

October 17, 2013

Freedom of Information Act Request
U.S. Immigration and Customs Enforcement
500 12th Street SW, Stop 5009
Washington, DC 20536-5009
Attn: Catrina Pavlik-Keenan, FOIA Director

National Records Center (NRC)
Freedom of Information Act Division
P.O. Box 648010
Lee's Summit, MO 64064-5570

Freedom of Information Act Request
U.S. Department of Homeland Security
245 Murray Drive SW
STOP-0655
Washington, D.C. 20528-0655

Office of Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, D.C. 20528

Federal Law Enforcement Training Center (FLETC)
Freedom of Information Act Officer
Build #681, Suite 187B
Glynco, GA 31524

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552 ("FOIA"), on behalf of the Immigrant Defense Project ("IDP"), the Center for Constitutional Rights ("CCR"), and the Hispanic Interest Coalition of Alabama ("HICA") (collectively "the Requesters") for information regarding U.S. Immigration and Customs Enforcement agency ("ICE") and Department of Homeland Security ("DHS") home-based enforcement operations. We ask that you please direct this request to all appropriate offices and departments within ICE and DHS, including, but not limited to, the Office of Civil Rights and Civil Liberties, the Office of Public Affairs, the Office of Detention Policy and Planning, the Office of Detention Oversight, the Federal Law Enforcement Training Center and the Office of State, Local and Tribal Coordination.

Purpose of Request

The purpose of this request is to obtain information for the public about ICE home enforcement operations (defined below) and their impact on local communities. This information will enable the public to monitor ICE home enforcement operations and ensure that the operations uphold individuals' constitutional rights. ICE has been conducting home enforcement operations during the Obama Administration as well as the Bush Administration.¹

Little information is known to the public about ICE home enforcement operations under the Obama Administration. ICE has released minimal, if any, information about its current guidelines and practices for conducting home enforcement operations, including how decisions to initiate raids are made. Information is also unavailable regarding the number of people that have been apprehended, arrested, and/or detained from home enforcement operations since January 2009. Generally speaking, the impact of home enforcement operations on families and children, particularly when children are present during a home enforcement operation, is unclear. It is also unknown to the public who is targeted and how those individuals are identified. Further, the public has no information about the constitutional compliance of home enforcement operations and whether and to what extent people affected by home enforcement operations are experiencing Fourth and Fifth Amendment violations and other abuses. ICE's guidelines and practices for monitoring and enforcement of constitutional compliance, including how complaints are handled, are unknown. If any investigations into misconduct during home enforcement operations have been undertaken, the substance and outcomes of those investigations are currently unavailable.

A. Definitions

- 1) **Home enforcement operation(s).** In this request, the term "home enforcement operations" is defined as ICE enforcement operations in, at, or around homes or residences. "Home enforcement operations" include, but may not be limited to, any ICE entry in, at, or around any place of residence, including but not limited to houses, apartments, boarding houses, rooming houses, shelters or motels where individuals reside, whether temporarily or permanently. Includes any enforcement operation that involves entry into a place of residence, and may include enforcement operations that also combine street arrests, entry into a workplace, or enforcement at other locations.
- 2) **Target(s).** In this request, the term "target" is defined as an individual specifically sought for enforcement in a home enforcement operation, who has been identified for enforcement by ICE prior to arrival at the home.
- 3) **Non-target(s) or collateral(s).** In this request, the term "non-target" or "collateral" is defined as any individual encountered in a home enforcement operation who is not a target, and is apprehended, arrested, or otherwise subject to enforcement action by ICE.
- 4) **Law Enforcement Agency.** In this request, the term "Law Enforcement Agency" includes, but is not limited to, any state, city, county, or local police agency, department of corrections, sheriff's office, jail, or other holding facility.

¹ See Exhibit A, "Will Congress Bring My Husband Back?," *New York Times*, June 12, 2013, and Exhibit B, "Letter from Southern Poverty Law Center to Scott Sutterfield" and "Letter from Southern Poverty Law Center to Janet Napolitano."

- 5) **Record(s).** In this request the term “Record(s)” includes, but is not limited to, all Records or communications preserved in electronic or written form, such as correspondences, emails, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, legal opinions, protocols, reports, rules, technical manuals, technical specifications, training manuals, studies, or any other Record of any kind.
- 6) **Database(s).** In this request the term “Database(s)” includes, but is not limited to, all Records that store, compile, or collect information, regardless of the format, size, or type of program utilized. May include, but is not limited to, information contained in spreadsheet, list, or chart format.
- 7) **Complaints.** In this request the term “complaint(s)” includes any expression of grievance, allegation of misconduct, request for investigation, or request for disciplinary action related to enforcement operations in homes made by any governmental or non-governmental agency, or by any individual. “Complaint(s)” includes but is not limited to Office of Civil Rights and Civil Liberties, Office of Professional Responsibility, and Office of Principal Legal Adviser complaints, informal complaints made by civilian individuals, including detainees or prisoners in local, state or ICE facilities or IGSA contract facilities; complaints lodged by law enforcement officers; internal complaints made by individuals employed by ICE, legal complaints; and complaints made by other governmental agencies or elected officials.

B. Acronyms

Law Enforcement Agency	LEA
Federal Bureau of Investigation	FBI
Department of Homeland Security	DHS
Immigration and Customs Enforcement	ICE
DHS Office of Civil Rights and Civil Liberties	CRCL

C. Request for Information

1) Policies, Procedures, and Objectives

Any and all Records received, maintained, or created by any government agency or subdivision, related to the policies, procedures, or objectives of home enforcement operations from January 20, 2009, to the present. Such records include but are not limited to:

- a. **Overview Documents:** policies, operating procedures, rules, internal policy guidance, monitoring mechanisms, training materials and legal opinions or memoranda referencing home enforcement operations or discussing the goals, objectives, function responsibility, purpose, and implementation of home enforcement operations.
- b. **Identification of Targets:** any and all Records related to how targets of home enforcement operations are identified.

- i. Any and all Records related to how ICE decides whom to target in a home enforcement operations. Any and all Records related to any and all classes or categories of people targeted by home enforcement operations, including, but not limited to, classes or categories based on gender, race, ethnicity, nationality, employment status, violent criminal history, threat to the nation or community, arrests, and/or sex-related offense.
 - ii. Any and all Records related to how ICE determines whether individuals targeted by home enforcement operations have gang affiliations including but not limited to how ICE defines gang membership or affiliation and how ICE determines that any target may be a gang member or associate.
- c. **Rules, Protocols, & Procedures for Conducting Home Enforcement Operations:** any and all Records related to policies, rules, protocols, practices, or procedures for conducting home enforcement operations.
- i. Any Record containing guidance or procedures regarding ICE decision-making to undertake a home enforcement operation, including but not limited to the decision-making structure, process, and authority for deciding to undertake a home enforcement operation and any and all required administrative approval processes. Any Record related to the factors considered by ICE in deciding to undertake a home enforcement operation. Any Record related to the individual(s), agent(s), or official(s), group(s), committee(s), or sub-division(s) with authority to decide to undertake a home enforcement operation. Any Record related to when ICE may decide to undertake a home enforcement operation.
 - ii. Any and all factors used to determine when a home enforcement operation should be conducted, including the specific date and time of the home enforcement operation.
 - iii. Any Record containing policies, rules, guidance, protocols, or procedures regarding arrests of non-target individuals present during the home enforcement operation. Any Record related to when ICE may apprehend or arrest non-targeted individuals during a home enforcement operation and any factors considered in deciding when to arrest non-targeted individuals.
 - iv. Any Record containing policies, rules, guidance, protocols, or procedures related to minors under the age of 18 who may be present during a home enforcement operation, including but not limited to rules, guidance, protocols, or procedures related to: the arrest of minors; the conduct of home enforcement operations when minors are present; the questioning of minors during home enforcement operations; and for the custody of minors whose parents are apprehended and detained in home enforcement operations.
 - v. Any Record containing policies, rules, guidance, protocols, or procedures related to the use of judicial or administrative warrants. Any Record providing information about the practices of obtaining or not obtaining judicial or administrative warrants prior to conducting a home enforcement operation.
 - vi. Any Record containing policies, rules, guidance, protocols, or procedures related to seeking consent from an occupant before entering a home. Any Record providing information about the extent to which ICE requires consent to be obtained or permits nonconsensual entry, including when consent is required, the type of consent

required, whether consent must be informed, and the language in which consent may be obtained.

- vii. Any Record, including but not limited to legal memoranda, containing policies, rules, guidance, protocols, or procedures related to ICE's definition of exigent circumstances, what constitutes exigent circumstances, and when the exigent circumstances exception to requirements for obtaining consent or a warrant before entering a home may be invoked. Any Record providing information about the practices of invoking the exigent circumstances exception to requirements for obtaining consent or a warrant before entering a home.

d. Information Sharing, Gathering, & Management:

- i. Any and all Records reflecting or memorializing ICE protocol for obtaining information or data from any and all agencies that is used for home enforcement operations, including but not limited to protocols for obtaining information or data from LEAs, district attorney offices, parole offices, departments of corrections, and probation offices. Any and all Records reflecting ICE protocol for requesting information or data used for home enforcement operations from any and all governmental agencies.
- ii. Any and all Records reflecting or memorializing ICE protocol for use of post-conviction relief motions to identify and target individuals in home enforcement operations.
- iii. Any and all Records reflecting or memorializing ICE protocol for use of the Homeland Security Initiative Tip Form, and information gathered therein, to identify targets of home enforcement operations.
- iv. Any and all names of databases created or used by ICE to identify targets of home enforcement operations, including databases supplied to ICE by other government agencies.
- v. Any and all names of databases created or used by ICE for home enforcement operations that identify or in any way indicate gang membership or gang affiliation of individuals, including but not limited to databases created by other federal agencies or LEAs and shared with ICE.

e. Performance Goals or Quotas: any and all Records reflecting, constituting, memorializing, documenting, or concerning any ICE performance goals or quotas for arrests at national, state, regional, and/or local levels, including but not limited to:

- i. Any and all policy memoranda, emails, protocols, communications, or guidance that supersedes the the Memorandum entitled "National Fugitive Operations Program: Priorities, Goals, and Expectations" dated December 8, 2009², the Memorandum entitled "Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens" dated June 30, 2010³, and any policy memoranda, emails, protocols, communications, or guidance used by Enforcement and Removal Operations, Homeland Security Investigations, or any other branch of ICE.

² Attached hereto as Exhibit C.

³ Attached hereto as Exhibit D.

- ii. Any and all policy memoranda, emails, protocols, communications, or guidance that instruct agents, officers, or employees in methods of meeting such performance goals or quotas, including but not limited to identifying additional targets through the Law Enforcement Support Center and any of its programs, services, or initiatives; the Secure Communities, the Criminal Alien Program, 287g, the Alien Absconder Initiative, and the National Fugitive Operations Program; ICE Agreements of Cooperation in Communities to Enhance Safety and Security (“ACCESS”), terrorism watch lists, Deportable Alien Control System databases, Fugitive Case Management System and Apprehension Reports, Enforce Alien Removal Module; and lists, classifications, or categories generated by DHS or any other governmental agency or local and state law enforcement agencies.
- f. **Misconduct:** any and all Records related to ICE standards for conducting enforcement operations in homes and documentation of and responses to misconduct during home enforcement operations.
- i. Any and all Records containing training materials, briefing, guidance, procedures, rules, or other informational materials for ICE agents on compliance with constitutional, statutory, regulatory, or other external rules.
 - ii. Any and all Records containing legal memoranda or briefing on the constitutional, statutory, regulatory, or other legal rules for conducting home enforcement operations, including but not limited to legal memoranda discussing or in any way concerning the legal authority of ICE to conduct home enforcement operations in the period before, during, and after the passage of HB56.
 - iii. Any and all Records related to ICE procedures, or practices for monitoring or plans to monitor compliance of home enforcement operations with constitutional, statutory, regulatory, or other legal rules.
 - iv. Any and all Records related to ICE protocols, procedures, or practices for monitoring or plans to monitor compliance of home enforcement operations with ICE internal policies, rules, protocols, procedures, or practices.
 - v. Any and all Records related to ICE policies, rules, protocols, processes, procedures, or practices for receiving civilian complaints of misconduct during home enforcement operations, including but not limited to any complaint form that supersedes the Civil Right Complaint form that was last updated on March 15, 2011.⁴
 - vi. Any and all Records related to ICE policies, rules, protocols, procedures, or practices for responding to complaints of misconduct during home enforcement operations, including but not limited to complaints of constitutional violations.

2) Data & Statistical Information

Any and all Records, excluding Records from individual alien files, containing data or statistics prepared, compiled, or maintained by ICE or any agency or subdivision thereof related to or pertaining to individuals apprehended, arrested, and/or detained from home enforcement operations and any misconduct during home enforcement operations alleged or disciplined beginning January 20, 2009 through the present. Unless otherwise specified, the requests below seek data or statistics from all

⁴ Attached hereto as Exhibit E.

geographical areas that fall within the jurisdictions of the Buffalo, New York; New York, New York; and New Orleans, Louisiana ICE field offices. Such Records should include, but not be limited to:

- a. Home enforcement operations conducted:** Any and all Records that contain data or statistical information indicating the number of home enforcement operations undertaken by ICE since January 20, 2009 broken out by year, the year(s) in which the home enforcement operations were conducted, and the locations of the home enforcement operations.

- b. Arrests in home enforcement operations in each county in New York State and in the Alabama counties of Cherokee, Chilton, DeKalb, Jackson, Jefferson, Shelby, and Tuscaloosa:** Any and all Records that contain data or statistical information indicating the number of people arrested in home enforcement operations and the reasons stated for arrest. Any and all records that provide a list of categories of data kept on individuals arrested. Any and all Records documenting the zip codes in which arrests during home enforcement operations take place. Any and all Records that contain data or statistical information indicating the number of target arrests and/or the number of non-target arrests made in home enforcement operations. Any and all Records that contain data or statistical information indicating:
 - i.** the number of children taken into ICE custody as a result of home enforcement operations
 - ii.** the number of minor children taken into the custody of local or state child protective services agencies as a result of arrests of parents or custodians
 - iii.** the number of parents of minor children taken into ICE custody as a result of enforcement operations in homes
 - iv.** the number of parents taken into ICE custody whose minor children are U.S. citizens.
 - v.** the number of individuals arrested in home enforcement operations broken down by race, ethnicity, nationality, gender, and/or age.
 - vi.** the number of individuals arrested in home enforcement operations who are identified on terrorism watch lists.
 - vii.** the number of individuals arrested in home enforcement operations purported to be members of gangs.
 - viii.** the number of individuals arrested in home enforcement operations purported to be associates or affiliates of gangs.
 - ix.** the number of individuals arrested in home enforcement operations with violent crime convictions (as defined by the FBI to include murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault), with other felony convictions, and with misdemeanor convictions between January 20, 2009 and the present. See "FBI Violent Crime Definition," attached hereto as Exhibit G, broken down by category.
 - x.** the number of individuals arrested in home enforcement operations with prior orders of removal and/or deportation (including those subject to expedited removal).
 - xi.** the number of individuals arrested in home enforcement operations with convictions for drug-related offenses, broken down by convictions for possession, intent to sell, and trafficking.

- xii. the number of individuals arrested in home enforcement operations with convictions related to sexual misconduct.
 - xiii. the number of individuals arrested in home enforcement operations who were identified by, or using data from, Secure Communities, 287(g), or the Criminal Alien Program, broken down by category.
 - xiv. the number of individuals arrested in home enforcement operations who were identified by, or using data from, LEAs.
 - xv. the number of individuals arrested whose prior convictions were for crimes charged prior to January 1, 2003; the number of individuals whose prior convictions were for crimes charged after January 1, 2003; and the number of individuals who have prior convictions but for whom ICE does not have information regarding the charge date.
- c. Individuals detained and/or subject to removal proceedings in each county in New York State and in the Alabama counties of Cherokee, Chilton, DeKalb, Jackson, Jefferson, Shelby, and Tuscaloosa:** Any and all Records that contain data or statistical information indicating the numbers of individuals who were arrested in home enforcement operations and who were:
- i. placed in removal proceedings, including but not limited to expedited removal, administrative removal, reinstatement of removal, and removal proceedings pursuant to Section 240 of the INA, broken down by category
 - ii. detained and the length of their detentions, including but not limited to the number of people subject to mandatory detention under 236(c) of the INA
 - iii. released on bond
 - iv. issued a bond; the number whose bond amount was set at \$5000 or above; and the number whose bond amount was set at \$10,000 or above
 - v. granted prosecutorial discretion
 - vi. granted administrative closure
 - vii. granted any other form of judicial relief or legal status, broken down by type of relief
 - viii. removed.
 - ix. granted voluntary departure.
- d. Landlord participation in home enforcement operations:** Any and all Records that reflect or constitute instances of coordination, collaboration, cooperation, or the sharing of information between ICE and any private landlord, property manager, employer-based housing management authority or public housing authority. Includes but may not be limited to the provision of security services, access, and/or surveillance, or assistance in planning or execution of a home enforcement operation, by a landlord, property manager, or public housing authority.
- e. Contraband:** Any and all Records that contain information related to or documenting illegal substances, contraband, or illegal weapons found and/or collected in home enforcement operations.
- f. Misconduct:** Any and all Records that contain data or statistical information related to misconduct of ICE agents during home enforcement operations, including but not limited to

information related to misconduct for violations of constitutional, statutory, regulatory, or internal standards, or for other abuses. Records may include, but are not limited to:

- i. Any and all Records containing information, including but not limited to narrative information, statistical information, or interviews, on complaints, reports, lawsuits, or allegations of misconduct by ICE agents during home enforcement operations.
 - ii. Any and all Records containing data or statistical information on investigations into misconduct by ICE agents during home enforcement operations.
 - iii. Any and all Records that contain data or statistical information on the number of ICE agents that have been subject to investigations or disciplinary proceedings.
 - iv. Any and all Records that contain data or statistical information on the outcomes of any and all disciplinary proceedings of ICE agents for misconduct during home enforcement operations.
 - v. Any and all Records that contain data or statistical information on investigations of misconduct during home enforcement operations.
 - vi. Any and all Records related to DHS Office of Civil Rights and Civil Liberties handling of misconduct, or allegations of misconduct, during home enforcement operations. Includes but may not be limited to gathering of information, issuance of memoranda or guidance, investigations, reports, or inquiries made by CRCL related to home enforcement operations. Any and all Records held at or by CRCL related to home enforcement operations.
 - vii. Any and all Records related to disciplinary action taken against individual officers for abuses or misconduct during home enforcement operations, included but not limited to disciplinary action taken for violations of constitutional limitations or for violations of or deviance from internal ICE rules, protocols, procedures, or practices.
- g. Supervision of home raids:** Any and all Records that contain information indicating the names and/or titles of ICE agents who supervised enforcement operations in homes. Any and all Records that contain information indicating the names and/or titles of ICE agents who in any way participated in the planning, coordination, or overseeing of home enforcement operations.

D. Format of Production

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents in the following format:

- Saved on a CD, CD-ROM or DVD;
- In PDF or TIF format wherever possible;
- Electronically searchable wherever possible;
- Each paper record in a separately saved file;
- “Parent-child” relationships maintained, meaning that the requester must be able to identify the attachments with emails;
- Any data records in native format (i.e. Excel spreadsheets in Excel);
- Emails should include BCC and any other hidden fields;
- With any other metadata preserved.

E. The Requesters

The Center for Constitutional Rights ("CCR") is a non-profit, public interest, legal, and public education organization that engages in litigation, public advocacy, and the production of publications in the fields of civil and international human rights. CCR's diverse dockets include litigation and advocacy around immigration detention, post-9/11 immigration enforcement policies, policing, and racial and ethnic profiling. CCR is a member of immigrant rights networks nationally and provides legal support to immigrant rights movements. One of CCR's primary activities is the publication of newsletters, know-you-rights handbooks, legal analysis of current immigration law issues, and other similar materials for public dissemination. These and other materials are available through CCR's Development, Communications, and Education & Outreach Departments. CCR operates a website, www.ccrjustice.org, which addresses the issues on which the Center works. The website includes material on topical civil and human rights issues and material concerning CCR's work. All of this material is freely available to the public. In addition, CCR regularly issues press releases and operates a listserv of over 50,000 members and issues "action alerts" that notify supporters and the general public about developments and operations pertaining to CCR's work. CCR staff members often serve as sources for journalist and media outlets, including on immigrant rights.

The Hispanic Interest Coalition ("HICA") is a non-profit, public interest, and public education organization dedicated to the social, civic and economic integration of Hispanic families and individuals in Alabama. HICA engages and empowers Alabama's Hispanic community and its numerous cultures as an economic and civic integrator, social-resource connector, and statewide educator. HICA has published and distributed over 25,000 *Bienvenidos a Birmingham* resource guides, the first comprehensive Spanish-language resource guide for Birmingham. Through relationships established with state and national organizations including the Alabama Coalition for Immigrant Justice, the National Council of La Raza, The Mexican American Legal and Education Defense Fund, The National Immigration Forum, The National Immigration Law Center and the Center for Community Change, HICA has been involved in advocacy and public education at the national, state, and local levels.

The Immigrant Defense Project ("IDP") is a non-profit organization whose mission is to promote fundamental fairness for immigrants accused or convicted of crimes. IDP seeks to minimize the harsh and disproportionate immigration consequences of contact with the criminal justice system by 1) working to transform unjust deportation laws and policies and 2) educating and advising immigrants, their criminal defenders, and other advocates. IDP disseminates information about the immigration system to the public in accessible ways and is a leader in providing training and support for legal practitioners and community members. IDP's education efforts have included developing a 1500+ page manual about the criminal-immigration system and designing and presenting a curriculum on the criminal-immigration system.

F. Fee Waiver

The Requesters are entitled to a fee waiver pursuant to 5 U.S.C.(a)(4)(A)(iii) and 6 C.F.R. §5.11(k) on the grounds that "disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester[s]." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6

C.F.R. § 5.11(k) (records furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of institution). *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987). Requesters meet the requirements of 6 C.F.R. § 5.11(k) because the subject of the request concerns the operations or activities of the government; the disclosure of the information is likely to contribute to a significant public understanding of government operations or activities due to the requesters' expertise in the subject area and ability to convey the information; the Requesters' primary interest is in disclosure; and they have no commercial interest in the information. In addition, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), the Requesters qualify as a "representatives of the news media," defined as "any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii).

As described in Part E above, the Requesters are non-profit organizations dedicated to civil rights, human rights, and immigrant rights, and have a proven track-record of compiling and disseminating information and reports to the public about government functions and activities, including the government's record and position on immigrants' rights and policy matters. The Requesters have undertaken this work in the public interest and not for any private commercial interest. Similarly, the primary purpose of this FOIA request is to obtain information to further the public's understanding of federal immigration enforcement actions and policies. Access to this information is crucial for the Requesters and the communities they serve to evaluate immigration enforcement actions and their potential detrimental efforts.

The public has an interest in knowing about the manner in which ICE conducts home enforcement operations, including how decisions to initiate raids are made, what policies and guidelines govern ICE agents' conduct, and how ICE involves state and local entities in such actions. The public also has an interest in knowing the number of people that have been apprehended, arrested, and/or detained from home enforcement operations since January 2009 and the impact on families and children. Further, the public has an interest in knowing whether and to what extent people affected by home enforcement operations are experiencing Fourth Amendment violations and other abuses; ICE's guidelines and practices for monitoring and enforcement of constitutional compliance; and how complaints of and investigations of misconduct are handled. The records sought in this request will inform the public of the scope of ICE's home enforcement operations, their effect on public safety, and the manner in which ICE holds itself and its agents accountable for complaints of constitutional misconduct.

As stated above, the Requesters have no commercial interest in this matter. The Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters.'").

In the alternative, we request a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II). ("[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by . . . a representative of the news media."). *See also* 6 C.F.R. § 5.11(d). If no fee waiver is granted and the fees exceed \$250.00, please contact the Requesters' undersigned counsel to obtain consent to incur additional fees.

G. Expedited Processing

The Requesters are entitled to expedited processing of this request because there is a “compelling need” for the information. 5 U.S.C. § 552(a)(6)(E)(i)(I). A “compelling need” is established when there exists an “urgency to inform the public concerning actual or alleged Federal Government activity,” when the requester is a “person primarily engaged in disseminating information,” 6 C.F.R. § 5.5(d)(ii).

There is an urgent need to inform the public of the policies, procedures, guidelines, action, responses, instructions and data regarding ICE’s home enforcement operations. Courts have found that the manner in which ICE has conducted home enforcement operations violated the Fourth Amendment,⁵ yet little information is available to the public regarding current guidance in conducting home operations or accountability for complaints of misconduct. The number of Fugitive Operations Teams (“FOTs”), the entity responsible for many operations in homes, has increased from 8 in 2003 to 129 in 2013. In FY 2012, these teams alone accounted for more than 37,000 arrests.⁶ As ICE continues to conduct home enforcement operations across the country, the public has an urgent need to know how ICE chooses targets, conducts operations, and holds its agents accountable for constitutional violations.

H. Certification & Conclusion

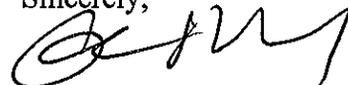
The Requester certifies that the above information is true and correct to the best of the Requesters’ knowledge. *See* 6 C.F.R. § 5.5(d)(3). If this Request is denied in whole or in part, the Requesters ask that the Department of Homeland Security and ICE justify all deletions by reference to specific exemptions of FOIA. The Requester expects DHS and ICE to release all segregable portions of otherwise exempt material, and reserves the right to appeal a decision to withhold any records or to deny the within application for expedited processing and waiver of fees.

Please furnish all applicable Records to:

Ghita Schwarz, Center for Constitutional Rights, 666 Broadway, 7th Floor, New York, NY 10012.

If you have any questions regarding the processing of this request, please contact Ghita Schwarz at (212) 614-6445, or Ian Head at (212) 614-6470. Thank you for your consideration.

Sincerely,



Ghita Schwarz, Esq.
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
gschwarz@ccrjustice.org

On Behalf of the Requesters

⁵ *See, e.g., Sicajau Cotzoyaj v. Holder*, 2013 U.S. App. LEXIS 15626 (2d Cir. , July 31, 2013); *Pretzantzin v. Holder*, 2013 U.S. App. LEXIS 15627 (2d Cir. July 31, 2013).

⁶ *See* Exhibit F, “Fact Sheet: ICE Fugitive Operations Teams,” available at <http://www.ice.gov/news/library/factsheets/fugops.htm>.

Exhibit A

June 12, 2013

Will Congress Bring My Husband Back?

By ARACELY CRUZ

“THAT person doesn’t live here,” I told the Immigration and Customs Enforcement officials when they knocked on my door in Queens early on April 17, 2012, looking for someone I’d never heard of. I was afraid, because my husband and I did not have papers. But I let them come in anyway.

They didn’t find the man they were looking for, but they took my husband, Jose Luis Vivas, instead. Our daughters, Ariana, now 9, and Leslie, now 7, were watching. I didn’t know what to tell them, so I said that the men were their father’s friends, playing a game, and that he’d be back soon. He wasn’t.

After six months in detention in New Jersey, he accepted voluntary departure, and was expelled in November.

The Senate is debating an immigration reform that would give fathers like Jose the opportunity to reunite with their families and give us both a path to citizenship. Congress should pass it.

I was born in a small town in Oaxaca State, in Mexico. I never knew my father. I lived with my grandparents, while my mother worked in Mexico City to support our family, until after sixth grade, when I joined my mother. I wanted to get additional schooling, but we couldn’t afford the supplies. It was then that I became determined to come to the United States to help my mother and younger sister. I felt like a burden. I was 14 when I crossed the border, on my second attempt, with other migrants and help from a guide. That was 14 years ago, in June 1999.

When I got to New York, it was hard to find work, but I did, in perfume factories and dry cleaners, and cleaning offices. In 2001 I met Jose in Queens. He was from Puebla State, which borders Oaxaca, and had come to the United States in 1998. He knew my cousin’s husband, and we were just friends at first, but then much more. We didn’t officially marry — we joked we would if we were still together at 50 — but we were committed to being a family. He has given me unconditional support, in our most difficult moments.

In 2001, my mother came to the United States, and two years later, we all moved in together in Cincinnati. But then my mother died in a car accident. Jose helped me survive my grief. Soon after, I brought my little sister up from Mexico. Then my daughter Ariana was born; two years later, we had Leslie. We had started the family I never had.

Jose is a very responsible and hardworking man. He worked six days a week at a grocery store. We celebrated birthdays, baptisms, Christmas and New Year's, and always went to church together. Saturday was his only day off. The girls and I would wait for him on Friday nights in a park near the grocery store, so we could spend the most time possible with him.

During the months when Jose was detained, at the Monmouth County Correctional Institution, in Freehold, N.J., we'd talk on the phone about once a month, for only 8 to 10 minutes because the calls were expensive. Several times, we traveled for two hours to visit him. We were permitted to see him only for 15 minutes, behind glass. My daughters wanted to kiss him and hug him, and they couldn't. Jose eventually agreed to return to Mexico. He was here undocumented and thought he would have lost his legal case.

In June 2012, President Obama announced a program to defer deportations of undocumented immigrants like me who are in high school or have graduated, are younger than 31, entered the country before age 16 and have continuously lived here at least five years. My application is pending, and I'm working toward a G.E.D. It's possible Jose might have qualified, but we didn't know that before he agreed to leave.

Sometimes I think about how I tried to keep my daughters from experiencing what I went through, growing up without a father. I wonder if I've failed.

I've considered taking my daughters to Mexico to be together with Jose. But I would never do it. Mexico is a foreign country to them. I don't want to expose them to the violence there today. I don't want to take away their opportunities for a better life. My daughters are citizens and have the right to grow up here.

This is the second year that our daughters will not hug their dad on Father's Day. When they ask where he is, I don't know if I should tell the truth, or lie. It's affecting my younger daughter's studies. It's possible that she won't be promoted to third grade. They hope he'll return to go over their homework with them, to enjoy the drawings that Ariana makes and laugh at Leslie's mischief and to go to the park together when their dad gets off work, so the weekend can start.

Aracely Cruz, an undocumented immigrant, told this story to staff members at Make the Road New York, an immigrants' rights organization, which translated it from the Spanish.

Exhibit B

December 21, 2011

Scott Sutterfield
Field Office Director
ICE Office of Enforcement and
Removal Operations in New Orleans.
Department of Homeland Security
New Orleans Field Office
1250 Poydras Suite 325
New Orleans, LA 70113

Dear Mr. Sutterfield:

We are investigating an enforcement action by ICE that took place in and around Ft. Payne, Scottsboro and Collinsville, Alabama during the weekend of December 10, 2011. We have been in touch with the Office of the Secretary of the Department of Homeland Security (DHS) and with DHS's Office of Civil Rights and Civil Liberties (OCRCL) about this enforcement action. It is our understanding that OCRCL has launched an investigation into the possible civil rights violations that may have occurred during the course of these operations.

We wanted to make you aware of our concerns about this enforcement action. Enclosed please find a letter that we sent to Secretary Napolitano last week regarding the action that details those some of those concerns.

We are also writing to you to request a list of individuals who were arrested and detained during this enforcement action in and the current location of those that remain detained. We are working with Louisiana-based NGO's, including the LSU law school immigration clinic, to secure legal counsel for those individuals. In order to ensure each of these individuals has access to legal counsel, we need to know the current location of each person. We also need your assistance to set up group and/or individual meetings with each of the individuals who remain in your custody.

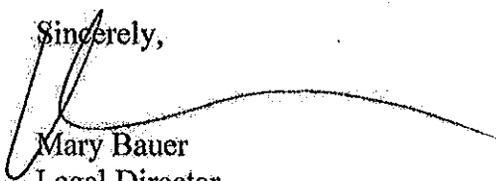
It is extremely important that none of these individuals be removed until they have had the opportunity to be interviewed by an attorney and by the OCRCL. We are thus requesting that you ensure that no immediate action is taken to remove the individuals detained in this raid.

Finally, we are deeply concerned about the risk that individuals who were involved in this raid and/or their families might fall victim to retaliation for having spoken about this immigration enforcement action. Therefore, we call on you to ensure the safety and well-being of those individuals who remain in detention. We also request

that you take measures to ensure that the individuals who have been released and their families do not suffer any retaliation by your office or your agents for having asserted their rights.

Please do not hesitate to contact me should you have any questions. We would like to meet with you to discuss our concerns related to this matter. Please advise when you will be available to meet with us.

Sincerely,



Mary Bauer
Legal Director

Enclosure

December 16, 2011

The Honorable Janet Napolitano
United States Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

I write to express my profound concern about an enforcement action conducted by the Immigration and Customs Enforcement ("ICE") last weekend in Alabama. Armed ICE agents went to trailer parks and apartment complexes in Fort Payne and Collinsville, entering homes without permission and terrorizing families. Children—citizens and non-citizens alike—were traumatized. In more than one case, ICE agents interrogated young children about the whereabouts of their parents.

Alabama's Latino community has been devastated by Alabama's extraordinarily harsh anti-immigrant law, known as HB56. In the aftermath of that law taking effect, the federal government has devoted significant resources to reassuring the Latino community that it is dedicated to protecting Alabamian's civil rights. The Department of Justice has sued to block the law and has stated that it believes the law to be unconstitutional. Tom Perez, chief of the Civil Rights Division of the Department of Justice, has repeatedly visited Alabama and met with community leaders to hear their stories and has promised to actively oppose HB56. Similarly, high-level officials from other agencies, including the Departments of Education and Labor, have visited Alabama and have offered reassuring words about their commitment to protect the rights of individuals in this state. You have stated that the Department of Homeland Security will not help Alabama implement this law.

We believe that this series of ICE raids has profoundly undermined the efforts of other federal agencies to reassure the Latino community in Alabama that the federal government seeks to protect the civil rights of all persons. Home raids are a particularly destructive means of conducting enforcement actions; they terrorize communities and are particularly frightening to children, who are forced to watch family members arrested and detained. The family members who have been left behind are afraid to be in their own homes and to live in this community. They have been driven even further underground. The reports we've heard from the people who witnessed the raids suggest that agents engaged in disturbing and illegal conduct—including threatening to arrest U.S. citizen children if those children did not disclose the whereabouts of their parents. Although the agents appeared to be looking for a few specific individuals, they went far beyond what was necessary to locate those persons, and arrested many others who simply happened to

be in the vicinity. That ICE took this action just before Christmas in this already decimated community is heart wrenching.

We call upon you to cease these kinds of enforcement actions in this state. We also call upon you to conduct a thorough investigation of the civil rights violations that may have taken place in the course of these raids. We once again ask that you to visit Alabama and to meet with people who live here to hear their stories.

We would appreciate the opportunity to meet with you to discuss these issues.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mary Bauer', written over a horizontal line.

Mary Bauer
Legal Director

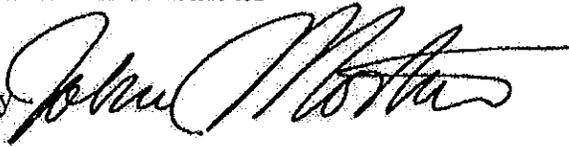
Exhibit C



U.S. Immigration
and Customs
Enforcement

DEC 08 2009

MEMORANDUM FOR: Field Office Directors and
All Fugitive Operation Team Members

FROM: John Morton
Assistant Secretary 

SUBJECT: National Fugitive Operations Program: Priorities, Goals, and
Expectations

Purpose

This memorandum serves to clarify the enforcement priorities of the National Fugitive Operations Program (hereinafter the program) within the Office of Detention and Removal Operations (DRO) and supersedes previously issued fugitive operations guidance. The existence and continuation of this program are essential to the integrity of the immigration and border controls. Good government is poorly served if, after much time and the expenditure of government resources, final orders of removal are ignored without consequence. Indeed, the sound administration of the nation's immigration system depends on an efficient, fair, and meaningful removal process. As a result, it is the clear policy of this agency that final orders of removal should be enforced and that those who knowingly disobey or evade a final order of removal should be apprehended and removed.

In order to ensure that the program's resources are used efficiently and as envisioned by Congress, it is the policy of this agency that the program focus on its core mission—the apprehension and removal of fugitive aliens.¹ In the interest of public safety and the rule of law, the program's resources may also be used to apprehend and remove (1) aliens who have been removed previously from the United States and then return illegally, and (2) criminal or otherwise dangerous aliens living at large in our communities. As a general rule, the program's resources should not be used to target other classes of removable aliens, although fugitive operations teams may apprehend and remove such aliens if encountered during normal operations.

¹ A fugitive is any alien who has failed to leave the United States following the issuance of a final order of removal, deportation, or exclusion or has failed to report to ICE after receiving notice to do so.

Enforcement Priorities

The following three tiers reflect, in order of priority, how fugitive operations teams should focus their resources. Teams must focus the vast majority of resources, at least 70%, on tier 1 fugitives. The remainder should be directed to tiers 2 and 3. The priorities within each tier are also listed below, with level I generally warranting more attention than level II, and so forth. These tiers and levels provide clear guidance to the field but should not be applied so rigidly as to undermine sound judgment when exceptions are warranted by circumstance.² Similarly, the tiers should not be so rigidly interpreted to prevent prioritizing an illegal reentrant with a serious criminal conviction over a fugitive with no criminal history.

Tier 1 Fugitive aliens

- I. Fugitives who pose a threat to national security
- II. Fugitives convicted of violent crimes or who otherwise pose a threat to the community
- III. Fugitives with a criminal conviction other than a violent crime
- IV. Fugitives with no criminal conviction

Tier 2 Previously removed aliens

- I. Previously removed aliens who pose a threat to national security
- II. Previously removed aliens convicted of violent crimes or who otherwise pose a threat to the community
- III. Previously removed aliens with a criminal conviction other than a violent crime
- IV. Previously removed aliens with no criminal conviction

Tier 3 Removable aliens convicted of crimes

- I. Aliens convicted of level 1 offenses, as defined for purpose of Secure Communities
- II. Aliens convicted of level 2 offenses, as defined for purposes of Secure Communities
- III. Aliens convicted of level 3 offenses, as defined for purposes of Secure Communities

With respect to non-criminal fugitive targets in Tier 1, level IV, the Fugitive Operations Support Center (FOSC) and teams should consider that aliens who are the subject of in absentia orders and aliens with pending applications for relief before U.S. Citizenship and Immigration Services are more likely to have viable motions to reopen. For that reason, resources—particularly detention resources—may be better focused on other targets, unless aggravating circumstances offset the possibility of reopening or prolonged proceedings.

To promote efficiency, teams are expected to focus resources on cases with the most current investigative leads, including cases with the most recently issued final orders as these are most

² These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

likely to contain up-to-date contact information. These should be targeted as soon as possible to limit the opportunity for a fugitive to relocate. Teams are expected to act expeditiously if they receive current, time-sensitive leads.

As resources are best spent on cases with the freshest and most reliable leads, FOOSC has created a cold case docket for those cases without any investigative leads in the past decade. FOOSC will review the cold case docket twice a year to determine if new information has surfaced. New information may cause FOOSC to conclude the case is resolved (for instance, because the case was reopened) or return it to the active fugitive docket (for instance, because of new information about the alien's location).

Teams will receive Fourth Amendment training every six months which will focus on the special considerations when apprehending fugitives at their home. Any team member with questions should consult his or her supervisors and consult with the Office of Chief Counsel. Team members are encouraged to engage in surveillance both to promote officer safety and increase the likelihood the team will encounter the targeted alien—rather than aliens who are not in the tiers above and would not otherwise have been the focus of limited government resources.

If during the course of operations teams encounter removable aliens, teams may place those aliens into removal proceedings, even if they are not in one of the three tiers. However, this should not detract attention away from the reason Congress mandated and funded fugitive operation teams—the apprehension and removal of fugitive aliens. In any event, detention resources shall be focused on aliens in the three tiers above and aliens subject to mandatory detention by law. Absent extraordinary circumstances, team members should not detain aliens who are physically or mentally ill, disabled, elderly, pregnant, nursing, or the sole caretaker(s) of children or the infirm. To detain aliens in those categories, team members must secure approval from the Field Office Director and send a significant event notice (SEN) to headquarters.

Measuring Success

As apprehending and removing fugitives is the program's core mission, field offices' performance will be measured in part by the reduction in the fugitive docket and by compliance with priorities. Each field office and the FOOSC should strive to reduce the pool of fugitives by 5% more in FY 2010 than it did in FY 2009. A field office may increase productivity—the reduction in the fugitive pool—by apprehending fugitives or otherwise resolving fugitive cases, even if no arrest is involved. This includes resolving cases by determining that a target has departed the country on his or her own or determining that the case was reopened or the target has since received an immigration benefit. Field offices should not feel such pressure to meet this goal that they lose focus on the priorities and sound use of resources. This goal does not constitute a quota; rather, this goal allows the teams to gage their productivity.

The field should not focus on numbers to the detriment of targeting and arresting the most egregious, violent offenders in their area of responsibility (AOR). To acknowledge the tiered prioritization above, DRO also will track fugitive arrests, by tier, using EARM/FCMS/TECS. Arrests will be separated by tiers, criminal and non-criminal arrests, and indictments and

convictions attributed to teams during operations. This system will credit teams for locating high priority aliens, even if those cases require more time to investigate and close.

Field offices are expected to focus not simply on the apprehension of aliens, but also on their removal. Headquarters will evaluate removals in addition to the metrics above. When fugitives are taken into custody, officers should pay attention to lawful avenues to secure the person's travel documents to reduce detention times and facilitate removal.

Field and National Operations

Field offices have the discretion to conduct operations to advance the program's priorities and accomplish the goal of reducing the fugitive pool. Field offices are encouraged to participate in Operation Cross Check and Operation Secure Streets in collaboration with local United States Attorney's offices. These operations are important as they identify criminal aliens who fall within the three tiers above. Field offices also will be called on to participate in national and strategic headquarters-driven operations. Major operations, whether driven by the field or headquarters, will be coordinated with the Office of the Principal Legal Advisor.

Building Partnerships

Field Office Directors and team members are encouraged to maintain and build positive relationships with federal, state, local, and tribal law enforcement agencies in their AOR. This includes information sharing, consistent with law and policy. Team members are encouraged to advise, and cooperate with, local law enforcement partners when conducting operations. Field Office Directors will coordinate with any local participants in the task force model of the 287(g) program to share information and avoid duplication of efforts.

Field Office Directors also are expected to build relationships with community groups to identify and address concerns about the conduct of fugitive operations. Allegations of misconduct and wrongdoing are referable to the Joint Intake Center (JIC).

Exhibit D

Policy Number: 10072.1
FEA Number: 601-14

Office of the Assistant Secretary

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

JUN 30 2010



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: All ICE Employees

FROM: John Morton
Assistant Secretary 

SUBJECT: Civil Immigration Enforcement: Priorities for the Apprehension,
Detention, and Removal of Aliens

Purpose

This memorandum outlines the civil immigration enforcement priorities of U.S. Immigration and Customs Enforcement (ICE) as they relate to the apprehension, detention, and removal of aliens. These priorities shall apply across all ICE programs and shall inform enforcement activity, detention decisions, budget requests and execution, and strategic planning.

A. Priorities for the apprehension, detention, and removal of aliens

In addition to our important criminal investigative responsibilities, ICE is charged with enforcing the nation's civil immigration laws. This is a critical mission and one with direct significance for our national security, public safety, and the integrity of our border and immigration controls. ICE, however, only has resources to remove approximately 400,000 aliens per year, less than 4 percent of the estimated illegal alien population in the United States. In light of the large number of administrative violations the agency is charged with addressing and the limited enforcement resources the agency has available, ICE must prioritize the use of its enforcement personnel, detention space, and removal resources to ensure that the removals the agency does conduct promote the agency's highest enforcement priorities, namely national security, public safety, and border security.

To that end, the following shall constitute ICE's civil enforcement priorities, with the first being the highest priority and the second and third constituting equal, but lower, priorities.

Priority 1. Aliens who pose a danger to national security or a risk to public safety

The removal of aliens who pose a danger to national security or a risk to public safety shall be ICE's highest immigration enforcement priority. These aliens include, but are not limited to:

Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens
Page 2

- aliens engaged in or suspected of terrorism or espionage, or who otherwise pose a danger to national security;
- aliens convicted of crimes, with a particular emphasis on violent criminals, felons, and repeat offenders;
- aliens not younger than 16 years of age who participated in organized criminal gangs;
- aliens subject to outstanding criminal warrants; and
- aliens who otherwise pose a serious risk to public safety.¹

For purposes of prioritizing the removal of aliens convicted of crimes, ICE personnel should refer to the following new offense levels defined by the Secure Communities Program, with Level 1 and Level 2 offenders receiving principal attention. These new Secure Communities levels are given in rank order and shall replace the existing Secure Communities levels of offenses.²

- Level 1 offenders: aliens convicted of “aggravated felonies,” as defined in § 101(a)(43) of the Immigration and Nationality Act,³ or two or more crimes each punishable by more than one year, commonly referred to as “felonies”;
- Level 2 offenders: aliens convicted of any felony or three or more crimes each punishable by less than one year, commonly referred to as “misdemeanors”; and
- Level 3 offenders: aliens convicted of crimes punishable by less than one year.⁴

Priority 2. Recent illegal entrants

In order to maintain control at the border and at ports of entry, and to avoid a return to the prior practice commonly and historically referred to as “catch and release,” the removal of aliens who have recently violated immigration controls at the border, at ports of entry, or through the knowing abuse of the visa and visa waiver programs shall be a priority.

Priority 3. Aliens who are fugitives or otherwise obstruct immigration controls

In order to ensure the integrity of the removal and immigration adjudication processes, the removal of aliens who are subject to a final order of removal and abscond, fail to depart, or intentionally obstruct immigration controls, shall be a priority. These aliens include:

¹ This provision is not intended to be read broadly, and officers, agents, and attorneys should rely on this provision only when serious and articulable public safety issues exist.

² The new levels should be used immediately for purposes of enforcement operations. DRO will work with Secure Communities and the Office of the Chief Information Officer to revise the related computer coding by October 1, 2010.

³ As the definition of “aggravated felony” includes serious, violent offenses and less serious, non-violent offenses, agents, officers, and attorneys should focus particular attention on the most serious of the aggravated felonies when prioritizing among level one offenses.

⁴ Some misdemeanors are relatively minor and do not warrant the same degree of focus as others. ICE agents and officers should exercise particular discretion when dealing with minor traffic offenses such as driving without a license.

Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens

Page 3

- fugitive aliens, in descending priority as follows:⁵
 - fugitive aliens who pose a danger to national security;
 - fugitives aliens convicted of violent crimes or who otherwise pose a threat to the community;
 - fugitive aliens with criminal convictions other than a violent crime;
 - fugitive aliens who have not been convicted of a crime;
- aliens who reenter the country illegally after removal, in descending priority as follows:
 - previously removed aliens who pose a danger to national security;
 - previously removed aliens convicted of violent crimes or who otherwise pose a threat to the community;
 - previously removed aliens with criminal convictions other than a violent crime;
 - previously removed aliens who have not been convicted of a crime; and
- aliens who obtain admission or status by visa, identification, or immigration benefit fraud.⁶

The guidance to the National Fugitive Operations Program: Priorities, Goals and Expectations, issued on December 8, 2009, remains in effect and shall continue to apply for all purposes, including how Fugitive Operation Teams allocate resources among fugitive aliens, previously removed aliens, and criminal aliens.

B. Apprehension, detention, and removal of other aliens unlawfully in the United States

Nothing in this memorandum should be construed to prohibit or discourage the apprehension, detention, or removal of other aliens unlawfully in the United States. ICE special agents, officers, and attorneys may pursue the removal of any alien unlawfully in the United States, although attention to these aliens should not displace or disrupt the resources needed to remove aliens who are a higher priority. Resources should be committed primarily to advancing the priorities set forth above in order to best protect national security and public safety and to secure the border.

C. Detention

As a general rule, ICE detention resources should be used to support the enforcement priorities noted above or for aliens subject to mandatory detention by law. Absent extraordinary circumstances or the requirements of mandatory detention, field office directors should not expend detention resources on aliens who are known to be suffering from serious physical or mental illness, or who are disabled, elderly, pregnant, or nursing, or demonstrate that they are

⁵ Some fugitives may fall into both this priority and priority 1.

⁶ ICE officers and special agents should proceed cautiously when encountering aliens who may have engaged in fraud in an attempt to enter but present themselves without delay to the authorities and indicate a fear of persecution or torture. See Convention relating to the Status of Refugees, art. 31, *opened for signature* July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137. In such instances, officers and agents should contact their local Office of the Chief Counsel.

primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest. To detain aliens in those categories who are not subject to mandatory detention, ICE officers or special agents must obtain approval from the field office director. If an alien falls within the above categories and is subject to mandatory detention, field office directors are encouraged to contact their local Office of Chief Counsel for guidance.

D. Prosecutorial discretion

The rapidly increasing number of criminal aliens who may come to ICE's attention heightens the need for ICE employees to exercise sound judgment and discretion consistent with these priorities when conducting enforcement operations, making detention decisions, making decisions about release on supervision pursuant to the Alternatives to Detention Program, and litigating cases. Particular care should be given when dealing with lawful permanent residents, juveniles, and the immediate family members of U.S. citizens. Additional guidance on prosecutorial discretion is forthcoming. In the meantime, ICE officers and attorneys should continue to be guided by the November 17, 2000 prosecutorial discretion memorandum from then-INS Commissioner Doris Meissner; the October 24, 2005 Memorandum from Principal Legal Advisor William Howard; and the November 7, 2007 Memorandum from then-Assistant Secretary Julie Myers.

E. Implementation

ICE personnel shall follow the priorities set forth in this memorandum immediately. Further, ICE programs shall develop appropriate measures and methods for recording and evaluating their effectiveness in implementing the priorities. As this may require updates to data tracking systems and methods, ICE will ensure that reporting capabilities for these priorities allow for such reporting as soon as practicable, but not later than October 1, 2010.

Exhibit E



The purpose of this form is to assist you in filing a civil rights/civil liberties complaint with the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) regarding DHS programs and activities. This form is not intended to be used for complaints about employment with DHS. You are not required to use this form to file a complaint; a letter with the same information is sufficient. However, if you file a complaint by letter, you should include the same information that is requested in the form.

CRCL Mission:

The DHS Office for Civil Rights and Civil Liberties (CRCL) supports the Department as it secures the nation while preserving individual liberty, fairness, and equality under the law. We investigate claims of civil rights and civil liberties abuses, to help DHS improve protections and programs.

Do you have a DHS civil rights or civil liberties complaint? If you believe that DHS personnel or a DHS program or activity has violated your rights, we want to hear from you. Fill out this form, or write us an email or letter.

In connection with a DHS program, activity, or policy, have you experienced:

- Discrimination based on your race, ethnicity, national origin (including language proficiency), religion, gender, or disability? (Note: do not use this form to make a complaint about employment discrimination; see www.dhs.gov/eo.)
- Denial of meaningful access to DHS or DHS-supported programs, activities, or services due to limited English proficiency?
- Violation of your rights while in immigration detention or as a subject of immigration enforcement?
- Discrimination or inappropriate questioning related to entry into the United States?
- Violation of your right to due process, such as your right to timely notice of charges or access to your lawyer?
- Violation of the Violence Against Women Act's confidentiality requirements?
- Physical abuse or any other type of abuse inflicted upon you?
- Any other civil rights or civil liberties violation related to a DHS program or activity?

Notes on Confidentiality and Anonymity:

- A) You may remain anonymous by not filling in your name, below. However, CRCL may not be able to investigate your complaint unless you provide enough information to conduct an investigation.
- B) Disclosure of the information you provide, including your identity, is on a "need-to-know" basis, and is discussed in the Privacy Statement at the end of this document. **IF YOU CHECK THE BOX BELOW, WE WILL NOT DISCLOSE YOUR IDENTITY TO OTHER OFFICES, IN OR OUT OF DHS (unless it is necessary for investigation of criminal misconduct).** Note, however, that this will in many situations make it very difficult or impossible, practically speaking, for us to investigate the allegations you raise.
- I do NOT want CRCL to disclose my name to other offices, and understand this decision will often make it impossible for an investigation to take place.
- C) Reprisal against complainants to CRCL is unlawful; if you feel you have been a victim of reprisal, CALL US. 1-866-644-8360.

Complaint Information

If you don't speak/write English, CRCL has access to interpreters and can talk to you in any language.

① **Information about the person who experienced the civil rights/civil liberties violation**

(fill in what you can)

Name: _____
First and Middle *Last*

Phone #: Cell: _____ Home: _____ Work: _____

Please note that we may contact you at the provided numbers.

Mailing Address: _____
PO Box or Street address *City* *State* *Zip*

Date of Birth: _____ Email (optional): _____

Alien Registration #. (if you have one and it's available): _____

Check here if you are in detention now.

Which facility? _____
Facility name *Facility address*

Check here if you are represented by an attorney in this matter. If so please provide the attorney's name and contact information _____

② **Are you filling in this complaint form on behalf of another individual?** If yes, please provide *your* information.

Name: _____
First *Last* *Job title*

Organization (if any): _____

Phone #: Cell: _____ Home: _____ Work: _____

Mailing Address: _____
PO Box or Street address *City* *State* *Zip*

③ **What happened?** Describe your complaint. Give as much detail about your experience as possible.

Continue on an additional page, if needed.

When did this happen? If ongoing, please indicate when the problem began.

(If it happened on more than one date, list all dates):

Where did this happen?

Place *(for example, name the detention facility, airport, other)*: _____

City: _____ State or Country: _____

④ Who treated you unfairly?

An employee, contractor, or officer of *(check as many as apply)*:

- Citizenship and Immigration Services (USCIS)
- Customs and Border Protection (CBP)*
 - Customs Officer
 - Border Patrol Agent
- Federal Emergency Management Agency (FEMA)
- Immigration and Customs Enforcement (ICE)
- Secret Service (USSS)
- Transportation Security Administration (TSA)*
- U.S. Coast Guard (USCG)
- Other DHS program *(specify)* : _____
- Not sure which DHS office
- Non-DHS employee working under the authority of DHS (e.g., 287g officer) specify: _____

*If your complaint is about an incident at an airport, train station, or border crossing, you may also file a complaint with the Department of Homeland Security's Traveler Redress Inquiry Program (TRIP). TRIP and this Office will review your complaint together, resulting in a faster response. Go to: www.dhs.gov/trip.

⑤ List anyone else who may have seen or heard what happened.

(If you do not know their names, provide whatever details you can)

Names (or other information, e.g., agency): _____

Mailing Address: _____
PO Box or Street address City State or Country Zip

Phone No.: _____ Email: _____

Names (or other information, e.g., agency): _____

Mailing Address: _____
PO Box or Street address City State or Country Zip

Phone No.: _____ Email: _____

Continue on an additional page, if needed.

⑥ **Have you contacted any other DHS component or other federal, state, or local government agency or court about this complaint?**

Yes: Agency/Office/Court _____ Date: _____

No

If so, has anyone responded to your complaint?

Yes **No**

If Yes, describe what has been done to respond to your complaint:

Continue on an additional page, if needed.

⑦ **Is there any other information you want us to know about or consider?**

Continue on an additional page, if needed.

⑧ **If you are not proficient in English, please indicate the language in which you prefer we communicate with you.**

⑨ **If you have problems understanding this form or any other question, contact CRCL:**

E-mail: crcl@dhs.gov

Phone: Local: 202-401-1474 or

Toll Free: 866-644-8360

TTY: Local TTY: 202-401-0470

Toll Free TTY: 866-644-8361

Fax: 202-401-4708

By U.S. Postal Service:

Department of Homeland Security

CRCL/Compliance Branch

245 Murray Lane, SW

Building 410, Mail Stop #0190

Washington, DC 20528

Note: Because of security measures, it can take up to 4 weeks for us to receive U.S. mail.

⑩ **To submit this form by email, please save, attach, and send to crcl@dhs.gov. Please attach or send all information that supports your complaint, such as documents, photos, medical records, grievances, or witness statements.**

Submit copies, not originals; put your name and the date of this complaint on each document. (Fax to: 202-401-4708, or email scans of your documents to crcl@dhs.gov, or mail to the address listed above.)

Keep a copy of this complaint for your records.

Privacy Act Statement

Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the Office for Civil Rights and Civil Liberties (CRCL) is authorized to investigate complaints and information from the public about possible violations of civil rights or civil liberties related to DHS employees, programs, or activities. A federal law, called the Privacy Act, says we must explain how we protect your information while processing your complaint.

If your complaint is more appropriately handled by a different federal office, we will refer it to that office. In order to investigate your complaint, CRCL will disclose the information regarding your complaint to other appropriate DHS offices, including the Office of the Inspector General. CRCL may also disclose certain information from your complaint if we are required by law to do so or if there is no privacy impact. For example, we send reports to Congress every three months about complaints submitted by the public. Those reports describe the **types** of complaints, and **do not include personal information**. To read our past reports, go to www.dhs.gov/crcl.

To learn more about the Privacy Act go to the Federal Information Center, www.pueblo.gsa.gov.

You may use the following pages to include additional information about your complaint if needed. Please specify which number(s) above you are continuing.

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Exhibit F



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Enforcement & Removal » Fugitive Operations

Fact Sheet: ICE Fugitive Operations Program



JULY 2, 2013

Background

U.S. Immigration and Customs Enforcement (ICE) established the first Fugitive Operations Teams (FOTs) in 2003 to dramatically expand the agency's efforts to locate, arrest and remove fugitive aliens from the United States. An ICE fugitive is defined as an alien who has failed to leave the United States based upon a final order of removal, deportation or exclusion, or who has failed to report to ICE after receiving notice to do so.

In 2009, the responsibilities of ICE's FOTs were expanded to include cases involving at-large convicted criminal aliens who pose a threat to national security and community safety, including members of transnational street gangs, child sex offenders, and aliens with prior convictions for violent crimes. The FOT officers and agents use intelligence-based information and leads to locate and arrest aliens. They also prioritize their work based on goals and expectations set forth by ICE and Department of Homeland Security (DHS) leadership.

Key ICE Fugitive Operations Initiatives

- ✦ The National Fugitive Operations Program (NFOP) is responsible for reducing the fugitive alien population in the United States. ICE's databases show the targeted enforcement strategy is paying off as the nation's fugitive alien population continues to decline. At the end of fiscal year (FY) 2012, there were approximately 469,157 fugitive alien cases — a decrease of more than 10,616 since the beginning of the fiscal year.
- ✦ Much of the credit for these results can be attributed to the rapid expansion of the program and the establishment of the Fugitive Operations Support Center (FOSC). The initiative launched in 2003 with eight Fugitive Operations Teams (FOTs) nationwide. Today, ICE has 129 FOTs deployed nationwide to pursue these types of cases. In FY 2012, these teams accounted for more than 37,000 arrests.
- ✦ ICE established the Fugitive Operations Support Center (FOSC) in June of 2006, located in Williston, Vermont. The FOSC is a key element in ERO's strategy to address enforcement of arrest and removal warrants to include fugitives, aliens who have illegally reentered the U.S. after removal, and aliens posing a variety of threats to our communities within the U.S. and abroad.
- ✦ Through the use of technology and partnerships with law enforcement agencies, the FOSC serves as a specialized unit that focuses on analyzing the nature and characteristics of the fugitive and at-large criminal alien populations as recorded in the Enforce Alien Removal Module (EARM). Over the several years of its existence, these efforts have steadily reduced the reported number of existing fugitives by reconciling records to eliminate those who have left the country voluntarily, successfully adjusted their status, or were discovered to be incarcerated, and therefore are no longer fugitives. Also, the FOSC provides vital assistance by serving as a national enforcement operations center providing ICE FOTs in the field with critical information on the identity, immigration history, criminal case history, and location of high-priority removable aliens in the United States, thereby assisting in criminal arrest percentages over the last several years.

