In the 113th Congress, Representative Jones renamed the bill after my son, H.R. 1888, the Jamiel Shaw, Jr., Memorial Act of 2013. It never got a hearing.

As we sit here today, I offer for consideration H.R. 1041, Jamiel Shaw II Memorial Act of 2015. It is only two pages long but chops at the root of the problem.

Until the FBI is allowed to track and report illegal alien crime, it is doubtful that the American people will understand how severe the problem of violent illegal alien crime is.

I doubt any 10 people would define "comprehensive immigration reform" the same way, but I can assure you that what we really need is comprehensive immigration enforcement, secure borders and ports of entry, and the oversight of Congress to ensure that America and American families are job one.

Thank you, and I welcome your questions.

[Prepared Statement of Mr. Shaw follows:]

The Jamiel Shaw, II Memorial Act of 2015

(Formerly the Illegal Alien Crime Reporting Act)

THE TIME HAS COME FOR THIS BILL TO GET HEARINGS AND A VOTE!

It is time to defend America's children!

H.R. 1641

~~PENDING~~ — 114th Congress (2015-2016)

Jamiel Shaw, II Memorial Act of 2015

Sponsor: Rep. Jones, Walter B., Jr. [R-NC-3] (Introduced 02/2X/2015)
Committees: House - Homeland Security, Judiciary

H.R.1888 — 113th Congress (2013-2014)

Jamiel Shaw, Jr. Memorial Act of 2013

Sponsor: Rep. Jones, Walter B., Jr. [R-NC-3] (Introduced 05/08/2013)
Committees: House - Homeland Security, Judiciary

H.R.3168 — 112th Congress (2011-2012)

Illegal Alien Crime Reporting Act of 2011

Sponsor: Rep. Jones, Walter B., Jr. [R-NC-3] (Introduced 10/12/2011)
Committees: House - Homeland Security, Judiciary

H.R.150 — 111th Congress (2009-2010)

Illegal Alien Crime Reporting Act of 2009

Sponsor: Rep. Jones, Walter B., Jr. [R-NC-3] (Introduced 01/06/2009)
Committees: House - Homeland Security, Judiciary

H.R.6192 — 110th Congress (2007-2008)

Illegal Alien Crime Reporting Act of 2008

Sponsor: Rep. Jones, Walter B., Jr. [R-NC-3] (Introduced 06/05/2008)
Committees: House - Homeland Security, Judiciary

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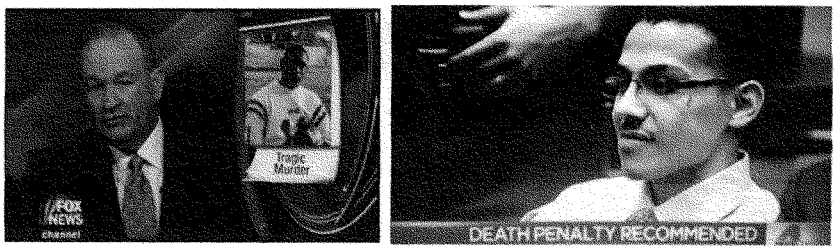
FIRECoalition.com OperationBodyCount.com WeHireAliens.com

Amnesty and Failed Immigration Law Enforcement: For Whom the Bill Tolls

(Left) Jamiel Andre Shaw, Jr., 17. just months before being murdered by Pedro Espinoza, an illegal alien gangbanger with a violent criminal past. (Right) Some of Jamiel Shaw, Jr's many trophies and awards.

(Left) Jamiel Shaw, Sr. and Army Sgt. Anita Shaw at a press conference following Pedro Espinoza's conviction for the 1st Degree murder of Jamiel Shaw, Jr. (Right) Jamiel Shaw, Sr. speaks at Nov. 03, 2011 Press Conference on Capitol Hill, in support of Rep. Steve King's National Day of Remembrance Resolution for Victims of Illegal Alien Crime, and Rep. Walter Jones' Illegal Alien Crime Reporting Act.



(Left) Bill O'Reilly covers the story in 2008. http://www.youtube.com/watch?v=A3iR7GUahcA (Right) Pedro Espinoza smirks at 1st Degree Murder Conviction. http://www.youtube.com/watch?v=Z_CZ5wKMcNA

View this letter online and download here: http://firecoalition.com/docs/Defend-Americas-Children.pdf

JamielsLaw.com ***BlogtalkRadio.com/JamielsLaw***

FIRECoalition.com ***OperationBodyCount.com*** ***WeHireAliens.com***

Testimony to U.S. House Committee on Oversight and Government Reform
Hearing on: *"A Review of the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States"*
Jamiel Shaw, Sr., Wednesday, February 25, 2015

Chairman Chaffetz, Ranking Member Cummings, my name is Jamiel Shaw. My son, Jamiel A. Shaw, II was murdered by a "dreamer" DACA recipient, a child brought to this country by no fault of his own.

My family's peace and freedom were stolen by an illegal alien from Mexico. He was brought here by his illegal alien parents and allowed to grow up as a wild animal.

Some people believe that if you are brought over by no fault of your own, that it makes you a good person. They want us to believe that Dream Act kids don't murder. I am here to debunk that myth.

Kids brought over the border by no fault of their own do kill Americans. How many Americans killed by illegal aliens are too many... one, two, a hundred, a thousand, a hundred thousand?

Ask any parent whose child was murdered by an illegal alien how many is too many. As one of those parents, I am here to tell you that one is too many.

My son, Jamiel Shaw, II was murdered while walking on his own street, three houses down from his home. An illegal alien, on his third gun charge, was visiting a neighbor when my son was coming home. He shot my son in the stomach, and then in the head, killing him.

Do black lives really matter, or does it matter only if you are shot by a white person, or a white policeman? The district attorney proved in court that my son was murdered because he was black and wearing a Spiderman back pack.

Jamiel's mother, Army Sgt. Anita Shaw, who was serving in Iraq fighting for their freedom, called me from Iraq to ask was it true that Jas was dead.

How many other military families have made that same phone call from some foreign land, in disbelief that their sons or daughters have been killed in America by illegal alien invaders? Do military families matter?

Dream Act kids have turned my family's American Dream into a nightmare.

The illegal alien dreamer that murdered my son only served four months of an eight month sentence for assault with a deadly weapon and battery on a police officer. He was released from the county jail the day before he executed my son. Why was this violent illegal alien allowed to walk the streets of America instead of being deported?

Why was ICE not called to pick up this violent invader? We were promised that the federal government would keep us safe from violent illegal aliens. Article IV, Section 4 of the U.S. Constitution guarantees us *"protection against invasion."*

I see and hear black politicians, black athletes, black stars say "Hands up; don't shoot!" My son was shot in the head by an illegal alien gangbanger while he lay on his back with his hands up. He still shot him through his hand into his head and killed him.

My son thought he could walk down the street and not be murdered by an illegal alien, that he could depend on the government to secure our borders and keep the bad people out.

Yes, black families matter. Yes, military families matter. All families matter, but the duty of the U.S. government is to always put American families first.

Honorable Chairman Chaffetz, Ranking Member Cummings, today's hearing was called to review "the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States."

In his November 20, 2014 speech to the nation on immigration, President Obama said, *"If you're a criminal, you'll be deported. If you plan to enter the U.S. illegally, your chances of getting caught and sent back just went up."*

The President said he wanted *"to work with both parties to pass a more permanent legislative solution."*

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The President also said, *"And to those members of Congress who question my authority to make our immigration system work better, or question the wisdom of me acting where Congress has failed, I have one answer: Pass a bill."*

In three of the past four congresses, Rep. Walter Jones has introduced the "Illegal Alien Crime Reporting Act," which would address many of the issues this hearing was called to discuss, but could never get a hearing.

In the 113th Congress, Rep. Jones renamed the bill after my son. H.R. 1888, the "Jamiel Shaw, Jr. Memorial Act of 2013" never got a hearing.

As we sit here today, I offer for your consideration the "Jamiel Shaw, II Memorial Act of 2015" for which the bill number is expected soon, quite possibly today. It is only two pages long but chops at the root of the problem. Until the FBI is allowed to track and report illegal alien crime, it is doubtful that the American people will understand how severe the problem of violent illegal alien crime is.

I doubt any ten people would define "comprehensive immigration reform" the same way, but I can assure you that what we really need is comprehensive immigration enforcement, secure borders and ports of entry, and the oversight of Congress to ensure that America and America's families are job one.

Thank you, and I welcome your questions.

Jamiel A. Shaw
JamielsLaw.com

Learn more at the links below and on the FIRE Coalition Blog: http://blog.firecoalition.com

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JamielsLaw.com BlogtalkRadio.com/JamielsLaw
FIRECoalition.com OperationBodyCount.com WeHireAliens.com

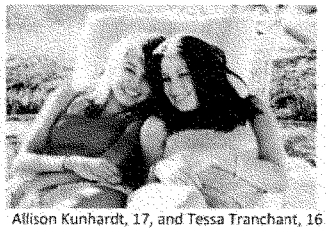
The Jamiel Shaw, II Memorial Act of 2015

(Formerly the Illegal Alien Crime Reporting Act)

Dear Colleague:

I am writing to bring the issue of illegal alien crime to your attention. Crimes committed by illegal aliens in recent years have been at the forefront of our national media. One of the most notorious of these crimes is the murder of Jamiel Shaw, II. Jamiel was a star athlete and scholar in Los Angeles who was gunned down outside of his home by an illegal alien gang member in a senseless act of violence. Similarly, in Virginia Beach teenage friends Tessa Tranchant and Alison Kunhardt were killed by an intoxicated illegal immigrant whose car plowed into their car as they waited for the light to change at an intersection.

Jamiel Shaw, II, 17


Allison Kunhardt, 17, and Tessa Tranchant, 16

While crimes like these occur all over the country, the public has no way of knowing the extent of the problem because the federal government does not report statistics on illegal alien crimes.
The Jamiel Shaw, II Memorial Act would change this by:

- Requiring states to submit in-depth statistics on illegal alien crime activity in order to receive Department of Homeland Security (DHS) funding; and
- Requiring all federal agencies to submit data on illegal alien crime activity; and
- Requiring the Federal Bureau of Investigation (FBI) to compile this information and produce an annual publication—similar to its existing Uniform Crime Report—that provides detailed statistics on illegal alien crime activity.

I invite you to join me in cosponsoring The Jamiel Shaw, II Memorial Act of 2015.

Please contact Bradley Ryon (bradley.ryon@mail.house.gov or 5-3415) in my office with any questions or to become a cosponsor.

Sincerely,

Walter B. Jones
Member of Congress

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Jamiel Shaw, Sr. Testimony to U.S. House Committee on Oversight and Government Reform Hearing on: *"A Review of the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States"* Wednesday, February 25, 2015

The illegal alien dreamer that murdered my son only served four months of an eight month sentence for assault with a deadly weapon and battery on a police officer. He was released from the county jail the day before he executed my son. Why was this violent illegal alien allowed to walk the streets of America instead of being deported?

Why was ICE not called to pick up this violent invader? We were promised that the federal government would keep us safe from violent illegal aliens. Article IV, Section 4 of the U.S. Constitution guarantees us *"protection against invasion."*

I see and hear black politicians, black athletes, black stars say "Hands up; don't shoot!" My son was shot in the head by an illegal alien gangbanger while he lay on his back with his hands up. He still shot him through his hand into his head and killed him.

My son thought he could walk down the street and not be murdered by an illegal alien, that he could depend on the government to secure our borders and keep the bad people out.

Yes, black families matter. Yes, military families matter. All families matter, but the duty of the U.S. government is to always put American families first.

Honorable Chairman Chaffetz, Ranking Member Cummings, today's hearing was called to review "the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States."

In his November 20, 2014 speech to the nation on immigration, President Obama said, *"If you're a criminal, you'll be deported. If you plan to enter the U.S. illegally, your chances of getting caught and sent back just went up."*

The President said he wanted *"to work with both parties to pass a more permanent legislative solution."*

The President also said, *"And to those members of Congress who question my authority to make our immigration system work better, or question the wisdom of me acting where Congress has failed, I have one answer: Pass a bill."*

View this letter online and download here: http://firecoalition.com/docs/Jamiel-Shaw-Testimony.pdf
JamielsLaw.com BlogtalkRadio.com/JamielsLaw

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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R. 1041

To make payments by the Department of Homeland Security to a State contingent on a State providing the Federal Bureau of Investigation with certain statistics, to require Federal agencies, departments, and courts to provide such statistics to the Federal Bureau of Investigation, and to require the Federal Bureau of Investigation to publish such statistics.

IN THE HOUSE OF REPRESENTATIVES

Mr. JONES introduced the following bill; which was referred to the Committee on _____

A BILL

To make payments by the Department of Homeland Security to a State contingent on a State providing the Federal Bureau of Investigation with certain statistics, to require Federal agencies, departments, and courts to provide such statistics to the Federal Bureau of Investigation, and to require the Federal Bureau of Investigation to publish such statistics.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Jamiel Shaw, II Memo-
3 rial Act of 2015".

4 **SEC. 2. PAYMENTS BY THE DEPARTMENT OF HOMELAND**
5 **SECURITY CONTINGENT ON STATE IMMIGRA-**
6 **TION REPORTING.**

7 (a) IN GENERAL.—A State or any political subdivi-
8 sion thereof may not receive funds under any program or
9 activity administered by the Department of Homeland Se-
10 curity unless the State—

11 (1) for each person who is arrested, charged
12 with a crime, convicted of a crime, or incarcerated
13 after being convicted of a crime by the State or any
14 political subdivision thereof, compiles statistics on
15 such person, including—

16 (A) the immigration status of such person;

17 (B) the country of origin of such person;
18 and

19 (C) the crime associated with such arrest,
20 charge, conviction, or incarceration after convic-
21 tion;

22 (2) reports such statistics monthly to the Fed-
23 eral Bureau of Investigation; and

24 (3) monthly certifies compliance with para-
25 graphs (1) and (2) to the Secretary of Homeland
26 Security.

1 (b) EFFECTIVE DATE.—This section shall take effect
2 with respect to funds made available under a program or
3 activity administered by the Department of Homeland Se-
4 curity for fiscal years beginning on or after October 1,
5 2015.

6 **SEC. 3. FEDERAL IMMIGRATION REPORTING REQUIRE-**
7 **MENT.**

8 (a) IN GENERAL.—Each Federal agency and depart-
9 ment shall—
10 (1) for any person such agency or department
11 arrests, charges with a crime, prosecutes to convic-
12 tion of a crime, or incarcerates after conviction of a
13 crime, compile statistics on such person, including—
14 (A) the immigration status of such person;
15 (B) the country of origin of such person;
16 and
17 (C) the crime associated with such arrest,
18 charge, conviction, or incarceration after convic-
19 tion; and
20 (2) report such statistics monthly to the Fed-
21 eral Bureau of Investigation.
22 (b) EFFECTIVE DATE.—This section shall take effect
23 with respect to any person arrested, charged with a crime,
24 prosecuted to conviction of a crime, or incarcerated after

1 conviction of a crime by a Federal agency or department
2 on or after October 1, 2015.

3 **SEC. 4. STATISTICS TO BE PUBLISHED.**

4 The Federal Bureau of Investigation shall annually
5 publish all statistics reported under this Act as a separate
6 data collection of the Uniform Crime Reports issued by
7 such Bureau.

8 **SEC. 5. DEFINITION.**

9 In this Act, the term "crime" means an offense listed
10 in Table 4 of the Uniform Crime Report of the Federal
11 Bureau of Investigation, issued pursuant to section 534(a)
12 of title 28, United States Code.

Mr. DESANTIS. Thank you, Mr. Shaw, for your testimony.

The chair now recognizes Mr. Ronnebeck for 5 minutes.

STATEMENT OF MICHAEL RONNEBECK

Mr. RONNEBECK. Thank you.

Good morning, distinguished committee members. My name is Michael Ronnebeck. I am here on behalf of the Ronnebeck family. I'd like to tell you about my nephew Grant Ronnebeck.

Grant was a 21-year-old son, brother, nephew, and grandson. He was a bright young man with an infectious smile and a love of life. He had a positive outlook on life, and everyone he met knew it.

As a 21-year-old American, he was just starting out in life—starting out to realize his dreams, starting to follow his heart in manners of career choices, and just discovering his life choices. His desire was to work his way up at the job he loved, working for the QuikTrip Corporation, as he had for the previous 5 years, or, possibly later, to become a member of the law enforcement community.

He loved four-wheeling in the desert around his home near Mesa, Arizona, and spending time with friends and family watching the Broncos play during the football season. He was a pretty typical young American man, but to us he was a very special family and community member.

At 4 a.m. On June 22, 2015, while working the overnight shift at his QuikTrip store, Grant assisted a man buying cigarettes. The man dumped a jar of coins on the counter and demanded cigarettes. Grant tried explaining that he needed to count the coins before he could give the man the cigarettes. The man then pulled the gun and Stated, "You're not going to take my money, and you're not going to give me my cigarettes." Grant immediately offered up the cigarettes to the man, who shot him in the face, killing him.

Seemingly unaffected and callously, the man stepped over Grant's body, grabbed a couple of packs of cigarettes, and then left the store. After a 30-minute high-speed chase through the streets of Mesa and Phoenix, Arizona, the man was taken into custody. Inside his car were the cigarettes, at least two handguns, and shell casings from the 9-millimeter handgun believed to have been used to kill Grant.

Apolinar Altamirano, the alleged murderer, is an illegal immigrant. According to a news article detailing his 2012 arrest, he's a self-proclaimed member of the Mexican mafia and says he has ties to the Sinaloa drug cartel.

The news article States that in August 2012 he was arrested with two others after kidnapping, sexual assaulting, and burglarizing a woman in her apartment. He took a plea deal and pled guilty to a charge of felony burglary for that incident. He was sentenced to 2 years' probation and turned over to the Immigration and Customs Enforcement agency due to his undocumented status in the United States. He never served time in custody. The Immigration and Customs Enforcement agency released the now-convicted felon, Altamirano, on bond pending a deportation hearing.

In the 2 years since then, while awaiting his deportation hearing, Altamirano has had two orders of protection filed against him, including one from a woman who claimed he threatened to kill her and pointed a gun at her boyfriend. The Immigration and Customs

Enforcement agency was notified of the protection orders by a Mesa superior court judge. Altamirano was still allowed to be free in our country.

Your peer Representative Matt Salmon said it clearly in a colleague letter to you. "I believe there is simply no excuse for ICE to be releasing individuals like this back onto our streets to endanger and kill hardworking Americans." I have to agree with Mr. Salmon's assessment; my family also agrees with Mr. Salmon. ICE should be doing its job for the American people with the American people's safety and security first and foremost in mind.

It is my family's greatest desire that Grant's legacy will be more than a fading obituary, a cemetery plot, or a fond memory. Instead, we want Grant's death to be a force for change and reform the immigration policies of this great Nation.

In closing, I am asking you, our elected scholars, lawyers, and community leaders, to make these changes, to rise above your political differences, to set aside your personal interests, and to use your resources to make sensible immigration reform a reality in the coming months so that tragedies like this may not occur again.

Thank you.

[Prepared Statement of Mr. Ronnebeck follows:]

Congressional Testimony – A Review of the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention and Release of Non-Citizens Unlawfully Present in the United States
February 25, 2015 –
Delivered by Michael Ronnebeck for the Ronnebeck Family

Good morning Distinguished Committee members,

My name is Michael Ronnebeck.
I am here on behalf of the Ronnebeck Family.
I'd like to tell you about my nephew, Grant Ronnebeck.
Grant was a 21 year old son, brother, nephew, and grandson. He was a bright young man, with an infectious smile and love of life. He had a positive outlook on life, and everyone he met knew it.
As a 21 year old American, he was just starting out in life; starting out to realize his dreams, starting to follow his heart in manners of career choices, and just discovering his life choices. His desire was to work his way up at the job he loved, working for the QuikTrip Corporation as he had for the previous 5 years, or possibly later to become a member of the law enforcement community.
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"I believe there is simply no excuse for ICE to be releasing individuals like this back onto our streets to endanger and kill hardworking Americans."
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In closing, I am asking you, our elected scholars, lawyers, and community leaders, to make these changes; to rise above your political differences, to set aside your personal interests, and to use your resources to make sensible immigration reform a reality in the coming months, so that tragedies like this might not ever occur again.

Biography – Michael Ronnebeck

Michael Ronnebeck is a 52 year old United States citizen who currently resides in Sacramento California. He attended Hillsdale High School in San Mateo, California, and studied Administration of Justice at San Jose State University in San Jose, California

Michael has worked in the Retail Loss Prevention Profession for the past 30+ years for companies such as Neiman Marcus, and Target Corporation and has been involved in thousands of criminal apprehensions and investigations.
He is also an aspiring Photographer.

Michael is testifying today for his nephew, Grant Ronnebeck (March 28, 1993-January 22, 2015)
And on behalf of his immediate family.

Michael has two sisters, Judy Ronnebeck, and Karen Morreira.
Judy is a retired member of the Law Enforcement Community who lives in Escondido California
Karen is a Banking manager who lives in Flower Mound Texas

Michael has two brothers, Steven and Eric.
Steven is a retail manager and is Grant's father. He lives in Mesa, Arizona. He is also father to Grants younger brother, Tyler Ronnebeck
Eric is a blogger, and writer living in Seattle Washington.

Michael's mother is Barbara Jones, who is a loving mother and grandmother living in Escondido California.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name: Michael Ronnebeck

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None -

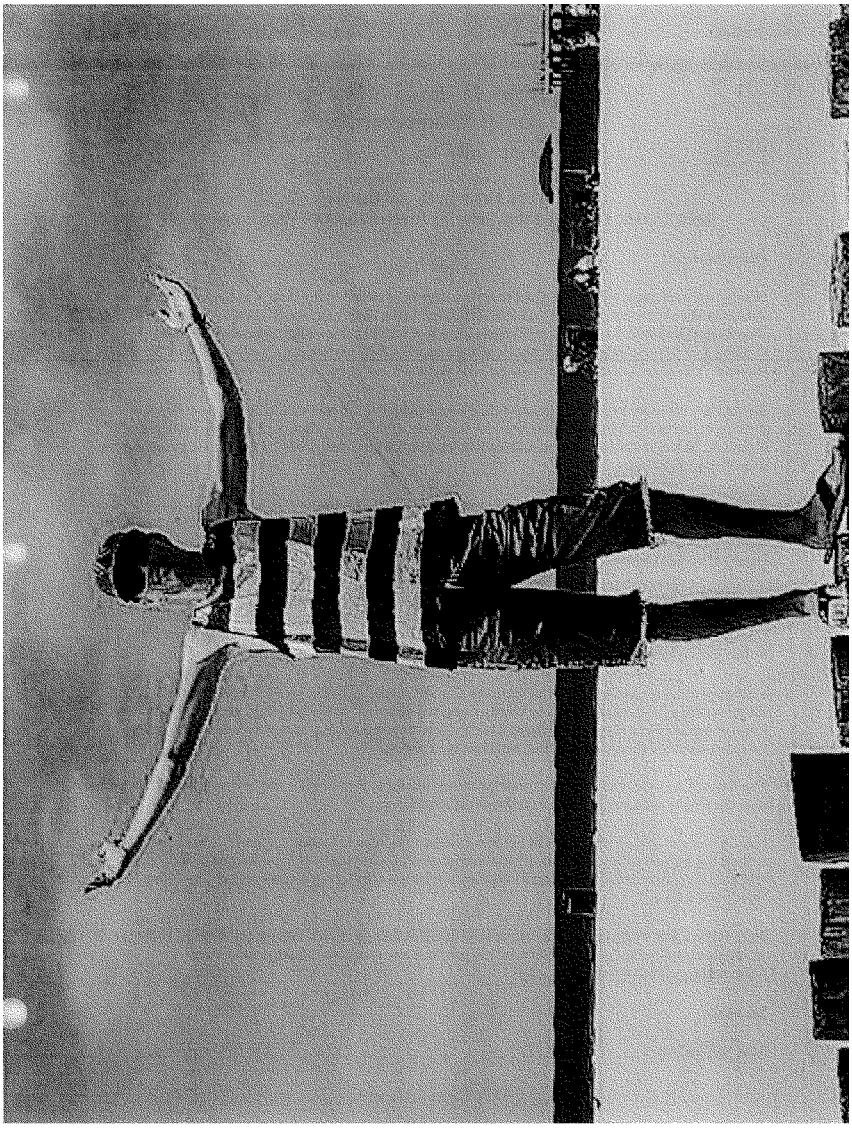
2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

None -

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None -

I certify that the above information is true and correct.
Signature: [signature] Date: 2/22/2015



Mr. DESANTIS. Thank you, Mr. Ronnebeck.

The chair now recognizes Ms. Vaughan for 5 minutes.

STATEMENT OF JESSICA M. VAUGHAN

Ms. VAUGHAN. Good morning. And thank you for the opportunity to testify.

There can be no doubt that immigration enforcement is in a State of collapse. Even as the number of new illegal arrivals is going up, the number of deportations is going down. And many of those apprehended are released, and their cases are funneled onto the dockets of the dysfunctional immigration courts, with hearings put off for years into the future, enabling them to remain and work here, with the expectation that they may eventually someday be given legal status.

Today, the vast majority of illegal aliens residing here face no threat of deportation regardless of when or how they arrived, even if they are arrested and, now, even if they have been deported before. It's no exaggeration to say that, under the Obama Administration, the Department of Homeland Security is running a giant catch-and-release program.

This is not because of lack of resources or flaws in the law or because there are fewer illegal immigrants. It is the result of calculated policy choices made by the Obama Administration aimed at dismantling the immigration enforcement system.

We can trace this to two types of policy changes: first, a so-called prioritization scheme that shields from enforcement all but the most egregious criminals and immigration violators.

And it's one thing to say that these are the priorities, but, at the same time, the administration has abandoned important tools that enable ICE officers, agents, and attorneys to do their job in an efficient and cost-effective manner. Among the tools that have been abandoned: detainers, which enable ICE officers to take custody of aliens who have been arrested by local law enforcement agencies; accelerated forms of due process, which avoid the need for long, drawn-out proceedings in the clogged immigration courts; and partnerships with local law enforcement agencies to identify and remove criminal aliens in jurisdictions where ICE can't cover its workload.

The drop in enforcement activity had become particularly acute since the President's controversial Executive actions were announced in November, which spelled out new restrictions on enforcement. We are told that these policies are smarter and more effective, but, in fact, they impose enormous costs on American communities—not just distorted labor markets and higher tax bills for social welfare benefits but, more specifically, a real and present threat to the public safety from criminal aliens that ICE officers are told to release instead of detain and remove. ICE's mandated over-focus on processing only the worst of the worst criminal aliens means that too many of the worst deportable criminal aliens are still at large in our communities.

Anyone who claims that immigration enforcement today is robust, effective, or record-setting is massaging statistics, making apples-to-oranges comparisons, or citing numbers from programs that have been discontinued, like Operation Streamline. The true State

of enforcement is plainly evident in Department of Homeland Security's own statistics and can also be discerned by listening to career DHS personnel and local law enforcement agencies.

Let's review just a few metrics. Border apprehensions, which are considered an indicator of illegal crossing attempts, have risen by more than 40 percent since 2011. This is mainly due to the surge of new illegal family and juvenile arrivals in south Texas. But apprehensions don't tell the whole story. Nearly all of these arrivals have been and are still being released into the country, usually to join family, instead of repatriated.

The number of overall deportations—and that means all deportations, not just removals—by all three enforcement agencies has declined by nearly 40 percent since 2009. This is the lowest number since 1973. Deportations from the interior have dropped even more, 58 percent, since the peak in 2009.

While Obama Administration officials claim that their policy changes have improved public safety by allowing ICE to focus on criminal aliens, in fact, the number of criminal aliens deported from the interior has declined by 43 percent since 2012. This has occurred despite increases in the number of criminal aliens identified by ICE as a result of Secure Communities.

ICE is doing less enforcement with more resources than ever before, as officers are forced to take a pass on hundreds of thousands of deportable aliens that are brought to their attention, usually after a local arrest.

As of mid-January 2015, there were 167,527 convicted criminal aliens on ICE's docket who had received final orders of removal but who had not departed and were at large in the United States after release by ICE and a similar number who are in pending deportation proceedings. Meanwhile, ICE is not using detention capacity that is provided to it each year by Congress.

Allowing so many deportable aliens, especially criminal aliens, to remain at large in our communities means what little effort the government makes to deport them is ultimately not successful. And the main reason for that is because many of the aliens who are released instead of kept in custody simply don't comply if they are not detained. And there's a human cost to these policies.

Congress is not helpless in the face of the President's abuse of authority. One of the most urgent tasks now before them is to restore integrity to our immigration laws by ending this massive catch-and-release scheme that wastes government resources and endangers the public.

Thank you.

[Prepared Statement of Ms. Vaughan follows:]

A Review of the Department of Homeland Security Policies and Procedures for the Apprehension, Detention and Release of Non-Citizens Unlawfully Present in the United States
U.S. House Committee on Oversight and Government Reform
Subcommittees on National Security and Health Care, Benefits and Administrative Rules
February 25, 2015

Statement of Jessica M. Vaughan
Center for Immigration Studies

Thank you, Chairmen DeSantis and Jordan and Ranking Members Lynch and Cartwright, for the opportunity to testify. There can be no doubt that immigration enforcement is in a state of collapse. Border apprehensions, which are considered an indicator of illegal crossing attempts, are rising and many of the illegal crossers are being released into the country instead of repatriated. Hundreds of thousands of temporary visitors are overstaying their visas each year. Department of Homeland Security (DHS) statistics show clearly that over the last several years the number of deportations has plummeted and the number of illegal aliens allowed to stay and work in the United States has increased. The vast majority of illegal aliens residing in the interior face no threat of deportation, regardless of when or how they arrived, or if they have been deported before.Many deportable aliens who are encountered and apprehended by Immigration and Customs Enforcement (ICE) officers are released soon after, even if they have come to ICE's attention after being arrested by local authorities.

This state of affairs can be traced directly to policy changes put in place by the Obama administration. While administration officials claims that these policies are "smarter and more effective" and allow the agencies to better focus on aliens who represent a threat to the public, in reality the intent, and certainly the result, has been the dismantlement of effective enforcement. It is no exaggeration to say that DHS is running a massive catch and release program.

These downward trends are due to two types of policy changes: first, a so-called "prioritization" scheme that shields from enforcement all but the most egregious criminals and immigration violators, and second, the abandonment of important tools that enable ICE officers, agents and attorneys to do their job in an efficient and cost-effective manner. Among the tools that have been abandoned by the agencies: 1) detainers, which enable ICE officers to take custody of aliens who have been arrested by local law enforcement agencies; 2) accelerated forms of due process that avoid the need for long, drawn out proceedings in the clogged immigration courts; and 3) partnerships with local law enforcement agencies to identify and remove criminal aliens in jurisdictions where ICE cannot cover its workload.

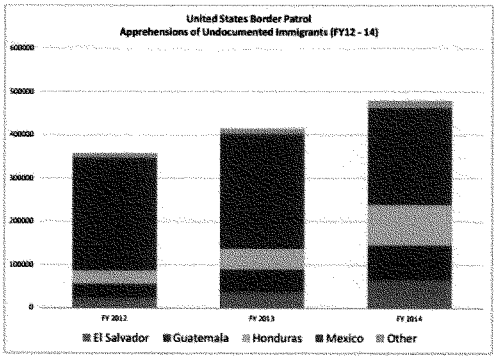
The drop in enforcement activity has become particularly acute since President Obama's controversial executive actions were announced on November 20, 2014. These included two new policy memoranda spelling out new restrictions on immigration enforcement, with the effect that only narrow classes of illegal aliens – primarily those convicted of the most serious crimes and new arrivals who lack family or community ties in the United States – would be subject to arrest, questioning, detention, or immigration charges, and that any immigration infractions in prior years, such as apprehensions, deportations, or skipping a court date, would be ignored.

These policies impose enormous costs on American communities -- not just the distorted labor markets and higher tax bills for social welfare benefits that result from uncontrolled illegal immigration, but more specifically, a real and present threat to public safety from criminal aliens that ICE officers are told to release instead of detain and remove. ICE's mandated over-focus on processing only the "worst of the worst" criminal aliens means that too many of "the worst" deportable criminal aliens are still at large in our communities. One of

the most urgent tasks now before Congress is to restore integrity to our immigration laws by ending this massive catch and release scheme that wastes government resources and endangers the public.

Enforcement at the Border. Since 2011, the number of illegal crossers apprehended by the Border Patrol has increased by 43 percent, from 340,000 to 487,000.[1]It is generally believed that border apprehensions are an indicator of the number of attempted illegal border crossings, and that approximately half of those who attempt illegal entry are successful. U.S. Customs and Border Protection (CBP) states that "The uptick is largely due to the increase in unaccompanied children and family units who turned themselves in to Border Patrol agents in South Texas this summer." These cases totaled 137,000 in 2014 alone.

Although DHS Secretary Jeh Johnson recently stated that illegal border crossings are at their "lowest level in years,"[2] the agency's own statistics plainly contradict his claims:



The apprehensions statistics are concerning enough, but they do not tell the whole story. DHS has yet to fully disclose how all these cases have been handled – that is, how many of those apprehended were removed or returned, and how many were released into the United States? Of those released, how many have concluded their immigration proceedings or absconded from those proceedings?

Other government statistics show thata large number of the new illegal arrivals were allowed to stay in the United States indefinitely. Only a few hundred of the Central American families and unaccompanied juveniles who arrived in recent years have been repatriated.[3]

Given this powerful incentive of a strong likelihood of being allowed to stay, it is not surprising that the surge of juveniles continues. According to ICE records, since the start of the fiscal year in October 2014,

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[1] John F. Simanski, *Immigration Enforcement Actions: 2013*, Department of Homeland Security, http://www.dhs.gov/sites/default/files/publications/ois_enforcement_ar_2013.pdf and the "CBP Border Security Report, Fiscal Year 2014," published by U.S. Customs and Border Protection.

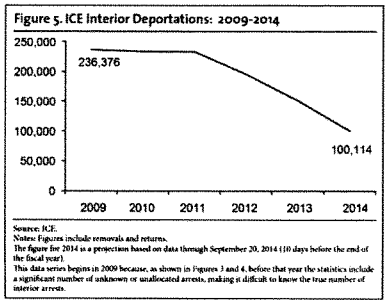
[2] DHS Secretary Jeh Johnson, quoted in the *Washington Post*, February 17, 2014, http://www.washingtonpost.com/blogs/federal-eye/wp/2015/02/17/dhs-chief-we-fully-expect-to-prevail-in-the-courts-with-immigration/.

[3]Testimony of Jessica M. Vaughan, House Immigration subcommittee, December 10, 2014, http://cis.org/node/5796.

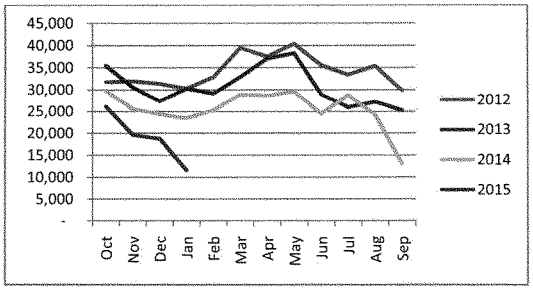
apprehensions of unaccompanied juveniles at the border have continued at the pace of about 2,000 per month.This pace is below 2014, but still nearly double the level of 2013 and triple the level of earlier years. Meanwhile, ICE removes fewer than 200 aliens classified as juveniles per month, and a large share of these are actually adults who were apprehended as minors years ago.[4]

Notwithstanding claims by Obama administration allies of "record" deportations under this administration, in fact, according to DHS statistics, the total number deportations (removals and returns) by all three DHS immigration enforcement agencies (Border Patrol, ICE and CBP-OFO) have declined by 37 percent since 2009, from 978,000 to 616,000. This has occurred despite an increasing number of apprehensions and continuing high overstay arrivals.[5]

Interior Enforcement Trends. The number of ICE deportations from the interior has dropped 58 percent since the peak in 2009, from 236,000 to 102,000 in 2014.[6]



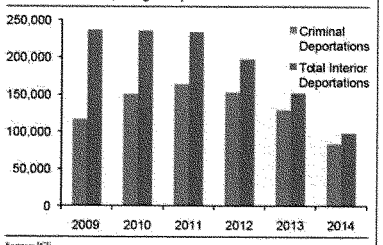
Monthly Deportations by ICE Through Mid-January, 2015



[4] ICE statistics on Unaccompanied Alien Children booked into ICE custody, obtained by the author.
[5]DHS Office of Immigration Statistics, http://www.dhs.gov/immigration-statistics?utm_source=frequent_page&utm_medium=web&utm_campaign=dhs_frp.
[6] Jessica M. Vaughan, "ICE Enforcement Collapses Further in 2014," Center for Immigration Studies, http://cis.org/ICE-Enforcement-Collapses-Further-2014.

Criminal Deportations. While Obama administration officials claim that their policy changes have improved public safety by allowing ICE to focus its limited resources on the removal of criminal aliens, in fact the number of criminal aliens deported from the interior has declined by 43 percent since 2012, from 153,000 to 87,000. This has occurred despite increases in the number of criminal aliens identified by ICE, largely due to the nationwide implementation of the Secure Communities program, which screens the fingerprints of aliens arrested by local law enforcement agencies. (This hugely successful program, which was tremendously popular with local law enforcement agencies, was dismantled by the President's November 20 executive actions.)

Figure 6. Criminal Alien Deportations from the Interior, 2009-2014

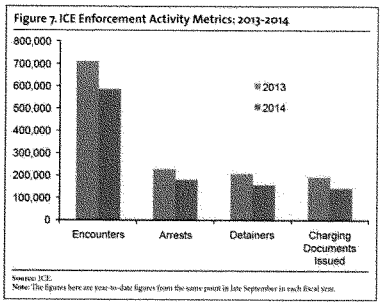


Source: ICE.
Notes: These figures include both removals and returns.
The figures for 2014 are through September 20, 2014, which is 10 days short of the end of the fiscal year.
The data series begins in 2009 because prior to that year the figures included a significant number for which the arresting program was not specified, possibly skewing the proportion of border and interior arrests.

ICE Metrics. An examination of internal ICE enforcement metrics illustrates in more detail how interior enforcement activity has declined, and clearly reflects the appropriateness of the "catch and release" description. All of the significant metrics of enforcement activity tracked by ICE – encounters, arrests, detainers and charging documents issued -- show declines in recent years. The key indicator here is the gap between the number of encounters reported by ICE officers and the number of enforcement actions they initiate. While there are some duplicate individuals in these figures, there can be no question that ICE is taking a pass on hundreds of thousands of deportable aliens that are brought to their attention, and most of these are referred to ICE after a local arrest. In 2014, deportation processing was initiated for approximately 143,000 aliens out of the 585,000 aliens encountered by ICE agents. This gap between encounters and enforcement actions initiated can only be interpreted one way: ICE officers walked away from more than two out of every three illegal aliens they came across—presumably because these aliens didn't meet the administration's priorities for "keepers" even though they were already at the cusp of arrest. Tens of thousands of those let go had been labeled a criminal threat.[7]

ICE officers have told me that since the administration's policies of prosecutorial discretion were expanded, they are allowed to process only a small fraction of the number of aliens that they used to handle. One recently told me that his office used to process as many as 100 aliens per day but, since the president's executive actions went into effect, now they are processing fewer than five to 10 aliens per day, with the same staff and budget – meaning the government is spending perhaps 20 times more in resources to deport each alien than was the case before. This reality suggests that the president's executive actions were less about prioritizing cases to make best use of scarce resources and more about protecting illegal aliens.

[7]Ibid.



Criminal Releases. When ICE declines to take action against criminal aliens,that means they are released back into American communities. This is not a small problem. In 2013, ICE released 36,007 convicted criminal aliens from its custody.[8] Of these, 193 had homicide convictions, 426 had sexual assault convictions, and 303 had kidnapping convictions. As of September, 2014, 5,700 of them (16 percent) had been arrested again for subsequent offenses, and 1,000 have been again convicted. ICE has taken only 1,600 back into custody.[9]

In 2014, ICE released another 30,000 convicted criminal aliens.[10]

As of mid-January 2015, there were 167,527 convicted criminal aliens on ICE's docket who had received final orders of removal, but who had not departed and were at large in the United States after release by ICE.

In addition, there were 177, 852 convicted criminals with pending deportation proceedings who were at large in the United States, released by ICE.[11]

Many convicted criminal aliens are allowed to walk out of ICE custody without being enrolled in a program of supervision. For example, ICE officer report that fewer criminal aliens are being enrolled in the Intensive Supervision Appearance Program (ISAP), in which the offender wears an electronic monitoring bracelet and checks in frequently with monitors. I am told that while once this program was used frequently for lower level offenders, now it is rarely used, in favor of allowing the criminal alien to bond out without supervision. A recent report by the DHS Office of the Inspector General found that this program of supervision is not effective at preventing aliens from re-offending, nor can ICE determine if it helps accomplish the goal of improving compliance with proceedings. Nor is it cost-effective in the larger sense. From 2010 to 2012 about 2,000 aliens

[8] Jessica M. Vaughan, "ICE Document Details 36,007 Criminal Alien Releases in 2013," Center for Immigration Studies: http://cis.org/ICE-Document-Details-36000-Criminal-Aliens-Release-in-2013.

[9] DHS records provided to Sen. Chuck Grassley, released on January 30, 2015, http://www.grassley.senate.gov/sites/default/files/news/upload/Immigration%2C%2001-30-15%2C%20Breakdown%20of%20Subsequent%20Crimes%20List.pdf.

[10] Testimony of DHS Secretary Jeh Johnson before the House Homeland Security Committee on December 2, 2014.

[11] ICE Weekly Departures and Detention Report, January 26, 2015.

released under supervision were (again) arrested by local authorities, and about 4,000 others violated the conditions of the program.[12]

Gang Arrests. Although gang members are said to be a high priority for enforcement, in fact the number of gang member arrests by Homeland Security Investigations (HSI) agents has declined considerably. According to ICE records, the number of gang arrests declined from 5,080 arrests to 3,917 arrests from 2012 to 2013, a drop of 23 percent. The 2013 total is the lowest number of gang arrests since 2008.[13]

Further, ICE gang investigators have expressed concerns to me that gang members they arrest (usually after conviction on state charges) and turn over to Enforcement and Removal Operations (ERO) for detention and removal processing are sometimes de-prioritized and released – and even allowed to apply for work permits -- which can unravel their prosecution and removal case, not to mention threaten public safety.

ICE officers also report that informants who once agreed to work for ICE to help dismantle major gang conspiracies in exchange for the ability to stay here now are telling ICE that they have no incentive to do so, because they qualify for the president's amnesty or know that they can take advantage of "prosecutorial discretion" policies. One gang investigator told me that some illegal alien gang members actually taunt ICE agents, knowing they are now virtually untouchable for deportation.

Detention Space. The administration maintains that it cannot possibly detain and remove all of the estimated one million deportable aliens who are arrested each year, due to a lack of personnel and resources. Congress provides ICE with funding (and a mandate to fill) 34,000 detention beds.

But, according to ICE records, the agency has not complied with this mandate since FY2012. The average daily population (ADP) has declined every year since then. ICE reports an ADP of 33,788 for FY2013, an ADP of 33,227 for FY2014, and an ADP of 27,119 so far in FY2015. As of one month ago, ICE reported that the ADP was 25,480. This is the lowest level since FY2006, when the bed mandate was 20,800 per year.

Clearly the criminal alien releases and decline in deportations cannot be blamed on a lack of detention capacity. On the contrary, one significant problem appears to be unwillingness to use the detention capacity that Congress has provided.

A number of ICE's local law enforcement partners have reported noticeable drops in the number of illegal aliens that ICE will take into custody after arrest and incarceration in their jails. Several sheriffs have told me that the number of beds that ICE has contracted with them to fill has shrunk considerably, and the number of illegal aliens they have to release back into the community has grown. For example, Sheriff Tom Hodgson of Bristol County, Massachusetts says that just a couple of years ago his jail held an ADP of more than 200 aliens for ICE, but it has now shrunk to about 80 ADP.

Just a few weeks ago, Sheriff Paul Babeu of Pinal County, Arizona testified to the House Judiciary Committee that ICE is releasing 30-50 illegal aliens *every day* from ICE detention facilities in his area, and that these aliens would have been deported but for the new policy changes outlined in the President's November 20 executive actions. On one day in February 2013, ICE released 207 illegal aliens from the Eloy detention facility in Arizona into his county. Of these, 48 had been charged or convicted of manslaughter, child molestation, aggravated assault, weapons and drug crimes. To this day DHS has refused to provide him with the names, criminal histories, or security threats of these criminals.

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[12]Office of the Inspector General, "U.S. Immigration and Customs Enforcment's Alternatives to Detention (Revised)," February 4, 2015, OIG-15-22.

[13] Source is ICE records obtained by the author through a FOIA request.

The Non-Departed. Allowing so many deportable aliens, especially criminal aliens, to remain at large in our communities means that what little effort the government makes to deport them ultimately is not successful or enforced. This leads to the absurd situation we have today, where the number of aliens who have received a final order of removal, but who are still in the United States, has risen to nearly 900,000 as of September, 2014.[14]This number grew by 40,000 in the last two years. Part of the reason is that, even with the administration's mass dismissals of "non-priority" cases in lieu of immigration hearings, many of the aliens whose cases are completed and who are ordered removed simply do not comply if they are not detained. They were never a priority for enforcement under this administration, but the president's recent executive action specifically nullified all removal orders and enforcement actions involving "non-criminals" taken before January 1, 2014.

Career Personnel Blow the Whistle on Policy Changes . Numerous career immigration officers working in different parts of the agency, at all ranks and in various parts of the country have expressed to me their dismay and frustration with the Obama administration's calculated unraveling of enforcement, which they consider to be an abdication of their agencies' mission and responsibilities to the public.

"It was almost a perfect system," one ICE officer told me recently, in describing the combination of Secure Communities, 287(g), and fugitive operations teams that had been in place in his area of responsibility from about 2009 to 2011. "Almost no illegal aliens went through the jails here without us knowing about them. It was a rare case when we did not issue a detainer, such as a LPR [lawful permanent resident] or someone we could not identify. And when they were caught, they asked to go home. The word was out in the community, ICE is out there, and they'll find you. Now, people are laughing at us [ICE]; the illegal aliens know all they have to say is, 'I have kids,' or 'You can't arrest me because Obama changed the law'....And now local police keep us at arm's length, because they either don't understand what we do, or are afraid of being sued, and our own agency contributes to it."

The catch and release mentality governs the work of ICE trial attorneys too, with the result that even criminal alien felons escape consequences. In a lawsuit filed in late 2014, a widely respected senior career ICE attorney described how she and other ICE lawyers were told to ignore the law and routinely release and dismiss charges on entire categories of criminal aliens, including certain convicted felons, drunk drivers, DACA applicants, and illegal juveniles from the border surge. The lawyer was instructed by a superior to implement a program known as the Arizona Identity Theft Initiative, whose purpose was to drop and release hundreds of cases of illegal aliens convicted of felony identity theft in Arizona, even those whose crimes were so serious that they served several years in state prison and who under the law are subject to mandatory ICE detention before removal. The justification from ICE headquarters was that such aliens "had simply been using a fake ID to get and keep employment." In September 2014 ICE attorneys were ordered to begin exercising "prosecutorial discretion" in cases of aliens convicted of DUI if they were "old" cases and if the alien had U.S. family members. When a number of attorneys objected on the grounds of public safety, they were told by a top ICE official from headquarters: "We [ICE leadership] don't give a s*** about that.Let it go."[15]

Abandonment of Critical Enforcement Tools. In addition to declaring significant categories of illegal aliens who once would have been classified as an enforcement priority to be off-limits, the Obama administration has abandoned certain critical tools that gave immigration enforcement officers the ability to carry out their mission efficiently.

Detainers. Most significant of these with respect to criminal aliens is the use of detainers. Detainers are a perfectly legitimate, lawful tool to help ICE take custody of aliens from local authorities. They help protect the public and ICE officers by enabling enforcement to take place in a secure setting rather than on the street, in

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[14]ICE WRD, op. cit.

[15] See complaint of Patricia Vroom: http://cis.org/sites/cis.org/files/Vroom%20complaint.pdf.

homes or at work places. The administration is pretending that it abandoned this tool because of unfavorable court rulings, but after years of whittling away at their use, in fact top agency leaders helped instigate these rulings by changing certain long-held positions (over the objections of career personnel and without legal foundation). The new policies were then simply accepted by certain judges – leaving ICE's local law enforcement partners who had cooperated in good faith (and in compliance with federal regulations) twisting in the wind and subject to significant legal and financial liability.[16] The final nail in the coffin came in the November 20 executive actions, which included a provision prohibiting ICE officers from issuing detainers in all but rare cases.

Legal Action. One factor behind the erosion of enforcement has been a steady stream of predatory law suits aimed at obstructing ICE from doing its job. The administration has contributed to the success of these lawsuits by declining to challenge them; conceding in settlements; withholding assistance from local enforcement partners; and issuing controversial policy statements, sometimes without sound legal foundation, that can be used by plaintiffs hostile to the government's mission. If one were to think of immigration litigation against the government and its enforcement partners as a game, then the Obama administration is throwing it.

One recent example is the *Lopez-Venegas v Johnson* lawsuit brought by the Southern California chapters of the ACLU, targeting the ICE and Border Patrol practice of offering the option of voluntary return in lieu of lengthy deportation hearings. DHS agreed to a settlement of the case, with the result that now officers in the San Diego Border Patrol Sector and Los Angeles ICE Field Office (both areas with huge caseloads) must operate under cumbersome procedures that encourage Mexican illegal aliens to opt for immigration court hearings that can take up to seven years, instead of allowing them to encourage illegal aliens to agree to swift deportation with minimal consequences. This settlement will further bog down ICE and Border Patrol officers and the already dysfunctional immigration courts while giving illegal aliens permission to live and work here in de facto lawful status for many years.

Encouraging Asylum Claims and Other Deportation Delay Tactics. Obama administration policy changes have significantly increased incentives for aliens to claim fear of return to their homeland, political asylum, or pay human smugglers to bring family members into the United States illegally. Instead of keeping new illegal arrivals in custody near the border and promptly repatriating the vast majority who are unqualified, the administration has changed policies to allow them to live and work in the United States indefinitely, under the guise of what it calls "deportation proceedings." Officers assigned to ICE detention centers say they now spend a large share of their time handling complaints and grievances (often frivolous) from detainees, and inquiries from ICE headquarters generated by advocacy groups instigating complaints on behalf of the illegal aliens. ICE officers assigned to the non-detained docket cases now have to spend their days handling motions and requests from illegal alien low-level offenders applying for stays of removal, deferred action, motions to dismiss, and other ways to prolong their proceedings. Two weeks ago, the Department of Justice rewarded many of these aliens by announcing that potentially tens of thousands of so-called "non-priority" deportation cases would be granted postponements to November, 2019 – giving these illegal aliens nearly five more years to live and work in this country.[17]

287(g) Programs. The administration has reduced the number of local law enforcement agencies that can volunteer to assist with immigration enforcement by canceling dozens of these effective delegation of authority programs, refusing to approve new ones, and assisting in lawsuits against some of its former partners. The result

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[16] See Dan Cadman and Mark H. Metcalf, *Disabling Detainers: How the Obama Administration Has Trashed a Key Immigration Enforcement Tool*, Center for Immigration Studies, January, 2015: http://cis.org/disabling-detainers.

[17] Devlin Barrett, "U.S. Delays Thousands of Immigration Hearings By Nearly Five Years," *Wall St. Journal*, January 28, 2015, http://www.wsj.com/article_email/justice-department-delays-some-immigration-hearings-by-5-years-1422461407-lMyQjAxMTE1NTIxOTUyODk5Wj.

is that more criminal aliens fall between the cracks and are able to evade deportation, and ICE field offices lose out on the opportunity to have local officers do ICE work at almost no cost to the federal government.

Issuance of Work Permits. Besides suspending enforcement against all but the most egregious criminal alien offenders, the Obama administration has gone beyond the concept of "prosecutorial discretion" to allow huge numbers of illegal aliens to receive a work authorization document, and by extension, access to driver's licenses and other privileges commonly reserved for legal immigrants. According to USCIS records, from 2009 to 2014, the agency issued 7.4 million work permits to aliens. Of these, well over two million were issued to illegal aliens – including many who do not qualify for any legal status and are in deportation proceedings. This includes: aliens who were arrested by ICE but released on an order of supervision; aliens seeking suspension of deportation or a stay of removal; criminal and non-criminal aliens ordered removed but whose countries will not take them back; asylum applicants; and illegal aliens granted parole into the country after arriving from Central America in the border surge of 2012-14.[18]

Public Safety Consequences. There is a human cost to the policies that prevent ICE officers from arresting, detaining and removing illegal aliens who have committed crimes and engaged in reckless behavior such as drunk and/or reckless driving. Some recent lives lost for which administration policies share some responsibility:

Dominic Durden, a 30-year old Riverside County California sheriff's dispatcher, was killed on July 12, 2012 by illegal alien Juan Z. Tzun, who crashed into him while making an illegal left turn hurrying to a day labor site. Tzun was driving without a license and had two prior drunk driving convictions, which had not triggered ICE action. On April 3, 2013, Tzun was sentenced and served 30 days in jail before he was set free on a work release program. Eventually ICE took him into custody and Tzun was deported to his native Guatemala on March 20, 2014.

Katerin Gomez, age 35 and mother of three children under age 13, was killed in Chelsea, Massachusetts on October 18, 2014 by a stray bullet through her window. The gun was fired during a street brawl allegedly by Hector Ramires, a 21-year old illegal alien member of the notoriously violent MS-13 gang, who was at large awaiting trial for two prior arrests for armed robbery (one with a gun, one with a knife), in which his illegal status and gang membership were noted. The police report also includes mention of prior criminal involvement in his home country of Honduras. ICE did not issue a detainer nor initiate deportation proceedings after either prior arrest, nor did it make an effort to charge Ramires as an illegal alien in possession of a firearm, which is a felony punishable by up to 10 years in prison.

Magno Sosa, age 32, was shot twice in the head and killed on January 17, 2015 in Everett, Massachusetts. The accused is Rigoberto Escobar, an illegal alien who was out on pretrial probation for assault and battery with a dangerous weapon and assault and battery on a police officer. Again, ICE had declined to issue a detainer or pursue immigration charges after the assault and battery arrests, most likely because of policies forbidding officers from initiating charges on illegal aliens who have not yet been convicted.

Ismael Mejia, age 26, and **Luariano M. Ramirez**, age 19, were killed on June 20, 2013 in Muscoy, California, after being struck by illegal alien drunk driver Felix Roman Nava. About one year prior to this fatal incident, Nava had been in ICE custody after a prior DUI conviction, but was released on bond to await proceedings. In August, 2013 he was convicted of two counts of Gross Vehicular Manslaughter While Intoxicated and sentenced to six years in prison.

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[18] Jessica M. Vaughan, "Government Data Reveal 7.4 Million Work Permits Issued Since 2009," Center for Immigration Studies, February, 2015: http://cis.org/sites/cis.org/files/vaughan-work-permits-2-16.pdf.

Numerous reports show that criminal illegal aliens who are released back into the community instead of detained for prompt removal have a high likelihood of re-offending. A 2012 study by the Congressional Research Service using data subpoenaed by the House Judiciary Committee found that over a two and one-half year time period, more than 26,000 deportable aliens who were flagged by ICE's Secure Communities program, but whom ICE chose to take no enforcement action against, were charged with 58,000 new crimes. These crimes committed after identification by ICE included 59 murders, 21 attempted murders, and more than 5,000 major or violent criminal offenses. In addition, they were charged with more than 6,000 drug violations and more than 8,000 DUI violations.[19]

Senior ICE officials have told me that they estimate that about 50 percent of arrested aliens freed from ICE custody or freed by local law enforcement agencies in defiance of detainers have re-offended after release.

Short Term Action Congress Can Take to Address Enforcement Needs

A. Restrict DHS appropriations so that no funds may be used to implement any executive actions or policy directives that prevent enforcement officers from performing their jobs and/or allow large classes of illegal aliens to avoid deportation and receive work permits.
B. Authorize and direct the Border Patrol to keep illegal border crossers in custody in the immediate border region, and that the only form of due process available shall be Expedited Removal.
C. Clarify the authority and imperative for the transfer of aliens from local to federal custody for enforcement. Impose sanctions on local governments that obstruct the process.
D. Provide funding for an increase in detention capacity for immigration enforcement agencies, and require that DHS use it for that purpose.
E. Clarify ICE's authority to use accelerated forms of due process, especially for recent border crossers and criminal aliens, in order to relieve pressure on the immigration courts.
F. Restore funding and flexibility to programs such as 287(g) that enhance ICE deportation capacity and address local public safety needs.
G. Mandate the next step toward implementation of a biometric entry-exit tracking system, whether implementation of biometric exit and air and sea, or implementation of biometric entry data collection from all non-citizen land arrivals.
H. Withhold approval for any relaxation in visa issuance procedures, interview requirements or visa waiver program expansion until anti-fraud programs are enhanced and the annual number of new overstays is reduced by 50 percent.
I. Clarify the categories of aliens who may be issued work permits, and examine the merits of a bar on issuing work permits to aliens in deportation proceedings.

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[19] Congressional Research Service, "Analysis of Data Regarding Certain Individuals Identified Through Secure Communities," July 27, 2012, http://cis.org/sites/cis.org/files/smith.crs .sc%20catch%20and%20release%20results.pdf.

Center for Immigration Studies

Jessica Vaughan

Director of Policy Studies

Jessica M. Vaughan serves as Director of Policy Studies for the Center for Immigration Studies, a Washington, DC-based research institute that examines the impact of immigration on American society and educates policymakers and opinion leaders on immigration issues. She has been with the Center since 1992, and her area of expertise is immigration policy and operations, covering topics such as visa programs, immigration benefits and immigration law enforcement. Ms. Vaughan recently completed several major projects on immigration and crime, including a Department of Justice-funded project studying the use of immigration law enforcement in transnational gang suppression efforts. In addition, she is an instructor for senior law enforcement officer training seminars at Northwestern University's Center for Public Safety in Illinois.

Prior to joining the Center, Mrs. Vaughan was a Foreign Service Officer with the State Department, where she served in Belgium and Trinidad & Tobago. Her articles have appeared in the Washington Post, Boston Globe, The Economist, In the National Interest, Providence Journal, Hartford Courant, Arizona Republic and other publications, and can be found at www.cis.org. She has testified before Congress several times and advises state lawmakers and agencies on immigration issues. She is frequently cited in news media reports on immigration, and has appeared on NPR, CNN, MSNBC, Fox News, and PBS's NewsHour with Jim Lehrer.

Mrs. Vaughan has a Master's degree from Georgetown University and earned her Bachelor's degree in International Studies at Washington College in Maryland.

Mr. DESANTIS. Thank you, Ms. Vaughan.

The chair now recognizes Mr. Chen for 5 minutes.

STATEMENT OF GREGORY Z. CHEN

Mr. CHEN. Good morning. Thank you, chairmen and ranking members and members of the subcommittee. I am honored to be able to testify here before you today.

I also want to offer my sincere condolences to my fellow panelists and their family members who have lost loved ones to unspeakable crimes that no one can condone. And I think we all agree that keeping our communities safe is an incredibly important priority.

Turning to the subject of today's hearing, our Federal Government is enforcing immigration law at unprecedented levels. The funding for immigration enforcement has steadily increased and now averages over $18.5 billion annually. And that's more than all the other criminal law enforcement agencies combined in the Federal Government, the FBI, DEA, ATF, and the Marshals Service included.

In the first 6 years of the Obama Administration, DHS removed about 2.4 million people, and that's more than any other President. Immigration detention, in fact, continues to rise, and more than 440,000 individuals are detained each year, costing about $2 billion annually to American taxpayers.

The Department of Justice is prosecuting more people now than at any time in history for the Federal crimes of illegal entry and reentry. And we have more Border Patrol agents, border fencing, drones, and other methods of border surveillance than at any time in U.S. history.

Now, even at these current unprecedented levels of enforcement, the Federal Government cannot possibly detain, apprehend, and remove everyone who is living unauthorized in the U.S. Just like any other law enforcement agency, DHS must choose priorities. It makes more sense and will keep our Nation safer to focus on those who present real threats to national security and public safety.

Now, it is AILA's judgment that the DAPA and DACA programs are valid exercises of prosecutorial discretion that rest within DHS's legal authority. Many local law enforcement leaders across the country agree. And, in fact, the Major Cities Chief Association and many individual sheriffs and police chiefs support these deferred action programs announced by the President, and they've Stated publicly that the Federal Government's ability to exercise discretion in immigration enforcement actually promotes public safety.

Now, with respect to immigration detention, such detention is a proper government function, but it must be done within the boundaries of the Constitution and our laws.

From a legal perspective, immigration detention serves a civil purpose and is not a form of criminal punishment. Typically, those convicted of crimes who are subject to removal face immigration detention after they complete their period of incarceration as criminal punishment. Now, in those cases where ICE has custody of an individual and has the legal authority and discretion to detain or release that individual, it is required to evaluate whether that person

poses a flight risk and a risk to public safety before it releases that person.

Now, the Constitution and our laws also protect individuals from the unfair deprivation of their liberty, and that concept must be balanced. AILA is gravely concerned about DHS's detention of families who have fled persecution from Central America. Last year, the refugee crisis in Central America resulted in a large surge that had been growing steadily in the years before of families and children coming to our border seeking asylum protection.

Volunteer AILA lawyers have represented about 1,200 of these people voluntarily, in pro bono capacity. We have found and government statistics also confirm that extremely high percentages of these detained women and their young children are likely to qualify for asylum. But the Obama Administration responded by escalating the use of detention on thousands of families in order to deter more from coming to our borders.

Just last week, on February 20, a Federal district court enjoined DHS from detaining certain families for the purpose of such deterrence of future immigration. The Federal court's decision underscores a broader principle that detention must be justified on specific information demonstrating a safety threat and that general assertions of such dangers are not going to be adequate for detention purposes.

In summary, enforcement is occurring at very high levels—in fact, at unprecedented levels on many metrics. DHS is focused on national security, border security, and those convicted of crimes, and that's intended to improve public safety. Enforcement, of course, is bound by the Constitution, and it must be balanced, however, by the principles in our Constitution that undergird and are the founding concepts of our Nation.

Thank you.

[Prepared Statement of Mr. Chen follows:]

AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

Testimony of Gregory Chen
Director of Advocacy
American Immigration Lawyers Association

Submitted to the Subcommittees on National Security and Health Care, Benefits and Administrative Rules of the Committee on the Oversight and Government Reform of the U.S. House of Representatives

Hearing of February 25, 2015

"A Review of the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States"

Chairmen DeSantis and Jordan, Ranking Members Lynch and Cartwright, and members of the Subcommittees:

I am Gregory Chen, Director of Advocacy of the American Immigration Lawyers Association (AILA). AILA is the national association of immigration lawyers established to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members. AILA has over 13,000 attorney and law professor members. Thank you for the opportunity to testify today.

The enforcement of immigration law is one of the most controversial subjects in American discourse. As the national bar association of immigration lawyers, AILA recognizes the importance of the rule of law and the need for the effective enforcement of immigration law. At the same time, our laws and Constitution rest upon fundamental principles of due process, fairness and liberty that sometimes come into direct conflict with the federal government's interest in apprehending, detaining or removing non-citizens. AILA evaluates the Department of Homeland Security's (DHS) enforcement activities through the lens of these often competing goals. Immigration enforcement must be achieved, and indeed can only be accomplished successfully, if done while protecting the founding principles of our nation and its laws.

During the past decade the DHS has dramatically increased its immigration enforcement activities and is functioning at unprecedented levels in key areas of performance measurement. While there is unquestionably room for improvement, it cannot be said that President Obama or his immediate predecessor President Bush has implemented a lax enforcement policy. As the subcommittees review DHS's enforcement policies and practices, AILA urges a close examination not only based on how robustly enforcement is being pursued, but also of whether

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enforcement is being done effectively and in a manner that is consistent with due process, liberty, and fairness.

Key measures of federal immigration enforcement

- In fiscal year 2013, the most recent year for which data is available, total removals reached an all time high of over 438,000 individuals. In the first six years of the Obama administration, DHS removed about 2.4 million people--more than any other president during a time when net migration to the U.S. was low and border apprehensions were at a 40-year low.

- Immigration detention continues to rise and in fiscal year 2013 totaled more than 440,000 individuals. The DHS budget for detention is also at a high point of about $2 billion annually. Moreover, last year, DHS requested additional funding of more than $870 million to enable it to detain thousands of families and unaccompanied children who arrived at our southwestern borders seeking asylum from violence in Central America.

- The Department of Justice is now prosecuting more people than at any time in history for federal immigration related offenses, the vast majority of which are for illegal entry and reentry. The Obama Administration has averaged 90,000 such prosecutions each year, more than double the yearly average in President Bush's administration.

- DHS is employing more rapid removal procedures that abrogate due process protections. DHS now removes the vast majority of non-citizens using summary procedures like "expedited removal" which enable an immigration officer to order removal without giving the individual an opportunity to appear before a judge. In fiscal year 2013, more than 363,000 were removed by such measures constituting 83 percent of all removals.

- For the past six years DHS has maintained about 21,000 Border Patrol Agents, twice the staffing levels compared to a decade ago. In the past ten years, DHS has also greatly increased fencing, drones, and other methods of border surveillance.

- The funding for federal immigration enforcement has also increased dramatically, and has averaged about $18.5 billion annually over the past five years. Currently, more is spent on federal immigration enforcement than all other federal criminal law enforcement agencies combined, which averaged over $15 billion annually.

- DHS and Pew Research Center estimates of the total unauthorized population show that it has fallen about 8 percent in the seven year period (from 2007 to 2012) from almost 12 million to just over 11 million. Though this decline is partly attributable to the recession that began in 2007, it must also be credited to more robust and effective enforcement.

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Prosecutorial discretion and DHS enforcement priorities
Even at the current unprecedented levels of enforcement, critics have argued that President Obama is not adequately enforcing immigration law, and moreover that some of his current policies are designed to circumvent and decrease enforcement of immigration law.

With finite resources the federal government cannot possibly apprehend, detain and remove everyone who is living unauthorized in the United States. Under the well-established principle of prosecutorial discretion, DHS and every other enforcement agency bear the responsibility for making choices about how and to what extent to pursue enforcement based on established priorities. This authority of all law enforcement agencies to exercise discretion is well-accepted in both the civil and the criminal law enforcement fields. Since the 1950s, legacy Immigration and Naturalization Service (INS) and DHS, under both Republican and Democratic administrations, have issued policies on prosecutorial discretion. Prosecutorial discretion is such an important principle that, in 1999, twenty-eight Republican and Democratic members of Congress wrote to the Attorney General emphasizing the importance of prosecutorial discretion in immigration enforcement.

Absolute enforcement against every unauthorized person is not only unrealistic but also an unwise policy choice that runs counter to fundamental American values. Mass deportation would gravely fracture American society, negatively impact businesses, and hurt the economy. For these very reasons, both Republican and Democratic leaders have spoken against the idea of deporting over 11 million undocumented immigrants. Keeping America safe by focusing on those who present real threats to our national security and public safety is the right focus.

In the November 20 memorandum on enforcement priorities, DHS Secretary Jeh Johnson identified national security, public safety and border security as the priorities for immigration enforcement. On November 20, 2014, the Secretary also announced programs which could provide temporary relief from deportation for millions of people, the expansion of Deferred Action for Childhood Arrivals (DACA) and the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). It is AILA's judgment that DAPA and DACA are valid exercises of prosecutorial discretion that rest within DHS's legal authority to prioritize enforcement.

Impact of prosecutorial discretion on local law enforcement
Many local law enforcement leaders across the country have asserted that the federal government's ability to exercise discretion in immigration enforcement actually promotes public safety and makes it easier for police to root out criminal activity. In January 2015, two national police chiefs' associations and 27 individual police chiefs and sheriffs, in addition to more than 30 mayors of major cities across the country, filed amicus briefs in the Texas lawsuit supporting

the President's November 20th deferred action reforms.[1] The law enforcement officials' brief stated:

> "The Deferred Action Initiative supports community policing by legitimizing the presence of otherwise law-abiding immigrants with already strong ties to their neighborhoods, and reassuring them that their cooperation with law enforcement will not separate them from their lives and families in the United States.

The mayors' brief pointed out: "the fear that undocumented immigrants have of interacting with local law enforcement and government officials is often a tremendous barrier to providing protection and service to the entire community... Not only does such fear leave immigrants vulnerable and unable to get help, but violent criminals will remain free, potentially able to target others." The prioritization and prosecutorial discretion exercised through DAPA and DACA will foster trust in local law enforcement and encourage cooperation with police leading to better public safety outcomes.

The better way to support local law enforcement in their public safety mission is for DHS to focus on individuals who present a threat to public safety or national security rather than individuals who are otherwise productive members of our communities. In this way, the President's executive actions can encourage these family and community members to come out of the shadows and begin to develop a stronger relationship of trust with police.

Immigration detention

While the federal government seeks to protect the public and our nation from danger, its authority to detain non-citizens is limited by the Constitution and our laws. Detention should be a last resort, used only when release or other methods of ensuring appearances are not feasible, and especially when more cost effective alternatives to detention are available.

Even with the value our nation places on individual liberty, the use of immigration detention has increased steadily: In the past two decades, it has increased five-fold, reaching a record high in fiscal year 2012 of 477,523 individuals detained. This escalation in detention continued while illegal immigration remained steady or declined during certain periods. ICE frequently detains asylum seekers and other vulnerable people unnecessarily. Many are held for prolonged periods

[1] Brief for Major Cities Chiefs Association, Police Executive Research Forum, and Individual Sheriffs and Police Chiefs as Amici Curiae in Opposition to Plaintiffs' Motion for Preliminary Injunction, Texas v. United States, No. 1:14-cv-00254 (filed Jan. 12, 2015), available at http://www.azcentral.com/story/news/politics/immigration/2015/01/13/police-chiefs-sheriffs-amicus-brief-executive-action/21693485/ and Brief for Amici Curiae, The Mayors of New York and Los Angeles, The Mayors of Thirty-One Additional Cities, The United States Conference of Mayors, and the National League of Cities in Opposition to Plaintiffs' Motion For Preliminary Injunction., No. 1:14-cv-254 (filed Jan. 27 2015), available at . http://www.lexisnexis.com/legalnewsroom/immigration/b/outsidenews/archive/2015/01/29/mayors-defense-of-daca-dapa-brings-critical-voice-to-legal-battle.aspx.

despite the fact that they have families and jobs and pose no threat to public safety. It is AILA's judgment that greater protections are needed to ensure fairness and due process in the practice of detention.

Last year, Senator Grassley (IA) and Congressmen Goodlatte (VA) and Smith (TX) criticized Immigration and Customs Enforcement (ICE) for failing to detain and deport over 36,000 individuals with criminal convictions during fiscal year 2013. By releasing these individuals, they asserted, ICE was jeopardizing the safety of American citizens and law-abiding immigrants.

The circumstances in these cases are not fully known, but in many of them ICE could not lawfully continue to detain them and was required to release them pursuant to the Supreme Court's decision in *Zadvydas v. Davis*. Though most countries accept the return of their nationals, some countries delay or refuse to accept nationals who are under final orders of removal. As a result, these individuals who cannot be returned are held for long periods of time in U.S. immigration detention. In 2001, the Supreme Court concluded in *Zadvydas* that "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem."[2] The Court interpreted the immigration detention statutes to authorize detention for a presumptively reasonable six month period of time, during which ICE may detain non-citizens while attempting to deport them. The *Zadvydas* Court held that "government detention violates [the Due Process] Clause unless the detention is ordered in a *criminal* proceeding with adequate procedural protections, or in certain special and narrow nonpunitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint."[3]

In those cases where ICE has the legal authority to detain and the discretion to release, it is required to evaluate whether the person detained poses a flight risk or a public safety threat before releasing the detainee. ICE would not release anyone deemed to pose a danger to the public or whose risk of flight cannot be mitigated by the imposition of conditions or supervision.

In physical appearance immigration detention facilities are no different from prisons. From a legal perspective, however, immigration detention is a form of *civil* detention, not a form of *criminal* punishment. Non-citizens are subject to the same criminal laws that apply to all persons in the United States. Any non-citizen convicted of a crime has already been sentenced by a judge with access to all available information concerning the offense and the perpetrator. Immigration detention for those convicted of crimes occurs after the sentence has been served or the criminal justice system has otherwise finished with the individual. For that reason ICE should not be detaining a non-citizen, including someone who has a criminal conviction, unless ICE has a firm basis to believe that the individual poses a flight risk or a threat to public safety.

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[2] 533 U.S. 678, 690 (2001).
[3] *Id.* (citations omitted).

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Detention of families

AILA is gravely concerned by the recent and dramatic increase in the detention of families fleeing violence in Central America last year. In 2009, DHS severely restricted the practice of family detention after reports of abuse and a lawsuit compelled it to shut down a large facility in Texas. But in 2014, the refugee crisis in El Salvador, Guatemala, and Honduras resulted in a surge in the number of unaccompanied minors and families fleeing violence and seeking asylum at our borders. The Obama Administration responded by escalating the use of detention on families--mothers and mostly young children--in order to deter more asylum seekers from coming: a practice that violates the Constitution and U.S. asylum and humanitarian law.

Since last July, volunteer AILA lawyers began representing the detained families, providing counsel and assistance to about 1200 individuals so far. Extremely high percentages of these detained women and their children are likely to qualify for asylum. According to statistics from U.S. Citizenship and Immigration Services covering July 2014 through most of January 2015, nearly 70 percent of these families were found in preliminary interviews conducted by asylum officers to have the credible fear of persecution that could render them eligible for asylum.[4] In October and November between 80 to 90 percent were found preliminarily eligible. Consistent with those overall statistics are the asylum grant decisions in cases represented by AILA volunteer lawyers brought to completion in merits hearings before immigration judges: in 14 out of 16 asylum cases, the judges granted asylum--an extraordinary rate that serves as compelling evidence that high percentages of these families are *bona fide* refugees deserving of humanitarian protection.

These families are not a border security problem although the Administration has continued to describe them in such terms. They are among the most vulnerable immigrants, seeking safety and the opportunity to tell their story to a judge. The humanitarian situation demands a humanitarian response by the United States, not a show of force.

On February 20, 2015, a federal district court enjoined DHS from detaining families who have been found to have a credible fear in these initial screenings for the purpose of deterring future immigration. The injunction strikes a blow to the position the government has taken in nearly all these cases that these vulnerable mothers and their children pose a threat to national security. The court wrote that the "incantation of the magic word 'national security' without further substantiation is simply not enough to justify significant deprivations of liberty."[5] The federal court's decision underscores the principle that detention must be justified on specific information demonstrating a safety threat and that general assertions of such dangers are not adequate to overcome the individual's liberty interest.

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[4] See USCIS data sheet: http://www.uscis.gov/sites/default/files/USCIS/Outreach/PED-CF-RF-family-facilities-Jul2014-Jan2015.pdf.

[5] *RILR v. Johnson*. https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2015cv0011-33.

Improving enforcement to ensure efficiency, due process and fairness

The rapid expansion of enforcement in over a decade has also resulted in problems that require urgent attention. Years of inadequate funding for the immigration court system has resulted in a shortage of immigration judges and support personnel and consequently a backlog of nearly 400,000 cases that await review. More substantial increases in funding for immigration courts would greatly reduce the long waits for court dates which further delay decisions in removal proceedings.

Reforms are also needed to ensure due process, fairness, and accountability in the enforcement system. In its deportation of 438,000 people in fiscal year 2013, DHS relied heavily on summary removal procedures that bypass immigration courts and offer extremely limited judicial review. DHS continues to hold many noncitizens, including lawful permanent residents and asylum seekers, in detention without ever providing a custody determination hearing before a judge—a fundamental deprivation of due process. In addition to the expansion of family detention, DHS's use of rapid removal procedures for family asylum seekers fleeing violence in Central America has grossly degraded U.S. asylum and humanitarian law.

Finally, there have been well-documented reports of rights violations and abusive practices by Border Patrol officers, most notably many examples of improper or excessive use of force, including lethal force. Abusive CBP detention practices—including keeping facilities at dangerously cold temperatures, verbal and physical intimidation, and lack of basic health and hygiene provisions—are routinely reported by men, women, and children held at ports of entry or in Border Patrol detention facilities. Widespread reports of racially motivated arrests, coercive interrogation tactics, and denial of the right to counsel are also of concern. These problems, which undermine the rights of both citizens and non-citizens, are made worse by the lack of any uniform or effective complaint mechanism to address misconduct by CBP officers.

Unchecked, these practices threaten to compromise fundamental constitutional values such as due process and fairness. Congress should conduct more rigorous oversight of DHS and pass reforms to bring these enforcement practices back on track.

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Gregory Chen is Director of Advocacy for the American Immigration Lawyers Association. Prior to joining AILA in 2010, Greg worked for Lutheran Immigration and Refugee Service and the U.S. Committee for Refugees and Immigrants. He came to Washington DC after spending five years in San Francisco at Legal Services for Children representing children in immigration matters as well as child welfare, juvenile delinquency, and education law proceedings. He is a graduate of Harvard College and NYU Law School and clerked for the 9th Circuit U.S. Court of Appeals.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name: Gregory Chen

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

American Immigration Lawyers Association
I am the Director of Advocacy

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

I certify that the above information is true and correct.
Signature: Date: 2/23/15

Mr. DESANTIS. I thank the witnesses.

The chair would ask unanimous consent to enter into the record a letter sent by myself and Chairman Chaffetz dated January 29, 2015, to Secretary Jeh Johnson asking for the information in DHS's files about the man who killed Grant Ronnebeck.

Without objection?

Mr. CARTWRIGHT. Without objection.

Mr. CARTWRIGHT. And, Mr. Chairman, I would ask unanimous consent also to enter into the record a letter dated February 22, 2015, from Brian de Vallance from the U.S. Department of Homeland Security noting that the invitation to Secretary Johnson was received late Thursday, allowing less than 1 full business day to prepare testimony, but also inviting the committees and subcommittees to reschedule, particularly offering the dates March 11, 12, or 19 or any other dates that would be convenient for the subcommittees.

Mr. DESANTIS. All right. Without objection, both will be entered in the record.

Mr. DESANTIS. Some of those days are recess dates, but we appreciate it.

I would note that Chairman Chaffetz and I sent this letter January 29 to try to get some answers for the Ronnebeck family and the American people. We asked for the file to be provided to us by February 4. To this date, we have not received a reply from that letter, and I think that's very disappointing.

And so some of the protests about not having enough time I don't think are as credible when you view it against the background of basically thumbing the nose at the committee for the past month.

And, with that, the chair will recognize himself for a period of 5 minutes.

Mr. CARTWRIGHT. If I may, Mr. Chairman, there appears to be some lack of clarity as to whether our able colleague Congresswoman Michelle Lujan Grisham has been formally assigned to this Subcommittee on Health Care, Benefits, and Administrative Rules.

To clear up any confusion, I ask unanimous consent that Congresswoman Lujan Grisham be able to participate fully in our hearing today.

Mr. DESANTIS. Without objection, so ordered.

The chair now recognizes himself for a period of 5 minutes.

Mr. Shaw, thank you for your testimony. I was on the Judiciary Committee last year when you testified. You were very powerful. It made quite an impact on me in terms of how I view this issue.

Can you just describe, how has this event impacted your family?

Mr. SHAW. Oh, it's pretty much—like Obama said, it fundamentally transformed us. You know, I mean, we are—it's been 7 years, and me, personally, I still don't even believe it happened. You know, my brain, I'm still asking is it true and stuff like that.

You know, my son's mother, she's still in the military. She's at Fort Hood, Texas, right now. So she's grieving, you know. She hasn't been the same since.

My other son was 8 years old at the time; he's now 16. And we're scared for him, you know. He's living in the Army base in Fort Hood because we think that's safer than L.A.

So, you know, my mother, the whole family is—we are all just devaStated.

Mr. DESANTIS. Is there any doubt in your mind that your son's death could have been prevented?

Mr. SHAW. Oh, yes, definitely. We see it as being murdered by invisible people, because he shouldn't have even been here. So he shouldn't be dead, you know? If the Homeland Security or ICE would secure the border, he would have never been here, you know.

He was brought over at 4 years old. And like they say, they think just because you're brought over, then you're like a child of God, so they don't even watch them. You know, the guy who murdered my son was in the country 15 years before he killed my son. So that shows that just because they're brought over as kids, that doesn't mean for the future—you know, you're putting everybody in jeopardy for in the future that it might happen.

So you check them early. You have to do your job, secure the border. That's the main thing.

Mr. DESANTIS. When you hear that 36,000 convicted criminals who were in the country illegally were released in 2013 and now 1,000 of those have already been convicted of new crimes, what do you think of that?

Mr. SHAW. You know, to be truthful, it pisses me off. I hate to say it like that, but it does.

Because the guy who murdered my son, he was in a car with two other people. The guy in the backseat was just there because he had to document that he got out of the car and he killed somebody black. He had to be there to document it. The guy in the backseat has since murdered someone since then. So someone else's child was murdered, like, 3 years after my son, but it could've been avoided if they would have deported him.

They just—it's just—no one—we feel like no one cares.

Mr. DESANTIS. Mr. Ronnebeck, thank you for your testimony. And please accept my condolences for your family's loss.

How has the family been impacted by Grant's murder?

Mr. RONNEBECK. You know, this can only be described as a family's worst nightmare.

Grant was such a lively young man and a loving young man. He was a mentor to his younger brother. He was, you know, by all accounts of my brother, who is Grant's father, he was just one of the best kids that a parent could ever have.

You know, I wish I could say that the pain is quickly going away, but it isn't. It's going to be a long time.

Mr. DESANTIS. Now, in your opinion, obviously, with the circumstances involved and the murderer being convicted and then being detained and released, is it your opinion that this death could have been prevented had government done a better job here?

Mr. RONNEBECK. Absolutely. You know, this guy was a convicted felon that ICE released. I mean, they never even had him in custody. They released him on a bond. If he had remained in their custody and had been deported, this wouldn't have happened.

Mr. DESANTIS. And I will ask the same question I asked of Mr. Shaw. When you hear that just 2 years ago 36,000 criminals were convicted who were in the country illegally, they've been released,

and now, of those, 1,000 have already been convicted of new crimes, how do you feel about that?

Mr. RONNEBECK. It makes me angry. It is just ludicrous that the policies of our Immigration and Customs Enforcement agency are that flawed that they are allowing these criminals to go free.

Mr. DESANTIS. Thank you.

Ms. Vaughan, we hear talking points about the number of removals being high under President Barack Obama's administration and that they're higher than they've ever been under previous administrations.

But isn't the reason for that that they changed the criteria for what counts as a removal, so you're counting people under President Obama's administration who would not have been even been counted under Bush, Clinton, or Reagan?

Ms. VAUGHAN. That's exactly right. And Secretary Johnson has testified to this exact point, that the numbers today are not comparable with prior administrations. What they've done is taken cases from the Border Patrol that get turned over to ICE for processing, and they're counting those for ICE and sometimes also for the Border Patrol.

So it's important to look at removals of all three DHS agencies, to look at returns and removals, and, in particular, to look at what's happening in the interior of the country because that's what people notice and that's where the public safety problems are created, when ICE is not deporting people from the interior of the country. Right now, two-thirds of the deportations that ICE is taking credit for are actually people who were arrested by the Border Patrol.

Mr. DESANTIS. We've also heard about how some of the released criminals, DHS, they had to release them, that was kind of the law. Can you speak to that? Are these discretionary or are they all just mandatory where there's no other option?

Ms. VAUGHAN. There are some of them that are nondiscretionary, a small number. I was told that approximately 3,000 of the 36,000 from 2013 were due to the Zadvydas decision that was referenced earlier. Most of them, though, are the result of the prosecutorial discretion policies, the prioritization, that ICE agents are told they're not to take action against most of the people that they encounter, and so they get released.

Mr. DESANTIS. And my final question is, there are instances in which you will have somebody who is in the country illegally, they'll get convicted of a serious criminal offense. Maybe DHS will went to return them to their home countryand maybe there's resistance from the home government. But isn't there a provision of the law that if that happens, the DHS Secretary is supposed to notify the Secretary of State so that the Secretary of State can suspend visas from that country until they accept their national, correct?

Ms. VAUGHAN. That's right.

Mr. DESANTIS. And has Secretary Johnson or his predecessor, have they ever, to your knowledge, notified State that some of these countries are not accepting these criminal—their foreign nationals?

Ms. VAUGHAN. My understanding is that they have not asked the Secretary of State to impose visa sanctions.

Mr. DESANTIS. My time has expired. The chair now recognizes Mr. Lynch—who is not here. So I'll recognize Mr. Cartwright for 5 minutes.

Mr. CARTWRIGHT. Thank you Mr. Chairman.

We've now heard your testimony, Mr. Shaw and Mr. Ronnebeck. And, again, I want to express my heartfelt condolences. And I know I speak for everyone on both sides of this panel in saying that.

Mr. Ronnebeck, you're still reeling from this recent loss. But as you said, the pain doesn't go away.

And, Mr. Shaw, your loss was in March 2008. And I think you probably agree with that, don't you?

Mr. SHAW. Yes.

Mr. CARTWRIGHT. So, again, deepest condolences.

I was pleased to learn that just yesterday Senate Majority Leader Mitch McConnell decided to stop the process going on by his Republicans colleagues in the Senate, decided to move through the Senate a 4-year DHS funding bill without provisions to defund the administration's immigration policies. He also said the Senate will vote separately on a bill that halts the administration's actions on immigration.

The Senate is expected to vote on the funding measure as early as today, but Senate Democratic leaders want assurance from House Speaker John Boehner that he will take up the bill before Friday's deadline. Speaker Boehner really has to put an end to this showdown and agree to bring up the clean DHS funding bill to the floor as soon as it passes the Senate. This is the very least we can do for the American people. And as Mr. Lynch indicated, the Democrats will support the Speaker if he brings up such a clean bill. In fact, every single Democrat cosponsored a clean DHS funding bill already. And so all Speaker Boehner has to do is bring it up for a vote, fund our law enforcement agency, debate policy, pass laws.Is that too much to ask?

So I'm sick and tired of what may fairly be called hypocritical actions by some of my colleagues across the aisle. It doesn't make any sense to criticize the administration for not enforcing our immigrations laws and then threaten to shut down the very agency responsible for enforcing those laws.

Now, Mr. Chen, my question is for you. Do you agree that it is the responsibility of the Congress to fund the Department of Homeland Security?

Mr. CHEN. Thank you, Mr. Ranking Member.

I do agree that funding the Department of Homeland Security is going to be an important step to be able to ensure that Homeland Security operations and protecting our Nation's borders and public safety is an important thing that needs to be done by Congress. And it's very difficult to be able to have those operations continue, if we talk about any of the enforcement operations, if Congress doesn't continue to fund it.

Mr. CARTWRIGHT. Do you agree, Mr. Chen, that it is wise for House leadership to leave the immigration debate out of the DHS funding measure and bring up a DHS funding measure on a clean funding measure basis?

Mr. CHEN. Well, AILA's position with respect to the executive actions is that they are within the President's legal authority. I understand that there's deep controversy about the wisdom of those decisions, as well as the constitutionality. The funding of the Department of Homeland Security appropriations bill needs to move forward.

And immigration is an issue that AILA is incredibly invested in, in terms of having immigration reform happen legislatively. AILA's concern is that to have it happen in such a short period of time, such as being attached to an appropriations bill, is probably not the right venue to do it, given the limited amount of time and the debate needed to have a discussion, a real debate on immigration reform.

Mr. CARTWRIGHT. And I agree with that. I think that the funding of DHS is so important, because these are the people that process the Fire grants that are so important to fire companies all over the United States. They ensure not only the safety of the fire men and women, but also the folks who call them in the middle of the night.

So it is utterly irresponsible for us to shut down DHS while we wrangle over some side political show. Even Speaker Boehner's Republican colleagues in the Senate have come to their senses about this, and I submit that it is time for Speaker Boehner to do the same, bring up a clean DHS funding bill, and let's act like grownups around here.

With that, I yield back, Mr. Chairman.

Mr. DESANTIS. The gentleman yields back.

The chair now recognizes the chairman of the Benefits Subcommittee, Mr. Jordan, for 5 minutes.

Mr. JORDAN. I thank the chairman. The gentleman from Pennsylvania said that we haven't funded the Department of Homeland Security. Last I remember, we actually passed a bill that completely funds the Department of Homeland Security.

So, Ms. Vaughan, when the U.S. House of Representatives passes legislation that funds the Department of Homeland Security at levels the Democrats agreed to, would you think that that's actually funding the Department of Homeland Security?

Ms. VAUGHAN. The bill was passed that would fund the agency. What it would not fund are the President's overreach of authority.

Mr. JORDAN. Exactly. Right. So to say we haven't funded DHS is just flatout wrong. We have funded DHS at exactly the level the Democrats wanted it funded. But what we also said was that the actions the President took in November we think are wrong.

Would you agree with that, Ms. Vaughan?

Ms. VAUGHAN. I would. And the bill that the House passed, in fact, would address the issues that we're talking about today because it would roll back the executive actions that prevent ICE from doing its job.

Mr. JORDAN. Yes. Now, I'm not the expert you are, but I actually think what the President did was, in November, was unconstitutional. Would you agree, Ms. Vaughan, that it was unconstitutional, the President's actions? Five million folks. Would you agree that's unconstitutional, what the President did in November?

Ms. VAUGHAN. Yes. In my opinion, it is an abuse of executive authority.

Mr. JORDAN. Yes. And you don't have to take my word or your word or all the other legal scholars who said it, we actually had a Federal judge, right, just a week ago who said what the President did was unlawful, correct?

Ms. VAUGHAN. That's right.

Mr. JORDAN. All right. So when the previous speaker, the gentleman from Pennsylvania, said is it too much to ask for the House to pass a bill and fund DHS, A, we've done that, right, Ms. Vaughan?

Ms. VAUGHAN. Yes.

Mr. JORDAN. Yes, we passed it. It passed the House. There was a vote taken. I remember. I voted. It's over there. It's been there for over a month. So we've done it. But we did make clear in that legislation that we think it's unconstitutional. We take an oath, we just took it last month when we were sworn in, an oath to uphold the Constitution. I believe it's unconstitutional. I don't know how we couldn't put the language in the bill that we did. And, oh, by the way, a Federal judge has agreed with us and said it's unlawful.

So the real question to ask my colleagues on the other side is, is it too much to ask Democrats, is it too much to ask them to say, you know what, let's pass a bill that agrees with the Federal judge and doesn't fund something that he said was unlawful? Isn't that the central question, Ms. Vaughan?

Ms. VAUGHAN. Yes. And my understanding is that the Senate would like to have a debate on it, but the Democrats are preventing that debate from starting.

Mr. JORDAN. Exactly. We can't even pass something a Federal judge says makes sense, the American people understand makes sense, you understand makes sense, that everyone gets. We can't pass it. We can't even debate it. They won't even let it be debated.

So when they use the term, my friends on the other side use the term "hold hostage," you got to be kidding me. They won't even debate it? So if anyone is holding anything hostage, it's the folks in the Senate, the Democrats in the Senate, who won't even talk about it. We're willing to talk about it. They're not willing to talk about it. Secretary Johnson was invited to be here today to talk about it. He won't even come. He can go on every stinking TV show there is, but he can't come answer our questions and the American people's questions, and particularly questions from families who were wronged by some of the very actions taken by this administration's immigration decisions.

For the life of me, this boggles my mind. Why in the world do Democrats insist upon language in a bill to fund something everyone knows is unconstitutional and a Federal judge has ruled is unlawful? That's their position. And somehow, oh, no, it's Republicans doing the wrong thing? You've got to be kidding me.

Mr. DESANTIS. Will the gentleman yield for a question?

Mr. JORDAN. I'd be happy to yield because I want someone to give me an answer to that commonsense question that we keep asking the Senate. So I'd be happy to yield.

Mr. DESANTIS. Well, because we talk about a clean bill, and people use that term. Wouldn't the definition of a clean bill mean a bill that funds the statutes as they actually exist and that is consistent with existing law? And if you're actually funding things

that were not constitutional, I wouldn't want that. I wouldn't say that was clean. I would say that's a dirty bill. That's a violation of the Constitution.

Mr. JORDAN. The chairman makes a great point. Clean legislation is legislation that's consistent with the Federal judge's ruling last week. That's what our bill does. We want to make sure TSA agents are paid, our Coast Guard is paid, our border security. We want to make sure everyone who is doing the good work that needs to be done gets paid, but we want to do it in a way that's consistent with the Federal judge's decision and the oath we took when we were sworn in just a month ago.

Mr. Chairman, with that I yield back.

Mr. DESANTIS. The gentleman yields back.

The chair now recognizes the gentleman from California for 5 minutes.

Mr. LIEU. Thank you.

And first of all, thank you, Mr. Jones. I was in the California State Legislature for nearly a decade. Thank you for keeping the communities around us safe.

And to Mr. Shaw and Mr. Ronnebeck, I am very sorry for your losses. And nothing I can say or can do will bring those people back. But I get the sense from you that you would like to see some changes so that this doesn't happen in the future, and I share with you those views.

But for us to get something done, the Founders put in a separation of powers. So not only do we need the executive branch to agree, we need Congress to agree, then we need the courts to sign off on it. And I want to delve a little more into the Supreme Court case that appears to put some restrictions on DHS.

Senator Grassley made an inquiry that 36,000 criminal immigrant detainees were released by ICE in Fiscal Year 2013. And then ICE responded, and I would like to enter into the record ICE's response to Senator Grassley, which is date stamped August 15, 2014.

Mr. LIEU. And that response Stated, "ICE had no discretion for the releases of many of these individuals."

And so my question to Mr. Chen is, I just want to make sure, is it true that ICE further Stated that some of these nondiscretionary releases were, in fact, due to the Supreme Court's ruling and not because ICE just decided to do it.

Mr. CHEN. I can't speak to what ICE said before. But my understanding is that, yes, many of those releases—I don't know all the circumstances around each one of them and I'm not here to testify on behalf of the Department of Homeland Security—but the Supreme Court ruling that Ranking Member Lynch mentioned before, Zadvydas v. Davis from 2001, does, in fact, place restrictions on when Immigrations and Customs Enforcement and for how long it can detain an individual.

Yes, there are countries that delay or refuse to accept their nationals back after they've been ordered removed. And ICE, the Supreme Court said, cannot indefinitely hold those individuals here in the United States.

And one other thing that I would mention is that ICE has taken efforts to hold individuals under special circumstances beyond the

presumptive 6-month period that the Zadvydas court mentioned, people who pose extreme danger to the community. It has taken those steps, and there are people who actually have been detained for years now. They are people who have committed unspeakable crimes, and I don't think anybody would disagree that those individuals probably pose real dangers to the community. But ICE has made those efforts to extend the detention of those individuals pursuant to the Zadvydas ruling and the rules that have followed.

Mr. LIEU. Thank you. And I'd just note that when people read ICE's response to Senator Grassley, you'll see that of the 169 ICE detainees with homicide-related convictions who were released in 2013, 154 were released pursuant to court order.

And I want to sort of bring up another point, which is that this problem is not particularly unique in terms of release to undocumented aliens. In California we shifted tens of thousands of convicted felons from Federal prisons to local jails. Because the jails are overcrowded, many of them were released. And they were releasing convicted, dangerous sex offenders, for example. One had been released over a dozen times and then killed someone.

So I authored a law last year that actually said, no, no, no, you need to hold these people in these jails. But it's a resource issue. And so there had to be more funding to allow for that to happen. And it's my hope that we can increase revenues through the Federal budget which would allow us to give more resources to all Federal departments, including DHS. And if we can fund DHS, that would certainly be of immense help to making sure that things like this don't happen in the future. And with that, I yield back the balance of my time.

Mr. RUSSELL [presiding]. The gentlemen yields back his time. The chair will now recognize himself for 5 minutes.

The real issue here is both domestic and also a national security issue. One of the things that we see is that States are frustrated, as Mr. Jones has attested to in his law enforcement capacity. A lack of action by Federal enforcement has only demoralized State and local law officials. Many efforts to aid Federal immigration enforcement could be very successful, But when they're turned in, they're merely released. In my home State of Oklahoma, they even had the provisions to, when they did make apprehensions, to turn these individuals over to ICE, even paying for the transportation and incurring those costs. The result was, however, that nothing happened. They were released.

Article IV, Section 4, it is very, very clear that it says that the government has a responsibility to protect States against invasion, as was pointed out by Mr. Shaw. And yet the Preamble of the Constitution says that we have a requirement to provide for the common defense. Now, we've heard an awful lot of talk about what the Constitution is. I've been defending it since I was 18 years of age in a previous life and now as a Member of Congress.

The concern in an illegal transnational terrorist entrant, who can be found in no data base, could now be characterized as a nondeportable. He could be free to remain, plot, plan, aid, abet the harm of the United States and its people.

And my question for Mr. Chen is, do you believe, as my colleague from Pennsylvania has Stated, that upholding the Constitution is some side political show.

Mr. CHEN. I'm not sure I understand the question, Mr. Chairman.

Mr. RUSSELL. Do you believe that upholding the Constitution is a side political show?

Mr. CHEN. AILA, as attorneys that represent businesses, families, individuals across the country every day, certainly believes in the importance of upholding the Constitution.

Mr. RUSSELL. I agree.

Mr. CHEN. With regard to the politics, we don't have a comment.

Mr. RUSSELL. Well, then Article I, Section 8, Congress shall have the power to—and a long list of powers that it retains—establish a uniform naturalization rule. Who has the power under Article I, Section 8, in that explicit language in Article I, Section 8 of the Constitution?

Mr. CHEN. I would have to defer that question. I am not familiar with that particular provision.

Mr. RUSSELL. Article I, Section 8, Congress shall have the power to establish a uniform naturalization rule. It's pretty clear. Article IV, Section 4, we have protection against invasion, which we Stated earlier. How do you believe the President's immigration actions—when you have the legislative branch of government, you have the judiciary branch of government, and now even the executive branch of government in agreement when the President Stated 22 times he had no authority to do what he did, and yet here we are—how do you believe that the President's immigration actions uphold the Constitution and the security of the United States?

Mr. CHEN. As I mentioned before, AILA does believe and, by our legal analysis, it is our view that the November 20 reforms are legal and also constitute good policy with respect to immigration reform. The basis for that legal authority draws from the inherent authority of the law enforcement agencies to set priorities. Prosecutorial discretion is one of the well-established principles of setting those kind of enforcement priorities. That has been a practice that has been done by law enforcement agencies historically. Legacy Immigration and Naturalization Service used that practice. And Presidents before President Obama exercised prosecutorial discretion.

Mr. RUSSELL. They did with the authority of the Congress, Mr. Chen, not on executive action unilaterally.

How many other than Mexicans, OTM's classified, cross our southern border a year? We have evidence thatindividuals from Afghanistan, Iraq, two places that I've fought as a combat infantryman, Iran, Pakistan, Somalia, Sudan, Yemen, Venezuela, and Egypt have crossed into our border. Do you think this poses a threat to the United States?

Mr. CHEN. I don't have any specific information about those individuals that you mentioned. As we all know, the border security, Customs and Border Protection, are charged with screening those individuals very carefully. But I can't speak to——

Mr. RUSSELL. And so on a screen, then what would happen if they can find really no evidence and they can't run, they're not in

any kind of data base, are they or are they not just deferred and put into some type of hearing status? And could they be at large in the United States?

Mr. CHEN. Well, as I mentioned before, substantial background checks and security checks are done on individuals upon entry, especially if they have those kinds of records. Those individuals should be screened out. People who request visas are also screened very carefully at the Department of State in the consular process to make sure that they don't have those kinds of records.

Mr. RUSSELL. Those would be for legal entrants.

My time has expired. And the chair will now recognize the lady from the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

I want to thank all the witnesses for sharing their stories and to certainly recognize the tragedy involved in some of them, tragedies that we see throughout our systems even when there are good faith efforts to uphold the law. Some of what has been said here today reinforces the administration's policy of prioritizing known criminals for deportation.

My colleagues are fond of holding up the Constitution as some kind of prop. Once you get into the content of the Constitution there are sometimes very inconvenient truths. For example, if someone breaks into your home, kills my loved one, he is going to get the same due process that someone who is obviously innocent gets under our Constitution. So that it seems to me worth asking Mr. Chen to discuss with us why any immigrant detainees would be released for any reason. And I'm asking that question in light of briefly what the Due Process Clause of the Constitution of the United States requires as applied to the detention of unlawful immigrants,so that we can get straight right now why these unlawful immigrants cannot simply be held simply because they are unlawful.

Mr. CHEN. Thank you for the question. And as we've already discussed before, there was the Supreme Court decision in Zadvydas, which I won't go through again, but it is based on the principle, as you mentioned——

Ms. NORTON. I want the principle to be discussed, the due process principle, and why it should apply to people who are in the country illegally. Why did the Supreme Court say, since they're here illegally in the first place, why does due process apply to them?

Mr. CHEN. Well, the U.S. Constitution and the Due Process Clause certainly do apply to people who are here in the United States as immigrants or even those who are unauthorized, and the court has spoken on that, and I mean the Supreme Court with that respect. And before an individual is going to be released the government is bound to follow the Constitution in how it examines and how it's going to detain that person.

One requirement is that the individual will be screened, and there needs to be specific information as to whether or not that person poses a threat to the community. That protects the individual's liberty interest, and that is specifically something that derives from the due process clause.

Ms. NORTON. So that those people can have bond and can get released just like ordinary people who are being held for unlawful acts here in the criminal justice system?

Mr. CHEN. Well, for those individuals who would be entitled to bond, the Immigration and Customs Enforcement or sometimes they can come before an immigration judge to make that determination as to whether they constitute a flight risk or a threat to public safety. I should point out that many people are held indefinitely or for prolonged periods of time without ever having the opportunity to appear before a judge.

Ms. NORTON. How can that happen?

Mr. CHEN. It's one of the aspects of our immigration system where individuals are not afforded the opportunity——

Ms. NORTON. And what kinds of individuals are these, Since, obviously, many individuals have not been held indefinitely, which has come up again in this hearing? Who is it that can be held indefinitely?

Mr. CHEN. Well, these are individuals who typically would be unauthorized in the United States. Some are held pending their proceedings and——

Ms. NORTON. Yes, but that doesn't answer, Mr. Chen. Many of these people cannot be held under court decisions now. There must be a group that you're speaking about who can be taken out and held indefinitely in a country which usually does not allow indefinite detention. What kind of an alien does that have to be in order to be held indefinitely?

Mr. CHEN. Well, the Zadvydas decision that was mentioned before grows specifically out of the set of examples of individuals who cannot—their countries are refusing to or are delaying acceptance of their return after they've been ordered removed.

Ms. NORTON. So those are countries like China, these are not usually the countries like Mexico or Central America?

Mr. CHEN. That's right. And the specific circumstance that I want to mention is that under the Supreme Court decision there are special circumstances where certain individuals who have mental illness or who pose special threats to the community, the Immigration and Customs Enforcement, the government can present those facts and request longer detention. That was not been used frequently, but I believe that there are individuals who have been detained very long periods of time under that provision.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. RUSSELL. And the gentlelady's time has expired. The chair thanks the gentlelady and now recognizes the gentleman from Michigan, Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman.

I have a number of questions I'm prepared to ask this panel. And I appreciate you being here, and especially the family members that have suffered such tragedy, and I would concur, without sense, senseless tragedy.

But, Mr. Chairman, I guess I would like to continue with some Statements in response to what I've been hearing from my Democrat colleagues. And with all due respect, I think we're all here to defend Article I, Article II, Article III powers. That's the beauty of our grand experiment in democracy based upon a Constitution and

a separation of powers that gives us the ability to expand what we do for our people and to make sure that they're carried across the finish line of their life in this great country with success and with safety.

But I hear Statements that talk about us not acting as adults and getting on with what is necessary to carry out our responsibility for our country, and specifically in this area of dealing with illegal aliens in the land that are committing atrocities or aren't committing atrocities but they have violated the law. We have in this Congress, this House, passed significant legislation that funds all of the processes that we're looking for with this panel. We have taken care of funding border security. We have taken care of dealing with ICE. We have taken care of giving powers to our Governors, including Michigan, in the border States to secure the safety of their people. We've done that. We've acted as adults in the room.

We've also said that we will establish our constitutional authority and not relinquish it to any President, this or any other President to come. We will take that authority and we will use it because we represent the people—the people—who should be the strongest authority in the land. We have done that. We have not relinquished our authority. It is the Senate Democrats that have been unwilling to follow the course that we have designed in our Constitution to carry out action, to protect our people, to secure the liberties for our people, and to establish policy that moves within the Constitution and not outside of it. That's what we've done.

And shame on, Mr. Chairman, the Senate Democrat leadership for being unwilling to even debate the issueand do what the American people expect us to do. And I, for one, am sick of that. And I just want to make sure that all who are listening in this room, all who are listening on C-SPAN, all who are listening on any report that comes from the news media hear the fact that we have done our job to secure this country, to deal with the problems that these two individuals who have family members who were murdered senselessly should expect us to carry on.

The House has acted. The Senate needs to act. And where should the language that pushes back against an unconstitutional takeover by this President of authority that we alone have, where should that be placed? None other than in the Homeland Security funding bill. That's where it's appropriate to be passed.

And so I hope that the pressure is placed upon the appropriate entities in the U.S. Senate to do their job as we've done our job, because, Mr. Shaw, Mr. Ronnebeck, you and your families deserve that.

Now, let me back off a bit and get to a question. Ms. Vaughan, what impact will the Priority Enforcement Program have on law enforcement's ability to accurately identify those undocumented persons who present a threat to society?

Ms. VAUGHAN. It's going to make it much more difficult, the result is going to be less enforcement because ICE is really going to be subject to the decisions of local law enforcement agencies and the ability of local law enforcement agencies to notify them in a timely manner when a criminal alien that ICE selects for deportation is going to be released so that ICE can take them into custody.

It's setting back immigration enforcement more than a decade and consigning them to using emails and fax machines and telephone calls instead of the electronic, very efficient system that was set up by the Secure Communities program that worked very well.

Mr. WALBERG. Insignificant tools.

Mr. RUSSELL. And the gentleman's time has expired.

The chair now recognizes the gentlelady from New Mexico, Ms. Lujan Grisham.

Ms. LUJAN GRISHAM. Thank you, Mr. Chairman.

And I too want to express my sincere condolences to the families. And these are really tough hearings, and it takes incredible courage and determination to come before this committee and any other committees and to talk about your personal stories and to ask us, and particularly this committee. It's an oversight committee with incredible latitude and power to get at the right kinds of solutions for problems.

And my hope in every hearing, but particularly these kind of hearings, where the stakes are so high, that we do everything in our power to do things that we can do right now, which is why I hoped that we were planning to have the Department of Homeland Security here before this hearing to talk to us about several issues that they can do right now and to talk to us very clearly and specifically about what they do to protect Americans, to protect families, to screen appropriately, to prioritize. They always, there's always some kind of prioritization process.

I appreciate my colleague, Ted Lieu, speaking of that. I was a county commissioner where you're trying to manage jails and the State prison populations and figure out what you do. And I wish that wasn't the case. I wish none of us had those real harmful criminal activities or issues that we have to deal with in our communities. That's what I wish. And so this committee really can do something and should do something.

And to illustrate that, I want to ask Dr. or attorney Chen to—I guess I can say Dr. Chen, I'm a doctor of law myself—I know that we've mentioned the 2013, the 36,000 criminal immigrant detainees that were released. You referenced the court decisions that required that potentially. Do you have any information about how many have been released, say, over the last several years, so that we're including 2014 and 2012, so we get an idea of the scope of the problem?

Mr. CHEN. I do not.

Ms. LUJAN GRISHAM. Do you have any idea how many have been released after committing a crime?

Mr. CHEN. I don't.

Ms. LUJAN GRISHAM. Do you have any idea what types of crimes that we are talking about, what they've committed?

Mr. CHEN. Besides what's been mentioned here and what was written publicly by the Center for Immigration Studies, I don't have any other information. I don't believe the Department of Homeland Security or ICE has provided that detailed information.

Ms. LUJAN GRISHAM. And I'm going to just illustrate my point one more time.Do you know exactly what the proportion is between the undocumented immigrants that DHS is forced to release and

how many they've released under their own prioritization or discretion?

Mr. CHEN. I don't have any numeric data as to the proportions that were released either discretionarily with ICE having that authority to release or those that were mandated by the Zadvydas decision.

Ms. LUJAN GRISHAM. And so I have more questions than I have answers. And that's, I don't think, an appropriate environment for the families who have taken the time and had the courage to talk to us about the severity of the issues that we have a responsibility and this administration has the responsibility through Homeland Security to address. And I am encouraging the subcommittee and the full committee to ensure that we have the opportunity to do that.

I was the secretary of health in New Mexico from, I hope I get this right, 2004 to 2007. And one of the programs that our Department of Health in New Mexico was required to carry out and oversee is something called the developmentally disability community programs, and that means that folks who need 24-hour supervision and support, both, are provided that in our State.

One of the individuals I was providing support and care to in that design was an undocumented individual who was also developmentally disabled who committed several murders and other crimes in New Mexico and Texas. And actually the State in that program has no authority and in the Department of Health it's the wrong department to provide the right support in this situation. And so why would we have this person in our program? Because a Federal judge mandated that we do it. And it was a very difficult situation. I recognize how difficult the situation is. And I recognized it was my responsibility in that job to assure the safety of the other families and family members, individuals who were in those programs.

And so I'm expecting that this committee look for a way to address these complex issues and to do it in a way that protects our families and respects and does something meaningful about the tragedies that have already occurred.

I thank you very much for coming. My condolences again.

Thank you, Mr. Chairman.

Mr. RUSSELL. And the chair thanks the gentlelady.

And the chair now recognizes the gentleman from Georgia, Mr. Hice.

Mr. HICE. Thank you, Mr. Chairman.

I can't begin to express as others have and I appreciate every comment regarding our condolences for the tremendous loss that you have experienced and for the courage that you exhibit by bringing your stories out into the public for the sole purpose of correcting an extremely serious problem that we have in our country.

And, Mr. Ronnebeck, I believe you said it so well when you said this is a family's biggest nightmare. I can only imagine. And our prayers for each of you.

Ms. Vaughan, I would like to begin with you. A while ago Mr. Chen gave some statistics with great platitudes that would try to convince us that all is well when it comes to our Federal Government deporting illegal criminals. But as you, yourself, pointed out,

those stats are flawed at best. There is some information from the Weekly Departures and Detention Report from ICE from September 2014 in which they said that as of September 2014 there were some 166,781 convicted criminal aliens who had received final orders of removal and yet for one reason or another were not removed. They are to this day still at large in the United States.

In addition to that number was another 174,283 convicted criminals who are facing some sort of pending deportation, and they now are at large as well in the United States. These numbers come up, to my addition, over 341,000 convicted illegal aliens in this country at large.

Is that number roughly correct, Ms. Vaughan?

Ms. VAUGHAN. Yes. That number comes directly from ICE's statistics and I believe is the exact information from the previous question.

Mr. HICE. The question has got to be, why in the world is ICE releasing these convicted criminals?

Ms. VAUGHAN. Well, the main reason is because of policies in place that the Obama Administration has implemented that either exempt large numbers of even convicted criminal aliens from immigration enforcement because they are deemed not a priority or because ICE officers are told to release them pending, "deportation proceedings that are not going to happen for years into the future."

And that's the exact case of Altamirano, who killed Grant Ronnebeck, is that he was allowed to be released and await deportation proceedings rather than held in custody and removed in an expeditious manner. Most of these are discretionary releases. They're ICE's choice. A few of them are court orders. But the vast majority of them are coming about as a result of policies, deliberate policies.

Mr. HICE. OK. You mentioned earlier—and I'm going to paraphrase but I jotted down a couple of notes—you mentioned something to the effect that illegals face no threat of being deported. And you went on to say, in essence, that the Federal Government says that they will not tolerate criminal behavior by illegal aliens. And yet, in essence, the Federal Government, on the other hand, has removed the necessary tools that ICE needs to do their job. Is this an accurate assessment of what you had Stated?

Ms. VAUGHAN. Yes.

Mr. HICE. OK.

With that, I would like to, Sheriff, come to you. Again, thank you for your service to our country and your commitment to keep us safe. You mentioned in your testimony that there's a policy vacuum, actually an antipolicy attitude from this administration to adhere to the rule of law and to do what they're required to do. I'm amazed with the startling ease that illegals are able to get driver's license. Can you real quickly address that?

Sheriff JONES. I can. Specific to the driver's license issue, there's a couple of issues. If anyone will give you honest feedback in any of the States that issue them, and now California does as well, they're mostly predicated on forged birth certificates or inadequate documentation. They do nothing to truly identify any of the folks that are here illegally.

In California, as a matter of fact, you don't even need any government documentation. You can simply go in, meet with a DMV representative, and they can, quote/unquote, verify your ID through the course of that interview. We had a deputy killed in the line of duty several months ago by someone in the country illegally. He was in possession of a Utah birth certificate or an out-of-State birth certificate and on an alias.

And none of the DVM information from California and many of the States that issue driver's licenses to undocumented immigrants share any data with ICE, so there can be no cross-checking of identification with the folks that have the actual identification.

Mr. HICE. Thank you, sir.

Mr. RUSSELL. And the gentleman's time has expired.

And the chair now recognizes the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you.

Mr. Chen, I was wondering if you could describe a way of balancing the concerns that we have with regard to proper balancing of due process rights that we grapple with and also in each and every case getting to the issue of expeditious deportation of those individuals who have been charged with crimes. That's the challenge that we have placed on the Department of Homeland Security and ICE. And in fairness to them, especially with the recent Supreme Court decision, they seem to be struggling with that.

You seem to be someone who has had particular experience in this. Is there a bright-line distinction that we could introduce that would address the situations that we're presented with here today but also would recognize the legal reality of what we have to deal with in those cases?

Mr. CHEN. Thank you for the question.

I don't have a magic bullet solution or proposal that would address, certainly not the pain that I think the people who have testified here and the loss that they have experienced, to fill that loss. The fact is that people who are here who are unauthorized, if you've committed a crime or if there's some information that indicates that the individual poses a threat to the public safety, if ICE has the discretion to release that individual ICE is going to look at the facts before it and make that determination. I'm not here to testify for the government or defend it, but my understanding is that is the analysis that ICE officers will use to screen individuals.

People who are held in detention are made priorities on the court docket for removal. Typically they are processed much more quickly than people who are released from custody pending their immigration court proceedings.

One thing I should mention is that the immigration courts are severely backlogged, and AILA has called for greater increases in funding for the immigration courts. But that funding has never kept pace, largely due to the fact that Congress has been more focused on funding Customs and Border Protection and Immigration and Customs Enforcement, and the courts just don't have the judges or the personnel to keep up with that. And so there are lengthy backlogs. But one way to solve it is to make sure the courts are adequately funded so that they can process these cases quickly.

Mr. LYNCH. Thank you. I yield back.

Mr. RUSSELL. The chair thanks the gentleman and now recognizes the gentleman from Georgia, Mr. Carter.

Mr. CARTER. Thank you, Mr. Chairman.

Thank all of you for being here. And, Mr. Shaw and Mr. Ronnebeck, my deepest condolences for your loss. I can only imagine. And I know it has to have shaken your confidence in your government, and I could certainly understand that. And then for you to show up today, and thank you for doing that, and then we can't even get the Director to show up, that has to even be more disappointing. So as far as I can, I apologize. I'm sorry. But, nevertheless, thank you again for being here. Obviously we've got some real problems, some problems that we need to address.

I want to ask Ms. Vaughan,and if this is an unfair question, I apologize, but I feel like you would be the one to ask about this. I had the opportunity to go to the southwestern border, and that was a great opportunity for me because I had never been before. It was educational, enlightening. I learned a lot and actually went with an open mind and came back with some different ideas from what I had before.

One of the things that has always concerned me is, what is the Mexican Government doing to help us? Are they putting any effort into helping us? From what I understand, particularly in the children who are coming across, that they're further down in Central America, coming from countries further down. And is Mexico helping us at all? Is that something that you could address?

Ms. VAUGHAN. The Mexican Government has not been particularly helpful in addressing the surge of illegal alien families and juveniles who have been coming. In fact, they've made it easier for people to traverse Mexico by informing their own immigration authorities that they're to let people who say that they're going to the United States pass without harassment through Mexico. They consider this to be a problem for the United States, not for them. They know that they're just passing through.

Mr. CARTER. To your knowledge, has the administration done anything to address that?

Ms. VAUGHAN. I believe that they issued some public service announcements to be broadcast in Central America. I mean,in years past when we've had these kind of mass migration crises, the government has been very proactive in trying to do joint operations and work together with authorities in Mexico to stop people before they get near the U.S.-Mexico border. Those were very successful in preventing tens of thousands of people from arriving on our doorstep and they worked very well, but those have not been used at all to my knowledge in this recent crisis.

Mr. CARTER. Well, again, back to my trip to the border, when we were in the Rio Grande Sector, the Rio Grand Valley Sector, and that's where most of the children had come in, in the previous spring of last year, we were told to expect even more this coming spring. So I think it's going to be even more of a problem in the spring than it has been in the past. That's discouraging, discouraging news to hear.

Mr. Jones, I wanted to ask you—and thank you for what you do, very important—but I know that the administration has changed. They've changed their policy and gone with the Priority Enforce-

ment Program. And I just want to ask you the effects, if you've seen the effects of that, and exactly what have they been.

Sheriff JONES. I have. And, first of all, having the priority, putting people in a Priority 1 necessarily means that you're ignoring the rest of folks. But even in that Priority 1 you can have folks with multiple felony arrests, youths under 16 with extensive gang activity, misdemeanor convictions, and many felony convictions, as long as they aren't considered aggravated felonies. None of those things would get you into the first priority.

But secondarily, and as I mentioned in my testimony, the detainer system is broken. That necessarily relies on our ability to hold folks that are arrested on fresh charges for ICE to be able to identify them and come to our jail and take custody of them. That is not happening. That's why in-custody ICE arrests are down 95 percent.

There are ways to fix this ICE detainer problem. I mean, I figured out a way to solve it with $14 million. And even though I'm a doctor of law, as I guess I've now been elevated, as well a sheriff, I'm sure there are bright minds in Washington that if they had the notion to fix it could come up with equally or better ideas to fix it than I can.

Mr. CARTER. Well, please don't stop trying.

Sheriff JONES. Thank you.

Mr. CARTER. We appreciate your efforts.

Again, Mr. Shaw and Mr. Ronnebeck, my deepest sympathies, and thank you for being here.

Mr. Chairman, I yield back.

Mr. RUSSELL. The gentleman yields back.

And the chair now recognizes the patient lady from Michigan, Ms. Lawrence.

Mrs. LAWRENCE. Thank you.

I want to thank everyone that's here today to testify. I do appreciate you taking your time.

Sheriff Jones, I was a previous mayor and have so much appreciation for my law enforcement and the service that you do.

I want to be on the record that all lives does matter, and it should, all lives should matter. To the families that are here today that suffered a loss, my heart goes out to you. Being a mayor, I've seen crime and the results of that. So I want you to know that that's something that I care very deeply about.

I do want to echo what my colleague just said, we can't stop trying. It seems to me, though, that there is an underlying misperception of this hearing that the Obama Administration solely is not enforcing our immigration laws. And I just wanted to share for the record, and, Mr. Chairman, please, if you would allow me, I'd like to request that two reports from the Migration Policy Institute, a nonpartisan think tank in Washington, DC, be entered into the record. I have them here. And I would ask that they both be entered into the record.

Mr. RUSSELL. Without objection, that will be the order.

Mrs. LAWRENCE. Thank you.

These reports highlight the levels of detention and removals under the Obama Administration. And I want to echo again, we

can't stop trying. But you cannot dispute the fact that the numbers under the Obama Administration has increased.

I would also like to enter into the record a letter from the deputy director of immigration policy at the Migration Policy Institute, Marc Rosenbaum, dated today, that further clarifies some of the findings of these reports and includes some updated statistics regarding this administration's enforcement record.

Mrs. LAWRENCE. And I just want to quote from this letter. Mr. Rosenbaum States the Obama Administration's overall record on immigration enforcement is characterized by an unprecedented investment of law enforcement resources provided by successive Congresses and by the new enforcement policies at the border and within the interior, record-setting immigration removals that have been increasingly focused over time on high-priority targets, failing border appreciation, and most importantly a subsidized drop in the size of the U.S. Unauthorized population, the first such drop in U.S. History.

Mr. Chen, I want to ask this question, and this is in the spirit of we can't stop trying, we can't ignore what has happened, but we can't ignore the progress that we have made as well. In your testimony, you highlighted the enforcement efforts of the Obama Administration. For example, you indicated that in the first 6 years of the Obama Administration DHS removed approximately 2.4 million people. Is that correct?

Mr. CHEN. That is correct. And if I may clarify, given some of the controversy about these statistics, that is a Department-wide statistic that covers all the immigration enforcement agencies, including ICE and CBP. The definition of removal has not changed during the period that I'm referring to. And it has increased substantially over the past decade. That increase is not solely attributable to Mr. Obama's policies as President, but had begun during President Bush's period as well. But those statistics I stand by and are accurate.

Mrs. LAWRENCE. And from your understanding, is that more or less than any other President? You said it was successive. But this administration, has it been more or less than any other President?

Mr. CHEN. On the number of removals?

Mrs. LAWRENCE. Yes.

Mr. CHEN. This administration has removed more in total numbers and on average than any previous President.

Mrs. LAWRENCE. Can you also explain that detention has increased over the years, totaling over 440,000 individuals in Fiscal Year 2013. Is that correct?

Mr. CHEN. That is correct. And I'm looking at a chart that I can hold up with a graph showing that around Fiscal Year 2001 to 2003 the number of immigration detentions annually was about 200,000 per year. And it hasn't grown exactly steadily, but you can see it's climbed up to about over 400,000 per year and has remained at about that level for the past several years.

Mrs. LAWRENCE. Mr. Chairman, I'm closing. I would like to emphasize that while many people may have questions about the policies of this President's administration related to immigration actions, the record, this President's record of detention and deportation is clear. And I do agree that we need to keep working at it,

every life does matter, and that this commission, our responsibility is to make sure that we keep moving forward. Thank you, sir.

Mr. RUSSELL. The gentlelady's time has expired.

And the chair now recognizes the gentleman from Florida, Mr. Mica.

Mr. MICA. Thank you. I've just joined the committee, coming from another one. But I have a couple of questions for Scott Jones, Sacramento County sheriff. I guess under the Secure Communities Program, it was designed to identify each undocumented person prior to their release from custody by allowing ICE to serve detainers on local jails to hold those who were arrested for new crimes and custody for no more than 48 hours, I believe, if there was a reason to believe they were illegally in the country.

The President's November 20 executive actions, in fact, dismantled this action. So how did the Secure Communities Program assist in your department's identification of arrested individuals? Could you describe it for us?

Sheriff JONES. I can. Thank you. And the way Secure Communities did it is because we had to submit fingerprints to ICE. So they were able to identify and take appropriate action, whatever appropriate action is for ICE, on every single person that was arrested on local charges.

Now, with their prioritization limitations of the Priority Enforcement Program—or Secure Communities Light, as I call it—they are much more hampered on what offenses they can take action for. But, again, I have to stress that both are dependent on the ability for jails to honor detainers or requests from ICE to hold those folks so that ICE has enough time to get down to the jail to take custody of folks they've already identified.

Mr. MICA. But they're not able to identify——

Sheriff JONES. They are not.

Mr. MICA [continuing]. Individuals who are illegally here.

Sheriff JONES. Because of activism and the Federal Government unwilling to challenge contrary decisions or assertions, no sheriff in——

Mr. MICA. So how does this impact you? What are the ramifications if they can't identify? What kind of a situation does that create for you?

Sheriff JONES. Well, there's a couple. No. 1 is we don't have access to ICE data bases. So our officers on the street don't know someone's status or if they're here illegally or not, which puts them at grave risk, which is a contributing factor to what happened to my officer several months ago that got killed. But it also allows criminals to escape consequence not only for their criminal offenses, but their offenses for being in the country illegally despite perhaps prior removals and other prior actions by ICE.

Mr. MICA. There's also the impact of the Federal Government's failure to challenge lawsuits that attempt to erode immigration enforcement. What happens in this instance?

Sheriff JONES. Yes, sir. Like I mentioned in my testimony about the Clackamas County, Oregon, decision that invalidated ICE detainers as amounting to an unlawful detention without probable cause, rather than challenge that assertion, rather than intervene in that case during its pendency or challenge its assertion after-

ward, they've simply decided not to be involved, remain conspicuously silent, thereby emboldening that one single district court opinion to now be exacerbated by the ACLU and other advocacy groups, put the rest of the sheriffs in this country on notice that they would be sued now based on that one court's decision if they were to honor any ICE detainer. So as a result many sheriffs in this country no longer cooperate with ICE in any way because we've asked and they are unwilling, by policy far above their heads, to cooperate with us.

Mr. MICA. So is that what led to your decision not to honor any of the ICE detainers for any reason?

Sheriff JONES. Yes. As a matter of fact, when the TRUST Act came out, which limited, not relating to the court decision, but limited our ability to do that to, it specified which ICE detainers we could honor, my public opinion was that I was not going to honor the TRUST Act. I actually came back to Washington, spoke with some very high officials in ICE and asked them to please stand with me, that I would be willing to stand with the Federal Government in the faith of California State law. They made it very clear to me that during this administration those things would not change, they would not be able to stand with me, and I was left no choice. So several months after the impact I was forced to comply with our TRUST Act and now comply with no ICE detainers because of the decision in Oregon that should have no precedential effect on us.

Mr. MICA. Well, Mr. Chairman, the chaos reigns supreme. I'm hearing from another jurisdiction, another county. In some of my jurisdictions they have law enforcement pick up people, ICE isn't able to identify them in a similar manner, and so they're just taking to the next jurisdiction and dumping them because they don't know what to do. And the cost to incarcerate is bankrupting some of our jurisdictions.

I don't know if you have seen a similar situation, Sheriff.

Sheriff JONES. Yes, sir. And I will say that myself and other law enforcement leaders have really no interest in enforcing immigration law. But that does presuppose that there are people that are interested in enforcing immigration law, that are interested in keeping our communities safe like we are, and are interested in identifying, detaining when necessary, and removing predator undocumented persons from our communities.

Mr. MICA. Thank you. Yield back.

Mr. RUSSELL. And the gentleman's time has expired.

And we'll now recognize Mr. Cartwright for a unanimous consent request.

Mr. CARTWRIGHT. Thank you, Mr. Chairman. At this time I would like to enter into the record a May 2013 report, apropos of many of your comments, Sheriff Jones, and thank you for your testimony. This is from the University of Illinois at Chicago. It's titled "The Insecure Communities." It highlights some crucial facts about police involvement in immigration enforcement. It found that 45 percent of Latinos surveyed were less likely to report a crime because they were afraid local police are going to ask them or people they know about their immigration status. That's a unanimous consent request.

Mr. RUSSELL. Without objection, that will be the order.

Mr. RUSSELL. I would like to thank our witnesses that have taken the time to come today. It's very important what you all do, even if we might have even political differences. I think in many cases the record-high numbers of apprehensions can also be commensurate with the fact that we have record-high numbers of illegal entrants. And there is a correlation, and it's worthy of noting that.

In fact, it's important that even today one of our witnesses, Ms. Vaughan, has Stated that even the detention bed issue, with 34,000 spaces available for those that could be awaiting deportation, only 27,000 on a daily basis have been used since this fiscal year. So we do see a lot more effort could be exerted, and we hope that that will be conveyed and taken back.

And I can't thank enough Mr. Shaw, Mr. Ronnebeck.We really cannot even imagine. But we can imagine the constitutional requirement that we have to uphold life, liberty, and property of all Americans. You deserve that. Thank you for your efforts.

And thank you, Mr. Jones, for your continued efforts, and all of the witnesses, Mr. Chen, for the dedicated work that you do every day,Ms. Vaughan, a Rolodex of information, and thank you so much for all that you do.

If there is no further business, without objection, the committee will stand adjourned.

[Whereupon, at 12:07 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225-5074
MINORITY (202) 225-5051
http://oversight.house.gov

January 29, 2015

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Secretary:

The Committee on Oversight and Government Reform is reviewing the Department of Homeland Security's release of Mr. Apolinar Altamirano, a citizen of Mexico. In particular, we write to request documents and information relating to Mr. Altamirano's immigration history and the Department's decision to release him.

According to a public report, Mr. Altamirano is a 29-year-old native and citizen of Mexico who was arrested for the January 22, 2015, killing of Grant Ronnebeck, a 21-year-old convenience store clerk, in Mesa, Arizona.[1] A news article stated federal immigration authorities initiated removal proceedings against Mr. Altamirano two years ago, but on January 7, 2013, he was released on a $10,000 bond after four days of detention. Mr. Altamirano was released notwithstanding a prior conviction on a burglary charge, information that he had ties to the Mexican Mafia, and was potentially involved in drug sales.[2]

The news article also stated Mr. Altamirano remained at large even though a Mesa Municipal Court judge issued two injunctions for harassment, the second of which was served on him three days before the killing.[3] In connection with those injunctions, according to the story, one woman wrote that she was "in fear for [her] life," and that Mr. Altamirano had "threatened to kill her 'plenty of times' and pointed a gun at her boyfriend."[4]

To assist the Committee's investigation, we request the Department produce the following documents as soon as possible, but no later than 5:00 p.m. on February 5, 2015:

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[1] *Id.*
[2] *Id.*
[3] *Id.*
[4] *Id.*

1. All documents referring or relating to Mr. Altamirano, including, but not limited to his alien file, the Notice to Appear served on him, any criminal records, and any worksheets that were prepared in determining that a bond of $10,000 was appropriate in connection with his release; and

2. All documents and communications referring or relating to the decision to release Mr. Altamarino.

In addition, the Committee requests that you designate officials within the Department to provide a briefing to the Committee staff regarding Mr. Altamirano no later than February 2, 2015.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Art Arthur of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

Ron DeSantis
Chairman
Subcommittee on National Security

Encl.

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Stephen F. Lynch, Ranking Minority Member
Subcommittee on National Security

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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WASHINGTON, DC 20515–6143
Majority (202) 225–5074
Minority (202) 225–5051
http://oversight.house.gov

February 19, 2015

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
120 Southwest 10th Avenue
Washington, D.C. 20528

Dear Mr. Secretary:

The Subcommittee on National Security and the Subcommittee on Health Care, Benefits, and Administrative Rules hereby request the testimony of your designee at a subcommittee joint hearing titled, "A Review of the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States." The hearing will take place on **February 25, 2015, at 10:00 a.m. in room 2154 Rayburn House Office Building**.

The hearing will examine the Department of Homeland Security's policies and procedures regarding non-citizens unlawfully present in the United States, and their impact on the enforcement of the immigration laws, and on local law enforcement and public safety. Your designee should be prepared to provide a five-minute opening statement and answer questions posed by Members.

Instructions for witnesses appearing before the Committee are contained in the enclosed Witness Instruction Sheet. In particular, please note the procedures for submitting written testimony at least two business days prior to the hearing. Please contact the Committee by February 23, 2015, to confirm your designee's attendance. If you have any questions, please contact Art Arthur or Sang Yi of the House Oversight and Government Reform Committee staff at (202) 225-5074.

Sincerely,

Ron DeSantis
Chairman
Subcommittee on National Security

Jim Jordan
Chairman
Subcommittee on Health Care, Benefits and Administrative Rules

Stephen F. Lynch
Ranking Member
Subcommittee on National Security

Matt Cartwright
Ranking Member
Subcommittee on Health Care, Benefits and Administrative Rules

Enclosure

Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

February 6, 2015

The Honorable Ron DeSantis
Chairman
Subcommittee on National Security
Committee on Oversight
and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman DeSantis:

Thank you for your January 29, 2015 letter to Secretary Johnson requesting documents related to an individual's immigration history.

Your inquiry is very important to us and the appropriate Department of Homeland Security Component is preparing information so we may respond with the accuracy and completeness that your letter deserves. Please know that the Department's leadership has accorded your letter a high priority and we are endeavoring to respond to you as soon as possible.

Representative Chaffetz, who co-signed your letter, will receive a separate, identical response. Should you have any questions in the interim, please ask your staff to contact my office at (202) 447-5890.

Respectfully,

Brian de Vallance
Assistant Secretary for Legislative Affairs

United States Department of Homeland Security
Office of Legislative Affairs
Washington, DC 20525

February 22, 2015

Ronald D. DeSantis, Chairman
Stephen F. Lynch, Ranking Member
Committee on Oversight and Government Reform
Subcommittee on National Security
2157 Rayburn House Office Building
Washington, DC 20515-6143

James D. Jordan, Chairman
Matthew A. Cartwright, Ranking Member
Committee on Oversight and Government Reform
Subcommittee on Health Care, Benefits and Administrative Rules
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairmen and Ranking Members:

Thank you for your February 19, 2015 letter to Secretary Johnson requesting testimony this week at a hearing entitled "DHS Policies and Procedures on the Apprehension, Detention and Release of Non-Citizens Unlawfully Present in the United States." DHS policies and practice in these areas are extremely important and we appreciate the opportunity to share with you the progress and great work of our law enforcement personnel in this area, and also some of the challenges we face. We welcome working with Congress to enhance DHS's ability to execute its public safety and national security mission by continuing to focus on dangerous criminals and national security threats, consistent with the legal parameters within which we operate.

The Department of Homeland Security and Secretary Johnson in particular consider Congressional hearings and oversight a critical function in our system of government. Since his confirmation the Secretary has consistently stressed the vital importance of a trusted partnership with Congress, which starts with prompt and comprehensive responses to Congressional inquiries. To that end since coming into office the Secretary has directed DHS offices and components to redouble efforts in being responsive to Congress. We appreciate various Members' public acknowledgement of the Department's commitment and progress in this regard.

While we are eager to testify before the Subcommittees on the important issues surrounding the core of our civil immigration enforcement mission, three business days is not sufficient time to prepare such that our witness can provide you with all the information, detail, and background on these issues that the Members deserve. The invitation to testify was received late Thursday, allowing less than one full business day to prepare testimony, which must be shared and cleared through the Office of Management and Budget process to ensure that it is responsive, accurate, and comprehensive. There is simply not the time to complete that required process with such short notice.

While we cannot accommodate a date so soon, we very much want to work with the Subcommittees on this and other important issues and secure a hearing date in the near future that will allow us to present and be prepared to answer questions on these important issues. We would be prepared to offer a member of DHS leadership to testify on March 11th, 12th or 19th, and would be happy to discuss other dates that may be more convenient to the Subcommittees while still giving the Department sufficient time to prepare.

Thank you again for your commitment to and support of DHS. We look forward to working with you and your staff to identify a hearing date. Should you have any questions I may be reached at 202-447-5890.

Sincerely,

/s/ Brian de Vallance

Brian de Vallance

Office of the Director

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

AUG 15 2014

U.S. Immigration and Customs Enforcement

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Grassley:

Thank you for your recent letter regarding certain criminal aliens released by U.S. Immigration and Customs Enforcement (ICE) in fiscal year (FY) 2013.

As you noted, in FY 2013, ICE released 36,007 criminal aliens from ICE custody. ICE had no discretion for the releases of many of these individuals. In general, the various types of releases from custody include bond, order of recognizance, order of supervision, alternatives to detention, and parole.

Individuals released from ICE custody at ICE's discretion were released either due to eligibility for bond (pursuant to Section 236 of the *Immigration and Nationality Act*) or for reasons such as detiorated health or advanced age. In cases where the decision to release an alien from ICE custody is not based on discretion, an alien may be released pursuant to a court order or due to the U.S. Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In response to your inquiry regarding the names of the judges and courts of jurisdiction that ordered the releases, ICE does not keep records of this information and defers to the U.S. Department of Justice's Executive Office for Immigration Review, which manages the immigration court docket.

Of the 169 ICE detainees with a homicide-related conviction who were released from ICE custody in FY 2013, 131 have been issued a final order of removal. Of the remaining 38 aliens who have not been issued a final order of removal, one was granted voluntary departure by an immigration judge and subsequently departed within the permitted timeframe. Further, 154 of the 169 were released pursuant to court order or due to *Zadvydas*. ICE system records indicate the following zip codes as those associated with the detainees:

10006	10027	10304	10453	10455	10456
10463	10474	11213	11214	11236	11385
11429	11433	13205	16146	18103	19142
21117	22304	22312	27707	28174	28212
28215	30045	30093	30126	30263	30303

30337	30340	32305	32765	33010	33012
33018	33028	33032	33034	33055	33125
33128	33133	33162	33169	33172	33173
33351	33406	33444	33463	33467	33712
34114	40203	43222	44070	48340	50320
51106	53218	55125	55408	55443	56001
56201	60544	62794	70065	70816	73844
77072	77078	77433	77450	85007	85326
85730	87121	89506	90005	90013	90019
90032	90044	90057	90211	90255	90731
91020	91201	91205	91334	91335	91506
91606	91709	91733	91744	91766	91767
91768	91770	92057	92084	92301	92562
92614	92683	92804	92835	92840	92880
93030	93206	93701	94112	94509	94544
94608	95112	95116	95132	95205	95670
95823	95824	96145	97024	97266	98168
99502	99507				

Finally, enclosed please find the information you requested regarding the name and location of the detention facilities from which the aliens with homicide-related convictions were released in FY 2013.

Ensuring that our enforcement policies and procedures are best suited to protect national security and public safety is paramount. To make certain that we are doing everything we can in this regard, I am instituting new procedures requiring that an appropriate senior-level supervisor must approve before ICE releases potentially dangerous individuals.

Thank you again for your letter. I look forward to working with you in the future. Should you or your staff have additional questions, please do not hesitate to contact the Office of Legislative Affairs at (202) 447-5890 or me at (202) 732-3000.

Sincerely,

Thomas S. Winkowski
Principal Deputy Assistant Secretary

Enclosure

Locations of Final Book-Out for Criminal Aliens with Homicide-Related Convictions Who were Placed in a Non-Custodial Setting in Fiscal Year 2013

The following list includes U.S. Immigration and Customs Enforcement (ICE) facilities that served as the location of final book-out for criminal aliens with homicide-related convictions who were placed in a non-custodial setting in fiscal year 2013, according to data generated from ICE system records. Thus, while aliens may have been in multiple facilities while in ICE custody, this list comprises the final locations of the aliens immediately prior to release. As such, this list is inclusive of locations that are not utilized for the long-term housing of aliens (e.g., hold rooms).

- Alabama
  - Etowah County Jail

- Arizona
  - Eloy Federal Contract Facility
  - Florence Service Processing Center
  - Florence Staging Facility
  - Tucson INS Hold Room

- California
  - Adelanto Correctional Facility
  - California City Correctional Center
  - El Centro Service Processing Center
  - Fresno Hold Room
  - Los Angeles Custody Case
  - Sacramento County Jail
  - Sacramento Hold
  - San Bernardino Hold Room
  - San Diego Contract Detention Facility - CCA
  - Santa Ana DRO Hold Room
  - SFR Hold Room

- Colorado
  - Denver Contract Detention Facility

- Florida
  - Baker County Sheriff's Office
  - Columbia Kendal Hospital
  - Glades County Detention Center
  - Krome North Service Processing Center
  - Monroe County Detention Center
  - Tampa Hold Room
  - Wakulla County Jail

- Georgia
  - North Georgia Detention Center
  - Stewart Detention Center
  - Atlanta District Hold Room

- Illinois
  - INS Airport Hold

- Kansas
  - Rice County Detention Center

- Louisiana
  - South Louisiana Detention Center

- Massachusetts
  - Plymouth County Correctional Facility
  - Suffolk County House of Corrections

- Maryland
  - Howard County Detention Center

- Michigan
  - Calhoun County Correctional Center

- Minnesota
  - Freeborn County Adult Detention Center
  - Sherburne County Jail

- North Carolina
  - Charlotte Hold Room

- New Jersey
  - Bergen County Jail
  - Essex County Jail
  - Hudson County Correctional Center
  - NEW/INS OS Hold Room

- New York
  - Buffalo (Batavia) Service Processing Center
  - NYC Field Office
  - Orange County Jail

- Ohio
  - Butler County Jail

- Oklahoma
  - Tulsa County Jail

- Oregon
  - Portland District Office
- Pennsylvania
  - York County Prison
- Texas
  - Dallas Field Office Hold Room
  - El Paso Service Processing Center
  - Houston Contract Detention Facility
  - South Texas Detention Complex
- Virginia
  - Washington Field Office
- Washington
  - Northwest Detention Center
  - Seattle Field Office Hold Room
- Wisconsin
  - Kenosha County Detention Center

This Migration Policy Institute report, titled "Deportation and Discretion: Reviewing the Record and Options for Change," can be found at the following website:
file:///C:/Users/stvance/Downloads/Deportation-Discretion-Report.pdf

This Migration Policy Institute report, titled "Immigration Enforcement in the United States: The Rise of a Formidable Machinery," can be found at the following website: http://carnegie.org/fileadmin/Media/Image_Galleries/immigration_enforcement_in__us_MPI_report.pdf

February 25, 2015

The Honorable Ron DeSantis, Subcommittee on National Security
The Honorable Stephen Lynch, Subcommittee on National Security
The Honorable Jim Jordan, Subcommittee on Health Care, Benefits, and Administrative Rules
The Honorable Matt Cartwright, Subcommittee on Health Care, Benefits, and Administrative Rules
U.S. House of Representatives, Committee on Oversight and Government Reform
2157 Rayburn House Office Building,
Washington, DC 20515

Dear Chairmen DeSantis and Jordan, and Ranking Members Lynch and Cartwright:

I am submitting this letter at the request of the Minority Staff of the House Oversight and Government Reform Committee in connection with the February 25 joint subcommittee hearing, "A Review of the Department of Homeland Security's Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States." I am the Deputy Director of the U.S. Immigration Policy Program at the Migration Policy Institute (MPI), an independent, non-partisan think tank in Washington, DC that analyzes U.S. and international migration trends and policies.

Some observers of U.S. immigration policy have argued that U.S. immigration enforcement has been inadequate under the Obama administration, while others contend that it has been overly muscular and has harmed immigrant families and communities. This letter summarizes the findings from two recent MPI reports that review publicly available Department of Homeland Security (DHS) data as well as administrative enforcement data obtained from U.S. Immigration and Customs Enforcement (ICE) through a Freedom of Information Act (FOIA) request.[1] As these reports document in detail, and as I also explained in recent testimony before the House Judiciary Committee,[2] the Obama administration's overall record on immigration enforcement is characterized by unprecedented investments of enforcement resources provided by successive Congresses and by new enforcement programs at the border and within the interior, record-setting immigrant removals that have been increasingly focused over time on high-priority targets, falling border apprehensions, and, most importantly, a sustained drop in the size of the U.S. unauthorized population—the first such drop in decades (other than through a legalization program).

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[1] See Marc R. Rosenblum and Doris Meissner with Claire Bergeron and Faye Hipsman, *The Deportation Dilemma: Reconciling Tough and Humane Enforcement* (Washington, DC: Migration Policy Institute, 2014), www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement; and Marc R. Rosenblum and Kristen McCabe, *Deportation and Discretion: Reviewing the Record and Options for Change* (Washington, DC: MPI, 2014), www.migrationpolicy.org/research/deportation-and-discretion-reviewing-record-and-options-change.
[2] Marc R. Rosenblum, Testimony of Deputy Director, U.S. Immigration Policy Program, Migration Policy Institute before the House Judiciary Committee, *Examining the Adequacy and Enforcement of Our Nation's Immigration Laws.* 114th Congress, 1st sess. February 3, 2015, http://judiciary.house.gov/index.cfm/hearings?Id=04BC548D-5FAF-45CC-841D-22DFF85672D6&Statement_id=CACA9A5E-9381-46D2-BB4A-4C28899B2170.

1) Overall Enforcement Spending

DHS's enforcement budget has averaged $18.5 billion annually in the last five years and since the 9/11 attacks, the United States has spent $208 billion on federal immigration enforcement. By comparison, the United States has spent an annual average in the last five years of $15.2 billion on *all other federal criminal law enforcement agencies combined.*[3]

2) Border Enforcement

New Investments in Border Enforcement. Over the last decade, the Bush and Obama administrations and Congress have shown an especially strong commitment to border security, dedicating increasing appropriations to infrastructure, technology, and personnel to control the U.S.-Mexico border. Among these investments:

- Border Patrol staffing has nearly doubled from 10,819 agents in 2004 to 20,863 in 2014.[4]
- Fencing and vehicle barriers along strategically important sectors of the border have increased from 140 miles in 2006 to 651 miles today.[5]
- DHS has deployed record levels of roads, lighting, sensors, manned and unmanned aircraft, marine vessels, video and radar systems, night vision equipment, and thermal imaging technology along the Southwest border.[6]
- Since 2000, biometric technology has enabled the Border Patrol to collect fingerprint records from almost 100 percent of border crossers and use the records to identify and track repeat crossers and convicted criminals.

Border Enforcement Programs. In addition to these investments, DHS has taken important steps to sharpen its overall border security strategies, aimed at raising the penalties for unlawful border crossing and deterring illegal immigration. DHS has significantly scaled back the use of low-stakes voluntary return deportations and time-consuming judicial removal proceedings for border crossers in favor of fast-tracked deportations through expedited removal and reinstatement of removal. Under a program known as the Consequence Delivery System (CDS) initiated by the Obama administration in 2010, the Border Patrol prioritizes criminals and repeat crossers for enhanced immigration penalties, including formal removal instead of informal return; immigration-related criminal charges through prosecution; and "remote repatriation," in which migrants are deported hundreds of miles away from their point of apprehension.[7] CDS has enabled the Border Patrol to virtually eliminate the use of voluntary return for border crossers. The proportion of

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[3] Other federal law enforcement agencies include the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Secret Service, US Marshals Service, and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); see Doris Meissner, Donald M. Kerwin, Muzaffar Chishti and Claire Bergeron, *Immigration Enforcement in the United States: The Rise of a Formidable Machinery* (Washington, DC: MPI, 2013), www.migrationpolicy.org/research/immigration-enforcement-united-states-rise-formidable-machinery.

[4] U.S. Border Patrol, *Border Patrol Agent Staffing by Fiscal Year*, www.cbp.gov/sites/default/files/documents/BP%20Staffing%20FY1992-FY2014_0.pdf.

[5] Lisa Seghetti, *Border Security: Immigration Enforcement between Ports of Entry*, CRS Report R42138 (Washington, DC: Congressional Research Service, 2014), http://fas.org/sgp/crs/homesec/R42138.pdf; DHS, "Border Security Results," November 1, 2013, www.dhs.gov/border-security-results.

[6] Homeland Security Secretary Jeh Johnson, "Border Security in the 21st Century," (remarks at Center for Strategic and International Studies, Washington, DC, October 9, 2014), www.dhs.gov/news/2014/10/09/remarks-secretary-homeland-security-jeh-johnson-border-security-21st-century. Also see Seghetti, *Border Security: Immigration Enforcement between Ports of Entry.*

[7] For a fuller discussion, see Seghetti, *Border Security: Immigration Enforcement Between Points of Entry;* Rosenblum et al., *The Deportation Dilemma.*

border apprehensions subject to voluntary return fell from about 95 percent during the 1990s, to 82 percent in 2005, to less than 10 percent today.

The federal government has also expanded criminal prosecution of border crossers for the offenses of illegal entry and illegal re-entry, which carry prison sentences of up to six months and up to two years, respectively. As a result, the proportion of immigrants apprehended at the border subject to immigration-related criminal charges increased from 3 percent in 2005 to 22 percent in 2013.[8]

3) Interior Enforcement

New Interior Enforcement Programs. In addition to these changes at the border, the other significant development in the post-9/11 period—and mostly after 2005—is that Congress and DHS have initiated important programs aimed at identifying, detaining, and deporting unauthorized immigrants located in the U.S. interior.

During the last ten years, a series of programs aimed at identifying and removing noncitizens with criminal histories or previous immigration violations have been established, including the National Fugitive Operations Program (NFOP), the Criminal Alien Program (CAP), the 287(g) program, and the Secure Communities program.[9] These four programs have substantially increased the number of noncitizens identified, apprehended, and deported from the U.S. interior. Prior to 2005, DHS typically apprehended about 100,000 migrants per year in the interior, and removed less than half that number. By 2008, apprehensions climbed to over 300,000 per year, and removals to more than 150,000. Under the Secure Communities program, instituted in 2008 and by 2013 deployed in 100 percent of law enforcement jurisdictions nationwide, the fingerprints of all arrested individuals are automatically checked against federal immigration databases. ICE may then request that a state or local law enforcement agency transfer deportable immigrants into ICE custody prior to their release.[10]

Enforcement Priorities. The most significant change since 2009 is that the Obama administration has taken a series of steps to focus its enforcement efforts on designated high-priority cases. Building on long-standing congressional priorities and policies undertaken by previous administrations, the administration published policy guidance memoranda in 2010 and 2011 formally identifying as enforcement priorities noncitizens convicted of a crime, people who obstruct immigration controls by disobeying immigration court orders or failing to show up for deportation and recent illegal entrants.[11] According to MPI's analysis of ICE enforcement data, 96 percent of DHS removals between 2009 and 2013 fell within these three categories.[12]

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[8] Rosenblum et al, *The Deportation Dilemma*, 20-2.

[9] For a fuller discussion, see Marc R. Rosenblum and William A. Kandel, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, CRS Report R42057 (Washington, DC: Congressional Research Service, 2012), http://fas.org/sgp/crs/homesec/R42057.pdf; Randy Capps, Marc R. Rosenblum, Cristina Rodríguez, and Muzaffar Chishti, *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement* (Washington, DC: MPI, 2011), http://migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement.

[10] Under the Secure Communities program, U.S. Immigration and Customs Enforcement (ICE) issued immigration detainers to request that arresting jurisdictions hold deportable immigrants for up to two days following completion of their criminal justice proceeding. In November 2014, Secretary Johnson announced that Secure Communities would be replaced by a new Priorities Enforcement Program (PEP). PEP will continue to check the fingerprints of 100 percent of arrested individuals against DHS databases, but ICE will now request that arresting jurisdictions notify ICE prior to releasing certain deportable immigrants, rather than issuing immigration detainers in most cases. PEP will also focus exclusively on deportable immigrants who have been convicted of relatively serious criminal offenses, rather than all deportable immigrants.

[11] Memorandum from ICE Assistant Secretary John Morton to all ICE employees, "Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens" (memorandum, June 30, 2010),

The Obama administration's focus on its stated enforcement priorities mostly resulted in a continuation of Bush administration trends with respect to border enforcement, but substantial changes with respect to interior enforcement. At the border—where all unauthorized immigrants are treated as enforcement priorities—the great majority (77 percent) of removals are of noncriminals or people convicted only of immigration or traffic crimes (11 percent). These percentages are almost unchanged between 2003-2008 and 2009-2013.

In the interior, half of all deportations under the Bush administration were of noncriminals or people convicted only of immigration or traffic crimes. Under the Obama administration priorities, the share of noncriminals among interior removals fell to 13 percent in 2013, while the proportion convicted of serious crimes (i.e., crimes other than immigration and traffic offenses) grew to 62 percent. Overall, criminal removals more than doubled, from an average of 98,000 per year under the Bush administration to 184,000 per year under Obama.

4) Enforcement Outcomes

How has immigration enforcement evolved under the Obama administration? The administration has maintained key programs initiated under President Bush, including the high level of criminal prosecutions and expanded use of formal removals at the border, and expansion of interior enforcement. As a result, overall removals and criminal removals have reached record highs under the Obama administration, which has carried out more removals than any of its predecessors. For example:

- **Overall removals have increased steadily during the Obama administration** and in 2013 reached a record high of 438,421.
- **Interior removals reached an all-time high of 188,000 in 2011**; and even after falling back to 102,000 in 2014 they remain twice as high as pre-2006 levels.
- Criminal interior removals have decreased since 2011, but **the share of criminals among interior removals has increased from 53 percent in 2008 to 74 percent in 2011 to 87 percent in 2013.**

More broadly, available evidence suggests that enforcement efforts since 2005 have resulted in falling illegal inflows and an unprecedented drop in the U.S. unauthorized population.

- **Southwest border apprehensions fell to 328,000 in in 2011, the lowest level since 1972.** While apprehensions rebounded somewhat between 2012 and 2014, the 2014 total of 487,000 apprehensions was still less than one-third the 1.68 million apprehensions recorded in the peak year of 2000.
- **Apprehensions of Mexicans have continued to fall since 2011, reaching a low point of 227,000 in 2014.** This number is significant because Mexicans have traditionally accounted for about 97 percent of unauthorized immigrant apprehensions.

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www.ice.gov/doclib/news/releases/2010/civil-enforcement-priorities.pdf; Memorandum from ICE Director John Morton to all ICE Field Office Directors, Special Agents in Charge, and Chief Counsel, "Exercising Prosecutorial Discretion Consistent with Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens" (memorandum, June 17, 2011), www.ice.gov/doclib/foia/prosecutorial-discretion/pd_cnstnt_w_civil_imm_enforce_ice_priorities.pdf.

[12] Rosenblum and McCabe, *Deportation and Discretion*. In 2014, Secretary Johnson announced new DHS enforcement priorities, focusing on aliens convicted of serious criminal offenses and people apprehended while crossing the border, people convicted of multiple misdemeanors or serious misdemeanors, and people subject to orders of removal issued after January 1, 2014.

- Alongside apprehensions, **recidivism rates** (the percentage of migrants who are re-apprehended) **have fallen from 29 percent in 2007 to a record low of 14 percent in 2014.**
- Data show that **smuggling fees** (which provide an additional indicator of border enforcement effectiveness, as the costs to smugglers of bringing migrants across the border and the value of their services should be reflected in higher fees[13]) **have steady increased over the course of the last 25 years,** reaching about $3,000 per crossing in 2012.[14]

The most important indicator of the overall effectiveness of immigration enforcement is the size of the U.S. unauthorized population. By this basic metric, immigration enforcement has been broadly effective over the last seven years, **as the unauthorized population has fallen from 12.2 million people in 2007 to about 11.2 million people in 2012-2013—a drop of 8 percent in seven years.**[15] While a share of this drop is related to the U.S. recession of 2007-2009 along with economic and demographic changes in Mexico, the sustained drop in illegal immigration over such a long period—along with data described above on Border Patrol effectiveness, recidivism, border deterrence, smuggling fees, and the expansion of interior enforcement programs—strongly suggest that enforcement resource infusions and tough new enforcement measures put in place after 2005 have discouraged new illegal immigration to the United States and re-entry attempts among deportees. Other scholars have reached similar conclusions.[16]

With apprehensions of Mexicans at historic lows, the growth in apprehensions since 2011 consists almost entirely of Central Americans, about half of whom are families and children presenting themselves at the border. While these flows are clearly a cause for concern, they represent a different phenomenon from traditional illegal immigration across the Southwest border. Most women and children from Central America surrender to the first Border Patrol agent they encounter rather than attempting to evade apprehension. Thus, the rapid rise in these flows should not be interpreted as an indicator of ineffective border controls, but rather as evidence of a broader shock within the region.

The Obama administration has come under criticism for releasing child and family migrants after they come into contact with the Border Patrol. However, under a law passed by Congress in 2008 called the Trafficking Victims Protection Reauthorization Act (TVPRA), the federal government is required to place unaccompanied children from countries other than Mexico and Canada into the care of a relative in the United States or similar situation pending immigration court proceedings. Furthermore, since the surge of family unit arrivals in spring-summer 2014, an increasing number

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[13] See Bryan Roberts, Gordon Hanson, and Derekh Cornwell, et al., *An Analysis of Migrant Smuggling Costs along the Southwest Border* (Washington, DC: DHS Office of Immigration Statistics, 2010), www.dhs.gov/xlibrary/assets/statistics/publications/ois-smuggling-wp.pdf.

[14] Mexican Migration Project, "Graph 1: Border Crossing Costs," accessed January 30, 2015, http://mmp.opr.princeton.edu/results/001costs-en.aspx.

[15] Pew Research Center, *Unauthorized Immigrant Totals Rise in 7 States, Fall in 14* (Washington, DC: Pew Research Center Hispanic Trends Project, 2014), www.pewhispanic.org/2014/11/18/unauthorized-immigrant-totals-rise-in-7-states-fall-in-14/. DHS estimates that the unauthorized population dropped from 11.8 – 12.0 million in 2007 to 11.4 million in 2012; Bryan Baker and Nancy Rytina, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2012* (Washington, DC: DHS Office of Immigration Statistics, 2013), www.dhs.gov/sites/default/files/publications/ois_ill_pe_2012_2.pdf.

[16] See for example, Jeffrey Passel, D'Vera Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero—and Perhaps Less* (Washington, DC: Pew Hispanic Center, 2012), www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/; Manuela Angelucci, "U.S. Border Enforcement and the Net Flow of Mexican Illegal Migration," *Economic Development and Cultural Change* 60 no. 2 (2012): 311-57; Scott Borger, Gordon Hanson, and Bryan Roberts, "The Decision to Emigrate From Mexico," (presentation at the Society of Government Economists annual conference, Washington, DC, November 6, 2012).

of family units apprehended at the border have been subject to detention and are being quickly repatriated.

In conclusion, although the United States was slow to respond to increasing illegal immigration in the 1970s and 1980s, the last two decades have seen a substantial investment in border and interior enforcement resources and increasingly effective strategies to prevent illegal border crossings and identify and deport people from within the United States. The greatest increase in deployment of enforcement resources and strategies has occurred since 2005-2006; and the estimated number of unauthorized immigrants in the United States has dropped by about 1 million since 2007. Illegal immigration from Mexico, in particular, has not only ground to a halt but has substantially reversed during this period. While some of these enforcement gains reflect diminished economic and demographic drivers of migration, both the timing of new enforcement programs and the enforcement metrics described above suggest that recent enforcement efforts are an important factor in explaining reduced illegal immigration.

Sincerely,

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This May 2013 University of Illinois at Chicago report, titled "Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement," can be found at the following website:
http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF

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