

This document is made available through the declassification efforts
and research of John Greenewald, Jr., creator of:

The Black Vault



The Black Vault is the largest online Freedom of Information Act (FOIA)
document clearinghouse in the world. The research efforts here are
responsible for the declassification of hundreds of thousands of pages
released by the U.S. Government & Military.

Discover the Truth at: **<http://www.theblackvault.com>**

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



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

January 10, 2018

John Greenewald
The Black Vault
27305 W. Live Oak Rd.
Suite #1203
Castaic, CA 91384

RE: ICE FOIA Case Number 2017-ICFO-43452

Dear Mr. Greenewald:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated August 05, 2017. You have requested copies of the response to FOIA 2017-ICFO-17368.

"request a copy of records, electronic or otherwise, of the following: a digital/electronic copy of the same records provided in response to the February 27, 2017 FOIA request of the California Legislature / Kevin De Leon and Anthony Rendon. A copy of that request letter is published here:<http://www.sfchronicle.com/file/197/8/1978CA%20Leg%20Letter%20to%20DHS%20FOIA.pdf> I also ask that you include the entire FOIA Case file in addition to the responsive records, including the FOIA Processing notes, and any/all internal FOIA Communications regarding the case."

ICE has considered your request under the FOIA, 5 U.S.C. § 552.

A search for records responsive to your request produced 280 pages that are responsive to your request. After review of those documents, I have determined that 101 pages will be released in their entirety. Portions of 72 pages and 105 full pages will be withheld pursuant to Exemptions 5, 6, 7(C), and 7(E) of the FOIA as described below.

ICE has applied Exemption 5 to protect from disclosure intra-agency documents that contain the recommendations, opinions, and conclusions of agency employees as well as draft documents. The disclosure of these communications would discourage the expression of candid opinions and inhibit the free and frank exchange of information and opinions among agency personnel on important agency decision-making by having a chilling effect on the agency's deliberative process.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I have determined that portions of the responsive documents qualify for protection under the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of DHS employees and third party individuals contained within the documents.

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

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

ICE has applied FOIA Exemption 7(E) to protect from disclosure internal agency case numbers contained within the document.

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

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8, to:

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street, S.W., Mail Stop 5900
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office and refer to FOIA case number **2017-ICFO-43452**. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



CM Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 280 pages



Homeland Security

February 20, 2017

MEMORANDUM FOR:

Kevin McAleenan
Acting Commissioner
U.S. Customs and Border Protection

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

Lori Scialabba
Acting Director
U.S. Citizenship and Immigration Services

Joseph B. Maher
Acting General Counsel

Dimple Shah
Acting Assistant Secretary for International Affairs

Chip Fulghum
Acting Undersecretary for Management

FROM:

John Kelly
Secretary

A handwritten signature in black ink, appearing to read "John Kelly", written over the printed name and title.

SUBJECT:

Enforcement of the Immigration Laws to Serve the National Interest

This memorandum implements the Executive Order entitled “Enhancing Public Safety in the Interior of the United States,” issued by the President on January 25, 2017. It constitutes guidance for all Department personnel regarding the enforcement of the immigration laws of the United States, and is applicable to the activities of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS). As such, it should inform enforcement and removal activities, detention decisions, administrative litigation, budget requests and execution, and strategic planning.

With the exception of the June 15, 2012, memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” and the November 20, 2014 memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents,”¹ all existing conflicting directives, memoranda, or field guidance regarding the enforcement of our immigration laws and priorities for removal are hereby immediately rescinded—to the extent of the conflict—including, but not limited to, the November 20, 2014, memoranda entitled “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,” and “Secure Communities.”

A. The Department’s Enforcement Priorities

Congress has defined the Department’s role and responsibilities regarding the enforcement of the immigration laws of the United States. Effective immediately, and consistent with Article II, Section 3 of the United States Constitution and Section 3331 of Title 5, United States Code, Department personnel shall faithfully execute the immigration laws of the United States against all removable aliens.

Except as specifically noted above, the Department no longer will exempt classes or categories of removable aliens from potential enforcement. In faithfully executing the immigration laws, Department personnel should take enforcement actions in accordance with applicable law. In order to achieve this goal, as noted below, I have directed ICE to hire 10,000 officers and agents expeditiously, subject to available resources, and to take enforcement actions consistent with available resources. However, in order to maximize the benefit to public safety, to stem unlawful migration and to prevent fraud and misrepresentation, Department personnel should prioritize for removal those aliens described by Congress in Sections 212(a)(2), (a)(3), and (a)(6)(C), 235(b) and (c), and 237(a)(2) and (4) of the Immigration and Nationality Act (INA).

Additionally, regardless of the basis of removability, Department personnel should prioritize removable aliens who: (1) have been convicted of any criminal offense; (2) have been charged with any criminal offense that has not been resolved; (3) have committed acts which constitute a chargeable criminal offense; (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency; (5) have abused any program related to receipt of public benefits; (6) are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security. The Director of ICE, the Commissioner of CBP, and the Director of USCIS may, as they determine is appropriate, issue further guidance to allocate appropriate resources to prioritize enforcement activities within these categories—for example, by prioritizing enforcement activities against removable aliens who are convicted felons or who are involved in gang activity or drug trafficking.

¹ The November 20, 2014, memorandum will be addressed in future guidance.

B. Strengthening Programs to Facilitate the Efficient and Faithful Execution of the Immigration Laws of the United States

Facilitating the efficient and faithful execution of the immigration laws of the United States—and prioritizing the Department’s resources—requires the use of all available systems and enforcement tools by Department personnel.

Through passage of the immigration laws, Congress established a comprehensive statutory regime to remove aliens expeditiously from the United States in accordance with all applicable due process of law. I determine that the faithful execution of our immigration laws is best achieved by using all these statutory authorities to the greatest extent practicable. Accordingly, Department personnel shall make full use of these authorities.

Criminal aliens have demonstrated their disregard for the rule of law and pose a threat to persons residing in the United States. As such, criminal aliens are a priority for removal. The Priority Enforcement Program failed to achieve its stated objectives, added an unnecessary layer of uncertainty for the Department’s personnel, and hampered the Department’s enforcement of the immigration laws in the interior of the United States. Effective immediately, the Priority Enforcement Program is terminated and the Secure Communities Program shall be restored. To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Department shall eliminate the existing Forms I-247D, I-247N, and I-247X, and replace them with a new form to more effectively communicate with recipient law enforcement agencies. However, until such forms are updated they may be used as an interim measure to ensure that detainers may still be issued, as appropriate.

ICE’s Criminal Alien Program is an effective tool to facilitate the removal of criminal aliens from the United States, while also protecting our communities and conserving the Department’s detention resources. Accordingly, ICE should devote available resources to expanding the use of the Criminal Alien Program in any willing jurisdiction in the United States. To the maximum extent possible, in coordination with the Executive Office for Immigration Review (EOIR), removal proceedings shall be initiated against aliens incarcerated in federal, state, and local correctional facilities under the Institutional Hearing and Removal Program pursuant to section 238(a) of the INA, and administrative removal processes, such as those under section 238(b) of the INA, shall be used in all eligible cases.

The INA § 287(g) Program has been a highly successful force multiplier that allows a qualified state or local law enforcement officer to be designated as an “immigration officer” for purposes of enforcing federal immigration law. Such officers have the authority to perform all law enforcement functions specified in section 287(a) of the INA, including the authority to investigate, identify, apprehend, arrest, detain, and conduct searches authorized under the INA, under the direction and supervision of the Department.

There are currently 32 law enforcement agencies in 16 states participating in the 287(g)

Program. In previous years, there were significantly more law enforcement agencies participating in the 287(g) Program. To the greatest extent practicable, the Director of ICE and Commissioner of CBP shall expand the 287(g) Program to include all qualified law enforcement agencies that request to participate and meet all program requirements. In furtherance of this direction and the guidance memorandum, "Implementing the President's Border Security and Immigration Enforcement Improvements Policies" (Feb. 20, 2017), the Commissioner of CBP is authorized, in addition to the Director of ICE, to accept State services and take other actions as appropriate to carry out immigration enforcement pursuant to section 287(g) of the INA.

C. Exercise of Prosecutorial Discretion

Unless otherwise directed, Department personnel may initiate enforcement actions against removable aliens encountered during the performance of their official duties and should act consistently with the President's enforcement priorities identified in his Executive Order and any further guidance issued pursuant to this memorandum. Department personnel have full authority to arrest or apprehend an alien whom an immigration officer has probable cause to believe is in violation of the immigration laws. They also have full authority to initiate removal proceedings against any alien who is subject to removal under any provision of the INA, and to refer appropriate cases for criminal prosecution. The Department shall prioritize aliens described in the Department's Enforcement Priorities (Section A) for arrest and removal. This is not intended to remove the individual, case-by-case decisions of immigration officers.

The exercise of prosecutorial discretion with regard to any alien who is subject to arrest, criminal prosecution, or removal in accordance with law shall be made on a case-by-case basis in consultation with the head of the field office component, where appropriate, of CBP, ICE, or USCIS that initiated or will initiate the enforcement action, regardless of which entity actually files any applicable charging documents: CBP Chief Patrol Agent, CBP Director of Field Operations, ICE Field Office Director, ICE Special Agent-in-Charge, or the USCIS Field Office Director, Asylum Office Director or Service Center Director.

Except as specifically provided in this memorandum, prosecutorial discretion shall not be exercised in a manner that exempts or excludes a specified class or category of aliens from enforcement of the immigration laws. The General Counsel shall issue guidance consistent with these principles to all attorneys involved in immigration proceedings.

D. Establishing the Victims of Immigration Crime Engagement (VOICE) Office

Criminal aliens routinely victimize Americans and other legal residents. Often, these victims are not provided adequate information about the offender, the offender's immigration status, or any enforcement action taken by ICE against the offender. Efforts by ICE to engage these victims have been hampered by prior Department of Homeland Security (DHS) policy extending certain Privacy Act protections to persons other than U.S. citizens and lawful permanent residents, leaving victims feeling marginalized and without a voice. Accordingly, I am establishing the Victims of Immigration Crime Engagement (VOICE) Office within the Office of

the Director of ICE, which will create a programmatic liaison between ICE and the known victims of crimes committed by removable aliens. The liaison will facilitate engagement with the victims and their families to ensure, to the extent permitted by law, that they are provided information about the offender, including the offender's immigration status and custody status, and that their questions and concerns regarding immigration enforcement efforts are addressed.

To that end, I direct the Director of ICE to immediately reallocate any and all resources that are currently used to advocate on behalf of illegal aliens (except as necessary to comply with a judicial order) to the new VOICE Office, and to immediately terminate the provision of such outreach or advocacy services to illegal aliens.

Nothing herein may be construed to authorize disclosures that are prohibited by law or may relate to information that is Classified, Sensitive but Unclassified (SBU), Law Enforcement Sensitive (LES), For Official Use Only (FOUO), or similarly designated information that may relate to national security, law enforcement, or intelligence programs or operations, or disclosures that are reasonably likely to cause harm to any person.

E. Hiring Additional ICE Officers and Agents

To enforce the immigration laws effectively in the interior of the United States in accordance with the President's directives, additional ICE agents and officers are necessary. The Director of ICE shall—while ensuring consistency in training and standards—take all appropriate action to expeditiously hire 10,000 agents and officers, as well as additional operational and mission support and legal staff necessary to hire and support their activities. Human Capital leadership in CBP and ICE, in coordination with the Under Secretary for Management and the Chief Human Capital Officer, shall develop hiring plans that balance growth and interagency attrition by integrating workforce shaping and career paths for incumbents and new hires.

F. Establishment of Programs to Collect Authorized Civil Fines and Penalties

As soon as practicable, the Director of ICE, the Commissioner of CBP, and the Director of USCIS shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties which the Department is authorized under the law to assess and collect from aliens and from those who facilitate their unlawful presence in the United States.

G. Aligning the Department's Privacy Policies With the Law

The Department will no longer afford Privacy Act rights and protections to persons who are neither U.S. citizens nor lawful permanent residents. The DHS Privacy Office will rescind the DHS *Privacy Policy Guidance memorandum*, dated January 7, 2009, which implemented the DHS "mixed systems" policy of administratively treating all personal information contained in DHS record systems as being subject to the Privacy Act regardless of the subject's immigration status. The DHS Privacy Office, with the assistance of the Office of the General Counsel, will

develop new guidance specifying the appropriate treatment of personal information DHS maintains in its record systems.

H. Collecting and Reporting Data on Alien Apprehensions and Releases

The collection of data regarding aliens apprehended by ICE and the disposition of their cases will assist in the development of agency performance metrics and provide transparency in the immigration enforcement mission. Accordingly, to the extent permitted by law, the Director of ICE shall develop a standardized method of reporting statistical data regarding aliens apprehended by ICE and, at the earliest practicable time, provide monthly reports of such data to the public without charge.

The reporting method shall include uniform terminology and shall utilize a format that is easily understandable by the public and a medium that can be readily accessed. At a minimum, in addition to statistical information currently being publicly reported regarding apprehended aliens, the following categories of information must be included: country of citizenship, convicted criminals and the nature of their offenses, gang members, prior immigration violators, custody status of aliens and, if released, the reason for release and location of their release, aliens ordered removed, and aliens physically removed or returned.

The ICE Director shall also develop and provide a weekly report to the public, utilizing a medium that can be readily accessed without charge, of non-Federal jurisdictions that release aliens from their custody, notwithstanding that such aliens are subject to a detainer or similar request for custody issued by ICE to that jurisdiction. In addition to other relevant information, to the extent that such information is readily available, the report shall reflect the name of the jurisdiction, the citizenship and immigration status of the alien, the arrest, charge, or conviction for which each alien was in the custody of that jurisdiction, the date on which the ICE detainer or similar request for custody was served on the jurisdiction by ICE, the date of the alien's release from the custody of that jurisdiction and the reason for the release, an explanation concerning why the detainer or similar request for custody was not honored, and all arrests, charges, or convictions occurring after the alien's release from the custody of that jurisdiction.

I. No Private Right of Action

This document provides only internal DHS policy guidance, which may be modified, rescinded, or superseded at any time without notice. This guidance is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigation prerogatives of DHS.

In implementing these policies, I direct DHS Components to consult with legal counsel to ensure compliance with all applicable laws, including the Administrative Procedure Act.



Homeland Security

February 20, 2017

MEMORANDUM FOR:

Kevin McAleenan
Acting Commissioner
U.S. Customs and Border Protection

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

Lori Scialabba
Acting Director
U.S. Citizenship and Immigration Services

Joseph B. Maher
Acting General Counsel

Dimple Shah
Acting Assistant Secretary for International Affairs

Chip Fulghum
Acting Undersecretary for Management

FROM:

John Kelly
Secretary

A handwritten signature in black ink, appearing to read "John Kelly", written over the printed name and title.

SUBJECT:

**Implementing the President's Border Security and
Immigration Enforcement Improvements Policies**

This memorandum implements the Executive Order entitled "Border Security and Immigration Enforcement Improvements," issued by the President on January 25, 2017, which establishes the President's policy regarding effective border security and immigration enforcement through faithful execution of the laws of the United States. It implements new policies designed to stem illegal immigration and facilitate the detection, apprehension, detention, and removal of aliens who have no lawful basis to enter or remain in the United States. It constitutes guidance to all Department personnel, and supersedes all existing conflicting policy, directives, memoranda, and other guidance regarding this subject matter—to the extent of the conflict—except as otherwise expressly stated in this memorandum.

A. Policies Regarding the Apprehension and Detention of Aliens Described in Section 235 of the Immigration and Nationality Act.

The President has determined that the lawful detention of aliens arriving in the United States and deemed inadmissible or otherwise described in section 235(b) of the Immigration and Nationality Act (INA) pending a final determination of whether to order them removed, including determining eligibility for immigration relief, is the most efficient means by which to enforce the immigration laws at our borders. Detention also prevents such aliens from committing crimes while at large in the United States, ensures that aliens will appear for their removal proceedings, and substantially increases the likelihood that aliens lawfully ordered removed will be removed.

These policies are consistent with INA provisions that mandate detention of such aliens and allow me or my designee to exercise discretionary parole authority pursuant to section 212(d)(5) of the INA only on a case-by-case basis, and only for urgent humanitarian reasons or significant public benefit. Policies that facilitate the release of removable aliens apprehended at and between the ports of entry, which allow them to abscond and fail to appear at their removal hearings, undermine the border security mission. Such policies, collectively referred to as “catch-and-release,” shall end.

Accordingly, effective upon my determination of (1) the establishment and deployment of a joint plan with the Department of Justice to surge the deployment of immigration judges and asylum officers to interview and adjudicate claims asserted by recent border entrants; and, (2) the establishment of appropriate processing and detention facilities, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) personnel should only release from detention an alien detained pursuant to section 235(b) of the INA, who was apprehended or encountered after illegally entering or attempting to illegally enter the United States, in the following situations on a case-by-case basis, to the extent consistent with applicable statutes and regulations:

1. When removing the alien from the United States pursuant to statute or regulation;
2. When the alien obtains an order granting relief or protection from removal or the Department of Homeland Security (DHS) determines that the individual is a U.S. citizen, national of the United States, or an alien who is a lawful permanent resident, refugee, asylee, holds temporary protected status, or holds a valid immigration status in the United States;
3. When an ICE Field Office Director, ICE Special Agent-in-Charge, U.S. Border Patrol Sector Chief, CBP Director of Field Operations, or CBP Air & Marine Operations Director consents to the alien’s withdrawal of an application for admission, and the alien contemporaneously departs from the United States;
4. When required to do so by statute, or to comply with a binding settlement agreement or order issued by a competent judicial or administrative authority;

5. When an ICE Field Office Director, ICE Special Agent-in-Charge, U.S. Border Patrol Sector Chief, CBP Director of Field Operations, or CBP Air & Marine Operations Director authorizes the alien's parole pursuant to section 212(d)(5) of the INA with the written concurrence of the Deputy Director of ICE or the Deputy Commissioner of CBP, except in exigent circumstances such as medical emergencies where seeking prior approval is not practicable. In those exceptional instances, any such parole will be reported to the Deputy Director or Deputy Commissioner as expeditiously as possible; or
6. When an arriving alien processed under the expedited removal provisions of section 235(b) has been found to have established a "credible fear" of persecution or torture by an asylum officer or an immigration judge, provided that such an alien affirmatively establishes to the satisfaction of an ICE immigration officer his or her identity, that he or she presents neither a security risk nor a risk of absconding, and provided that he or she agrees to comply with any additional conditions of release imposed by ICE to ensure public safety and appearance at any removal hearings.

To the extent current regulations are inconsistent with this guidance, components will develop or revise regulations as appropriate. Until such regulations are revised or removed, Department officials shall continue to operate according to regulations currently in place.

As the Department works to expand detention capabilities, detention of all such individuals may not be immediately possible, and detention resources should be prioritized based upon potential danger and risk of flight if an individual alien is not detained, and parole determinations will be made in accordance with current regulations and guidance. *See* 8 C.F.R. §§ 212.5, 235.3. This guidance does not prohibit the return of an alien who is arriving on land to the foreign territory contiguous to the United States from which the alien is arriving pending a removal proceeding under section 240 of the INA consistent with the direction of an ICE Field Office Director, ICE Special Agent-in-Charge, CBP Chief Patrol Agent, or CBP Director of Field Operations.

B. Hiring More CBP Agents/Officers

CBP has insufficient agents/officers to effectively detect, track, and apprehend all aliens illegally entering the United States. The United States needs additional agents and officers to ensure complete operational control of the border. Accordingly, the Commissioner of CBP shall—while ensuring consistency in training and standards—immediately begin the process of hiring 5,000 additional Border Patrol agents, as well as 500 Air & Marine Agents/Officers, subject to the availability of resources, and take all actions necessary to ensure that such agents/officers enter on duty and are assigned to appropriate duty stations, including providing for the attendant resources and additional personnel necessary to support such agents, as soon as practicable.

Human Capital leadership in CBP and ICE, in coordination with the Under Secretary for

Management, Chief Financial Officer, and Chief Human Capital Officer, shall develop hiring plans that balance growth and interagency attrition by integrating workforce shaping and career paths for incumbents and new hires.

C. Identifying and Quantifying Sources of Aid to Mexico

The President has directed the heads of all executive departments to identify and quantify all sources of direct and indirect Federal aid or assistance to the Government of Mexico. Accordingly, the Under Secretary for Management shall identify all sources of direct or indirect aid and assistance, excluding intelligence activities, from every departmental component to the Government of Mexico on an annual basis, for the last five fiscal years, and quantify such aid or assistance. The Under Secretary for Management shall submit a report to me reflecting historic levels of such aid or assistance provided annually within 30 days of the date of this memorandum.

D. Expansion of the 287(g) Program in the Border Region

Section 287(g) of the INA authorizes me to enter into a written agreement with a state or political subdivision thereof, for the purpose of authorizing qualified officers or employees of the state or subdivision to perform the functions of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States. This grant of authority, known as the 287(g) Program, has been a highly successful force multiplier that authorizes state or local law enforcement personnel to perform all law enforcement functions specified in section 287(a) of the INA, including the authority to investigate, identify, apprehend, arrest, detain, transport and conduct searches of an alien for the purposes of enforcing the immigration laws. From January 2006 through September 2015, the 287(g) Program led to the identification of more than 402,000 removable aliens, primarily through encounters at local jails.

Empowering state and local law enforcement agencies to assist in the enforcement of federal immigration law is critical to an effective enforcement strategy. Aliens who engage in criminal conduct are priorities for arrest and removal and will often be encountered by state and local law enforcement officers during the course of their routine duties. It is in the interest of the Department to partner with those state and local jurisdictions through 287(g) agreements to assist in the arrest and removal of criminal aliens.

To maximize participation by state and local jurisdictions in the enforcement of federal immigration law near the southern border, I am directing the Director of ICE and the Commissioner of CBP to engage immediately with all willing and qualified law enforcement jurisdictions that meet all program requirements for the purpose of entering into agreements under 287(g) of the INA.

The Commissioner of CBP and the Director of ICE should consider the operational functions and capabilities of the jurisdictions willing to enter into 287(g) agreements and structure such agreements in a manner that employs the most effective enforcement model for that jurisdiction, including the jail enforcement model, task force officer model, or joint jail enforcement-task force officer model. In furtherance of my direction herein, the Commissioner of

CBP is authorized, in addition to the Director of ICE, to accept state services and take other actions as appropriate to carry out immigration enforcement pursuant to 287(g).

E. Commissioning a Comprehensive Study of Border Security

The Under Secretary for Management, in consultation with the Commissioner of CBP, Joint Task Force (Border), and Commandant of the Coast Guard, is directed to commission an immediate, comprehensive study of the security of the southern border (air, land and maritime) to identify vulnerabilities and provide recommendations to enhance border security. The study should include all aspects of the current border security environment, including the availability of federal and state resources to develop and implement an effective border security strategy that will achieve complete operational control of the border.

F. Border Wall Construction and Funding

A wall along the southern border is necessary to deter and prevent the illegal entry of aliens and is a critical component of the President's overall border security strategy. Congress has authorized the construction of physical barriers and roads at the border to prevent illegal immigration in several statutory provisions, including section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, 8 U.S.C. § 1103 note.

Consistent with the President's Executive Order, the will of Congress and the need to secure the border in the national interest, CBP, in consultation with the appropriate executive departments and agencies, and nongovernmental entities having relevant expertise—and using materials originating in the United States to the maximum extent permitted by law—shall immediately begin planning, design, construction and maintenance of a wall, including the attendant lighting, technology (including sensors), as well as patrol and access roads, along the land border with Mexico in accordance with existing law, in the most appropriate locations and utilizing appropriate materials and technology to most effectively achieve operational control of the border.

The Under Secretary for Management, in consultation with the Commissioner of CBP shall immediately identify and allocate all sources of available funding for the planning, design, construction and maintenance of a wall, including the attendant lighting, technology (including sensors), as well as patrol and access roads, and develop requirements for total ownership cost of this project, including preparing Congressional budget requests for the current fiscal year (e.g., supplemental budget requests) and subsequent fiscal years.

G. Expanding Expedited Removal Pursuant to Section 235(b)(1)(A)(iii)(I) of the INA

It is in the national interest to detain and expeditiously remove from the United States aliens apprehended at the border, who have been ordered removed after consideration and denial of their claims for relief or protection. Pursuant to section 235(b)(1)(A)(i) of the INA, if an immigration officer determines that an arriving alien is inadmissible to the United States under

section 212(a)(6)(C) or section 212(a)(7) of the INA, the officer shall, consistent with all applicable laws, order the alien removed from the United States without further hearing or review, unless the alien is an unaccompanied alien child as defined in 6 U.S.C. § 279(g)(2), indicates an intention to apply for asylum or a fear of persecution or torture or a fear of return to his or her country, or claims to have a valid immigration status within the United States or to be a citizen or national of the United States.

Pursuant to section 235(b)(1)(A)(iii)(I) of the INA and other provisions of law, I have been granted the authority to apply, by designation in my sole and unreviewable discretion, the expedited removal provisions in section 235(b)(1)(A)(i) and (ii) of the INA to aliens who have not been admitted or paroled into the United States, who are inadmissible to the United States under section 212(a)(6)(C) or section 212(a)(7) of the INA, and who have not affirmatively shown, to the satisfaction of an immigration officer, that they have been continuously physically present in the United States for the two-year period immediately prior to the determination of their inadmissibility. To date, this authority has only been exercised to designate for application of expedited removal, aliens encountered within 100 air miles of the border and 14 days of entry, and aliens who arrived in the United States by sea other than at a port of entry.¹

The surge of illegal immigration at the southern border has overwhelmed federal agencies and resources and has created a significant national security vulnerability to the United States. Thousands of aliens apprehended at the border, placed in removal proceedings, and released from custody have absconded and failed to appear at their removal hearings. Immigration courts are experiencing a historic backlog of removal cases, primarily proceedings under section 240 of the INA for individuals who are not currently detained.

During October 2016 and November 2016, there were 46,184 and 47,215 apprehensions, respectively, between ports of entry on our southern border. In comparison, during October 2015 and November 2015 there were 32,724 and 32,838 apprehensions, respectively, between ports of entry on our southern border. This increase of 10,000–15,000 apprehensions per month has significantly strained DHS resources.

Furthermore, according to EOIR information provided to DHS, there are more than 534,000 cases currently pending on immigration court dockets nationwide—a record high. By contrast, according to some reports, there were nearly 168,000 cases pending at the end of fiscal year (FY) 2004 when section 235(b)(1)(A)(i) was last expanded.² This represents an increase of more than 200% in the number of cases pending completion. The average removal case for an alien who is not detained has been pending for more than two years before an immigration judge.³ In some immigration courts, aliens who are not detained will not have their cases heard by an

¹ Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(a)(iii) of the Immigration and Nationality Act, 67 Fed. Reg. 68924 (Nov. 13, 2002); Designating Aliens For Expedited Removal, 69 Fed. Reg. 48877 (Aug. 11, 2004); Eliminating Exception to Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea, 82 Fed. Reg. 4902 (Jan. 17, 2017).

² Syracuse University, *Transactional Records Access Clearinghouse (TRAC) Data Research*; available at http://trac.syr.edu/phptools/immigration/court_backlog/.

³ *Id.*

immigration judge for as long as five years. This unacceptable delay affords removable aliens with no plausible claim for relief to remain unlawfully in the United States for many years.

To ensure the prompt removal of aliens apprehended soon after crossing the border illegally, the Department will publish in the *Federal Register* a new Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(a)(iii) of the Immigration and Nationality Act, which may, to the extent I determine is appropriate, depart from the limitations set forth in the designation currently in force. I direct the Commissioner of CBP and the Director of ICE to conform the use of expedited removal procedures to the designations made in this notice upon its publication.

H. Implementing the Provisions of Section 235(b)(2)(C) of the INA to Return Aliens to Contiguous Countries

Section 235(b)(2)(C) of the INA authorizes the Department to return aliens arriving on land from a foreign territory contiguous to the United States, to the territory from which they arrived, pending a formal removal proceeding under section 240 of the INA. When aliens so apprehended do not pose a risk of a subsequent illegal entry or attempted illegal entry, returning them to the foreign contiguous territory from which they arrived, pending the outcome of removal proceedings saves the Department's detention and adjudication resources for other priority aliens.

Accordingly, subject to the requirements of section 1232, Title 8, United States Code, related to unaccompanied alien children and to the extent otherwise consistent with the law and U.S. international treaty obligations, CBP and ICE personnel shall, to the extent appropriate and reasonably practicable, return aliens described in section 235(b)(2)(A) of the INA, who are placed in removal proceedings under section 240 of the INA—and who, consistent with the guidance of an ICE Field Office Director, CBP Chief Patrol Agent, or CBP Director of Field Operations, pose no risk of recidivism—to the territory of the foreign contiguous country from which they arrived pending such removal proceedings.

To facilitate the completion of removal proceedings for aliens so returned to the contiguous country, ICE Field Office Directors, ICE Special Agents-in-Charge, CBP Chief Patrol Agent, and CBP Directors of Field Operations shall make available facilities for such aliens to appear via video teleconference. The Director of ICE and the Commissioner of CBP shall consult with the Director of EOIR to establish a functional, interoperable video teleconference system to ensure maximum capability to conduct video teleconference removal hearings for those aliens so returned to the contiguous country.

I. Enhancing Asylum Referrals and Credible Fear Determinations Pursuant to Section 235(b)(1) of the INA

With certain exceptions, any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum. For those aliens who are subject

to expedited removal under section 235(b) of the INA, aliens who claim a fear of return must be referred to an asylum officer to determine whether they have established a credible fear of persecution or torture.⁴ To establish a credible fear of persecution, an alien must demonstrate that there is a “significant possibility” that the alien could establish eligibility for asylum, taking into account the credibility of the statements made by the alien in support of the claim and such other facts as are known to the officer.⁵

The Director of USCIS shall ensure that asylum officers conduct credible fear interviews in a manner that allows the interviewing officer to elicit all relevant information from the alien as is necessary to make a legally sufficient determination. In determining whether the alien has demonstrated a significant possibility that the alien could establish eligibility for asylum, or for withholding or deferral of removal under the Convention Against Torture, the asylum officer shall consider the statements of the alien and determine the credibility of the alien’s statements made in support of his or her claim and shall consider other facts known to the officer, as required by statute.⁶

The asylum officer shall make a positive credible fear finding only after the officer has considered all relevant evidence and determined, based on credible evidence, that the alien has a significant possibility of establishing eligibility for asylum, or for withholding or deferral of removal under the Convention Against Torture, based on established legal authority.⁷

The Director of USCIS shall also increase the operational capacity of the Fraud Detection and National Security (FDNS) Directorate and continue to strengthen the integration of its operations to support the Field Operations, Refugee, Asylum, and International Operations, and Service Center Operations Directorate, to detect and prevent fraud in the asylum and benefits adjudication processes, and in consultation with the USCIS Office of Policy and Strategy as operationally appropriate.

The Director of USCIS, the Commissioner of CBP, and the Director of ICE shall review fraud detection, deterrence, and prevention measures throughout their respective agencies and provide me with a consolidated report within 90 days of the date of this memorandum regarding fraud vulnerabilities in the asylum and benefits adjudication processes, and propose measures to enhance fraud detection, deterrence, and prevention in these processes.

J. Allocation of Resources and Personnel to the Southern Border for Detention of Aliens and Adjudication of Claims

The detention of aliens apprehended at the border is critical to the effective enforcement of the immigration laws. Aliens who are released from custody pending a determination of their removability are highly likely to abscond and fail to attend their removal hearings. Moreover, the screening of credible fear claims by USCIS and adjudication of asylum claims by EOIR at

⁴ See INA § 235(b)(1)(A)-(B); 8 C.F.R. §§ 235.3, 208.30.

⁵ See INA § 235(b)(1)(B)(v).

⁶ See *id.*

⁷ *Id.*

detention facilities located at or near the point of apprehension will facilitate an expedited resolution of those claims and result in lower detention and transportation costs.

Accordingly, the Director of ICE and the Commissioner of CBP should take all necessary action and allocate all available resources to expand their detention capabilities and capacities at or near the border with Mexico to the greatest extent practicable. CBP shall focus these actions on expansion of "short-term detention" (defined as 72 hours or less under 6 U.S.C. § 211(m)) capability, and ICE will focus these actions on expansion of all other detention capabilities. CBP and ICE should also explore options for joint temporary structures that meet appropriate standards for detention given the length of stay in those facilities.

In addition, to the greatest extent practicable, the Director of USCIS is directed to increase the number of asylum officers and FDNS officers assigned to detention facilities located at or near the border with Mexico to properly and efficiently adjudicate credible fear and reasonable fear claims and to counter asylum-related fraud.

K. Proper Use of Parole Authority Pursuant to Section 212(d)(5) of the INA

The authority to parole aliens into the United States is set forth in section 212(d)(5) of the INA, which provides that the Secretary may, in his discretion and on a case-by-case basis, temporarily parole into the United States any alien who is an applicant for admission for urgent humanitarian reasons or significant public benefit. The statutory language authorizes parole in individual cases only where, after careful consideration of the circumstances, it is necessary because of demonstrated urgent humanitarian reasons or significant public benefit. In my judgment, such authority should be exercised sparingly.

The practice of granting parole to certain aliens in pre-designated categories in order to create immigration programs not established by Congress, has contributed to a border security crisis, undermined the integrity of the immigration laws and the parole process, and created an incentive for additional illegal immigration.

Therefore, the Director of USCIS, the Commissioner of CBP, and the Director of ICE shall ensure that, pending the issuance of final regulations clarifying the appropriate use of the parole power, appropriate written policy guidance and training is provided to employees within those agencies exercising parole authority, including advance parole, so that such employees are familiar with the proper exercise of parole under section 212(d)(5) of the INA and exercise such parole authority only on a case-by-case basis, consistent with the law and written policy guidance.

Notwithstanding any other provision of this memorandum, pending my further review and evaluation of the impact of operational changes to implement the Executive Order, and additional guidance on the issue by the Director of ICE, the ICE policy directive establishing standards and procedures for the parole of certain arriving aliens found to have a credible fear of persecution or

torture shall remain in full force and effect.⁸ The ICE policy directive shall be implemented in a manner consistent with its plain language. In every case, the burden to establish that his or her release would neither pose a danger to the community, nor a risk of flight remains on the individual alien, and ICE retains ultimate discretion whether it grants parole in a particular case.

L. Proper Processing and Treatment of Unaccompanied Alien Minors Encountered at the Border

In accordance with section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (codified in part at 8 U.S.C. § 1232) and section 462 of the Homeland Security Act of 2002 (6 U.S.C. § 279), unaccompanied alien children are provided special protections to ensure that they are properly processed and receive the appropriate care and placement when they are encountered by an immigration officer. An unaccompanied alien child, as defined in section 279(g)(2), Title 6, United States Code, is an alien who has no lawful immigration status in the United States, has not attained 18 years of age; and with respect to whom, (1) there is no parent or legal guardian in the United States, or (2) no parent or legal guardian in the United States is available to provide care and physical custody.

Approximately 155,000 unaccompanied alien children have been apprehended at the southern border in the last three years. Most of these minors are from El Salvador, Honduras, and Guatemala, many of whom travel overland to the southern border with the assistance of a smuggler who is paid several thousand dollars by one or both parents, who reside illegally in the United States.

With limited exceptions, upon apprehension, CBP or ICE must promptly determine if a child meets the definition of an “unaccompanied alien child” and, if so, the child must be transferred to the custody of the Office of Refugee Resettlement within the Department of Health and Human Services (HHS) within 72 hours, absent exceptional circumstances.⁹ The determination that the child is an “unaccompanied alien child” entitles the child to special protections, including placement in a suitable care facility, access to social services, removal proceedings before an immigration judge under section 240 of the INA, rather than expedited removal proceedings under section 235(b) of the INA, and initial adjudication of any asylum claim by USCIS.¹⁰

Approximately 60% of minors initially determined to be “unaccompanied alien children” are placed in the care of one or more parents illegally residing in the United States. However, by Department policy and practice, such minors maintained their status as “unaccompanied alien children,” notwithstanding that they may no longer meet the statutory definition once they have been placed by HHS in the custody of a parent in the United States who can care for the minor. Exploitation of that policy led to abuses by many of the parents and legal guardians of those minors and has contributed to significant administrative delays in adjudications by immigration

⁸ ICE Policy No. 11002.1: Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture (Dec. 8, 2009).

⁹ See 8 U.S.C. § 1232(b)(3).

¹⁰ See generally 8 U.S.C. § 1232; INA § 208(b)(3)(C).

courts and USCIS.

To ensure identification of abuses and the processing of unaccompanied alien children consistent with the statutory framework and any applicable court order, the Director of USCIS, the Commissioner of CBP, and the Director of ICE are directed to develop uniform written guidance and training for all employees and contractors of those agencies regarding the proper processing of unaccompanied alien children, the timely and fair adjudication of their claims for relief from removal, and, if appropriate, their safe repatriation at the conclusion of removal proceedings. In developing such guidance and training, they shall establish standardized review procedures to confirm that alien children who are initially determined to be “unaccompanied alien child[ren],” as defined in section 279(g)(2), Title 6, United States Code, continue to fall within the statutory definition when being considered for the legal protections afforded to such children as they go through the removal process.

M. Accountability Measures to Protect Alien Children from Exploitation and Prevent Abuses of Our Immigration Laws

Although the Department’s personnel must process unaccompanied alien children pursuant to the requirements described above, we have an obligation to ensure that those who conspire to violate our immigration laws do not do so with impunity—particularly in light of the unique vulnerabilities of alien children who are smuggled or trafficked into the United States.

The parents and family members of these children, who are often illegally present in the United States, often pay smugglers several thousand dollars to bring their children into this country. Tragically, many of these children fall victim to robbery, extortion, kidnapping, sexual assault, and other crimes of violence by the smugglers and other criminal elements along the dangerous journey through Mexico to the United States. Regardless of the desires for family reunification, or conditions in other countries, the smuggling or trafficking of alien children is intolerable.

Accordingly, the Director of ICE and the Commissioner of CBP shall ensure the proper enforcement of our immigration laws against any individual who—directly or indirectly—facilitates the illegal smuggling or trafficking of an alien child into the United States. In appropriate cases, taking into account the risk of harm to the child from the specific smuggling or trafficking activity that the individual facilitated and other factors relevant to the individual’s culpability and the child’s welfare, proper enforcement includes (but is not limited to) placing any such individual who is a removable alien into removal proceedings, or referring the individual for criminal prosecution.

N. Prioritizing Criminal Prosecutions for Immigration Offenses Committed at the Border

The surge of illegal immigration at the southern border has produced a significant increase in organized criminal activity in the border region. Mexican drug cartels, Central American gangs, and other violent transnational criminal organizations have established sophisticated criminal

enterprises on both sides of the border. The large-scale movement of Central Americans, Mexicans, and other foreign nationals into the border area has significantly strained federal agencies and resources dedicated to border security. These criminal organizations have monopolized the human trafficking, human smuggling, and drug trafficking trades in the border region.

It is in the national interest of the United States to prevent criminals and criminal organizations from destabilizing border security through the proliferation of illicit transactions and violence perpetrated by criminal organizations.

To counter this substantial and ongoing threat to the security of the southern border—including threats to our maritime border and the approaches—the Directors of the Joint Task Forces-West, -East, and -Investigations, as well as the ICE-led Border Enforcement Security Task Forces (BESTs), are directed to plan and implement enhanced counternetwork operations directed at disrupting transnational criminal organizations, focused on those involved in human smuggling. The Department will support this work through the Office of Intelligence and Analysis, CBP's National Targeting Center, and the DHS Human Smuggling Cell.

In addition, the task forces should include participants from other federal, state, and local agencies, and should target individuals and organizations whose criminal conduct undermines border security or the integrity of the immigration system, including offenses related to alien smuggling or trafficking, drug trafficking, illegal entry and reentry, visa fraud, identity theft, unlawful possession or use of official documents, and acts of violence committed against persons or property at or near the border.

In order to support the efforts of the BESTs and counter network operations of the Joint Task Forces, the Director of ICE shall increase the number of special agents and analysts in the Northern Triangle ICE Attaché Offices and increase the number of vetted Transnational Criminal Investigative Unit international partners. This expansion of ICE's international footprint will focus both domestic and international efforts to dismantle transnational criminal organizations that are facilitating and profiting from the smuggling routes to the United States.

O. Public Reporting of Border Apprehensions Data

The Department has an obligation to perform its mission in a transparent and forthright manner. The public is entitled to know, with a reasonable degree of detail, information pertaining to the aliens unlawfully entering at our borders.

Therefore, consistent with law, in an effort to promote transparency and renew confidence in the Department's border security mission, the Commissioner of CBP and the Director of ICE shall develop a standardized method for public reporting of statistical data regarding aliens apprehended at or near the border for violating the immigration law. The reporting method shall include uniform terminology and shall utilize a format that is easily understandable by the public in a medium that can be readily accessed.

At a minimum, in addition to statistical information currently being publicly reported regarding apprehended aliens, the following information must be included: the number of convicted criminals and the nature of their offenses; the prevalence of gang members and prior immigration violators; the custody status of aliens and, if released, the reason for release and location of that release; and the number of aliens ordered removed and those aliens physically removed.

P. No Private Right of Action

This document provides only internal DHS policy guidance, which may be modified, rescinded, or superseded at any time without notice. This guidance is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigation prerogatives of DHS.

In implementing this guidance, I direct DHS Components to consult with legal counsel to ensure compliance with all applicable laws, including the Administrative Procedure Act.

ICE

Field Office Juvenile Coordinator Monthly Call

- Topics of discussion
 - Accompanied v. unaccompanied minors
 - Proper service of the Notice to Appear (NTA) on Unaccompanied Alien Children (UAC)
 - ♦ Superseding NTA mail out service
 - Detainers
 - Age determinations
 - Executive Orders



Unaccompanied v. Accompanied minors

- **Unaccompanied Alien Child (UAC):** Three factors make a minor a UAC:
 - no lawful immigration status in the United States;
 - has not attained 18 years of age;
 - there is no parent or legal guardian in the United States; or no parent or legal guardian is available to provide care and physical custody. 6 U.S.C. § 279(g)(2)



Unaccompanied minors continued

- A legal guardian is not the same as an HHS/ORR designated sponsor; a guardian will have an order from a state, family, criminal, or probate court, or other court with jurisdiction to issue a guardianship order.
- Presence in the United States is required but, in addition, the parent must be available “to provide what is necessary for the child's health, welfare, maintenance, and protection.” D.B. v. Cardall, 826 F.3d 721, 734 (4th Cir. 2016).



Accompanied minors

- There is no definition for the term “accompanied minor,” rather it is a term used to distinguish certain minors from UAC.
- If a person is a minor but has a parent or legal guardian available to provide care, then he/she is considered accompanied.
- If a person is or becomes accompanied, they are not a UAC, even if they were previously designated as such; UAC status is not permanent.
 - The same logic applies to age-outs



Accompanied v. Unaccompanied Common Scenarios¹

Unaccompanied

Entered unaccompanied
Released to anyone other than parent or legal guardian
(sibling, grandparent...)
Parent unavailable due to removal, incarceration

Accompanied

Came in as family group
Entered as unaccompanied but now living with parent
First encounter, has always lived with parents
Adopted
Living with legal guardian



¹ List is meant to facilitate an initial assessment of the case but JFRMU must provide final concurrence on the issue.

NTA Service on UACs

Best Practices Cont'd

UAC 14 and Over

Relatively easy – may serve in the same way as an adult, but:

- Best practice – personal service.¹²
- In absentia order can only be issued where the government shows by clear and convincing evidence that proper notice and the consequences of failing to appear were given to the respondent.¹³
- In the Ninth Circuit, the adult sponsor should also be served.¹⁴



12. See, e.g., *Santana-Gonzalez v. Attorney General*, 506 F.3d 274, 278 (5th Cir. 2007) (“a weaker presumption of receipt applies when such a notice is sent by regular mail.”).

13. 8 C.F.R. § 1003.26(c).

14. *Flores-Chavez v. Ashcroft*, 362 F.3d 1150, 1163 (9th Cir. 2004).

NTA Service on UACs

Best Practices Cont'd

UAC Under 14

Regulations state it must be served on the person with whom the minor resides:

- If the minor is in ORR custody serve the director of the facility in which the UAC is housed.¹⁵ Be certain that a person reviewing the NTA can identify the name and title of the person signing on behalf of the child. Otherwise it must be served on the parent or sponsor. Name and relationship of the minor should be noted in the NTA.
- Case law further specifies that if a juvenile is released to a parent from ORR custody, the parent should also be served in the event they are present in the U.S. and will be residing with the minor. This applies even if ORR was previously served.¹⁶
- Service can be accomplished in the following ways: Personal delivery of a copy; Personal delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion; Personal delivery of a copy at the office of an attorney or other person, including a corporation, by leaving it with a person in charge; mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.



15. Matter of Amaya-Castro, 21 I&N Dec. 583, 584-85 (BIA 1996)

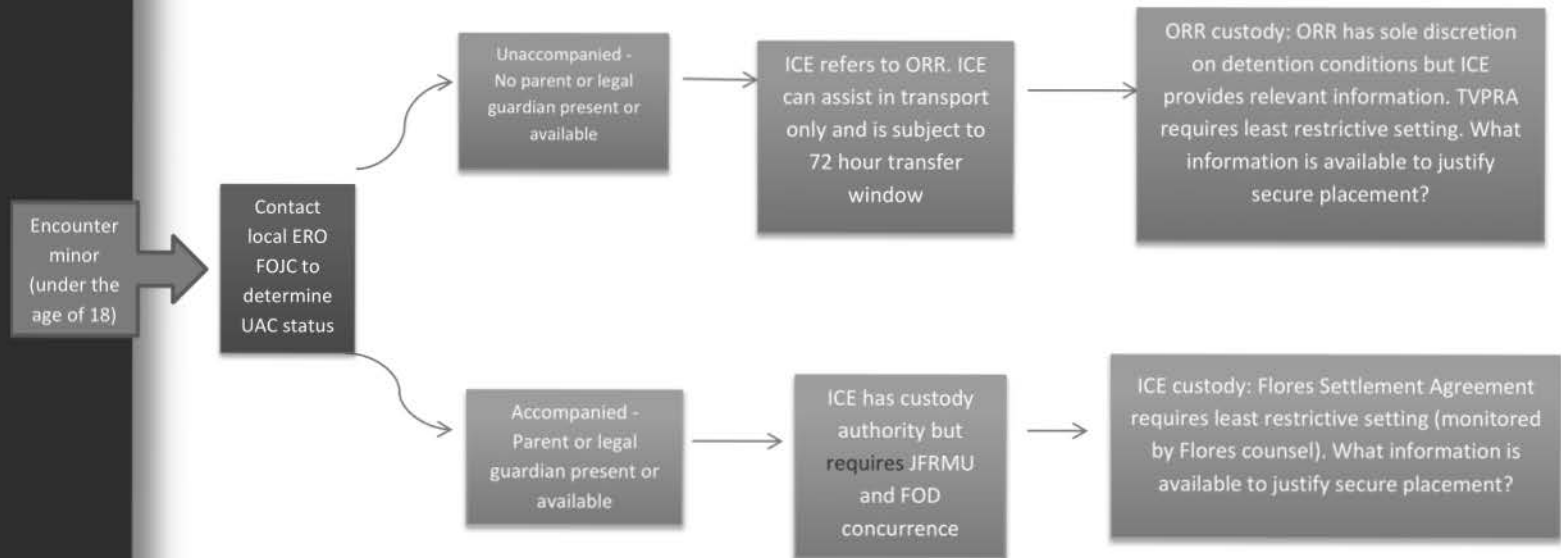
16. Matter of Mejia-Andino, 23 I&N Dec. 533, 534 (BIA 2002) (Service of NTA on a man who identified himself as uncle of 7-year old minor was not sufficient when parents' address was known and the child was going to live with parents.)

Detainers on minors

- Sometimes minors are encountered in jail settings by 287(g) officers or CAP officers.
- As FOJC, early involvement in these cases is key because cases involving minors are not as straightforward as adult cases.
- Prior to detaining a minor, ICE must ensure the authority to detain exists and the detention conditions meet the requirements of the Flores Settlement Agreement and the TVPRA.
- A lot of minors may have some form of relief that prevents removal until it is revoked (e.g., U visas, DACA, etc.). These must be addressed prior to issuing a detainer.
 - Double check minor's status with USCIS if an application is "pending" or it's unclear whether an application is pending.
- Prior to placing a detainer, the FOJC must consult with JFRMU for concurrence



Minor encounter flowchart (to be shared with other officers)



What factors justify secure placement?

TVPPRA

Danger to self, danger to the community

Flores Settlement Agreement

Convicted of a crime or found delinquent BUT not including isolated offenses that were not part of a pattern of criminal activity and did not involve violence.

Petty offenses do not count.

Has committed acts of violence or made credible threats of violence while in custody

Is an escape risk (final order can be a factor)

Disruptive behavior while in custody

Must be detained in a secure setting for his/her own safety



Age redeterminations

- ICE/ERO and ORR have similar age re-determination policies.
- The TVPRA states that all age redeterminations must take into account multiple forms of evidence and not rely exclusively on x-ray evidence.
- Evidence to be considered: documents, witness statements, information from government agencies and, lastly, age assessment procedures if everything else is inconclusive.
- The important thing is to **CREATE A RECORD** of all efforts made to determine age. A case with poor documentation can withstand scrutiny if due diligence is followed.
- If the local ERO office needs documentation from HHS/ORR regarding its age determinations, please contact JFRMU for assistance.



Executive Order Language Involving Minors

- “Border Security and Immigration Enforcement Improvements” issued January 25, 2017:
 - Paragraph 11(e): “The Secretary shall take appropriate action to require that all Department of Homeland Security personnel are properly trained on the proper application of section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) and section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)), to ensure that unaccompanied alien children are properly processed, receive appropriate care and placement while in the custody of the Department of Homeland Security, and, when appropriate, are safely repatriated in accordance with law.”



Minors in the New Executive Order Continued

- Executive Order 13767, *Border Security and Immigration Enforcement Improvements* (Jan. 25, 2017) requires all DHS personnel to be properly trained on UAC authorities including the TVPRA and Homeland Security Act.
- ICE, in conjunction with CIS and CBP, will prepare guidance and training to ensure compliance with the EO's directive. Stay tuned!



ICE

Questions?



U.S. Immigration
and Customs
Enforcement



Homeland Security

February 17, 2017

MEMORANDUM FOR:

Kevin McAleenan
Acting Commissioner
U.S. Customs and Border Protection

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

Lori Scialabba
Acting Director
U.S. Citizenship and Immigration Services

Joseph B. Maher
Acting General Counsel

Dimple Shah
Acting Assistant Secretary for International Affairs

Chip Fulghum
Acting Undersecretary for Management

FROM:

John Kelly
Secretary

A handwritten signature in black ink, appearing to read "John Kelly", written over the printed name and title.

SUBJECT:

Enforcement of the Immigration Laws to Serve the National Interest

This memorandum implements the Executive Order entitled "Enhancing Public Safety in the Interior of the United States," issued by the President on January 25, 2017. It constitutes guidance for all Department personnel regarding the enforcement of the immigration laws of the United States, and is applicable to the activities of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS). As such, it should inform enforcement and removal activities, detention decisions, administrative litigation, budget requests and execution, and strategic planning.

With the exception of the June 15, 2012, memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” and the November 20, 2014 memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents,”¹ all existing conflicting directives, memoranda, or field guidance regarding the enforcement of our immigration laws and priorities for removal are hereby immediately rescinded; including, but not limited to, the November 20, 2014, memoranda entitled “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,” and “Secure Communities.”

A. The Department’s Enforcement Priorities

Congress has defined the Department’s role and responsibilities regarding the enforcement of the immigration laws of the United States. Effective immediately, and consistent with Article II, Section 3 of the United States Constitution and Section 3331 of Title 5, United States Code, Department personnel shall faithfully execute the immigration laws of the United States against all removable aliens.

The Department no longer will exempt classes or categories of removable aliens from potential enforcement. In faithfully executing the immigration laws, Department personnel should take enforcement actions in accordance with applicable law. In order to achieve this goal, as noted below, I have directed ICE to hire 10,000 officers and agents expeditiously, and to take enforcement actions consistent with available resources. However, in order to maximize the benefit to public safety, to stem unlawful migration and to prevent fraud and misrepresentation, Department personnel should prioritize for removal those aliens described by Congress in Sections 212(a)(2), (a)(3), and (a)(6)(C), 235(b) and (c), and 237(a)(2) and (4) of the Immigration and Nationality Act (INA).

Additionally, regardless of the basis of removability, Department personnel should prioritize removable aliens who: (1) have been convicted of any criminal offense; (2) have been charged with any criminal offense that has not been resolved; (3) have committed acts which constitute a chargeable criminal offense; (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency; (5) have abused any program related to receipt of public benefits; (6) are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

B. Strengthening Programs to Facilitate the Efficient and Faithful Execution of the Immigration Laws of the United States

Facilitating the efficient and faithful execution of the immigration laws of the United

¹ The November 20, 2014, memorandum will be addressed in future guidance.

States—and prioritizing the Department’s resources—requires the use of all available systems and enforcement tools by Department personnel.

Through passage of the immigration laws, Congress established a comprehensive statutory regime to remove aliens expeditiously from the United States in accordance with all applicable due process of law. I determine that the faithful execution of our immigration laws is best achieved by using all these statutory authorities to the greatest extent possible. Accordingly, Department personnel shall make full use of these authorities.

Criminal aliens have demonstrated their disregard for the rule of law and pose a threat to persons residing in the United States. As such, criminal aliens are a priority for removal. The Priority Enforcement Program failed to achieve its stated objectives, added an unnecessary layer of uncertainty for the Department’s personnel, and hampered the Department’s enforcement of the immigration laws in the interior of the United States. Effective immediately, the Priority Enforcement Program is terminated and Secure Communities shall be restored. To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Department shall eliminate the existing Forms I-247D, I-247N, and I-247X, and replace them with a new form to more effectively communicate with recipient law enforcement agencies. However, until such forms are updated they may be used as an interim measure to ensure that detainers may still be issued, as appropriate.

ICE’s Criminal Alien Program is an effective tool to facilitate the removal of criminal aliens from the United States, while also protecting our communities and conserving the Department’s detention resources. Accordingly, ICE should devote available resources to expanding the use of the Criminal Alien Program in any willing jurisdiction in the United States. To the maximum extent possible, in coordination with the Executive Office for Immigration Review (EOIR), removal proceedings shall be initiated against aliens incarcerated in federal, state, and local correctional facilities under the Institutional Hearing and Removal Program pursuant to section 238(a) of the INA, and administrative removal processes, such as those under section 238(b) of the INA, shall be used in all eligible cases.

The INA § 287(g) Program has been a highly successful force multiplier that allows a qualified state or local law enforcement officer to be designated as an “immigration officer” for purposes of enforcing federal immigration law. Such officers have the authority to perform all law enforcement functions specified in section 287(a) of the INA, including the authority to investigate, identify, apprehend, arrest, detain, and conduct searches authorized under the INA, under the direction and supervision of the Department.

There are currently 32 law enforcement agencies in 16 states participating in the 287(g) Program. In previous years, there were significantly more law enforcement agencies participating in the 287(g) Program. To the greatest extent practicable, the Director of ICE and Commissioner of CBP shall expand the 287(g) Program to include all qualified law enforcement agencies that request to participate and meet all program requirements. In furtherance of this direction, the Commissioner of CBP is authorized, in addition to the Director of ICE, to accept State services

and take other actions as appropriate to carry out immigration enforcement pursuant to section 287(g) of the INA.

C. Exercise of Prosecutorial Discretion

Unless otherwise directed, Department personnel should initiate enforcement actions against removable aliens encountered during the performance of their official duties, consistent with the President's enforcement priorities as identified in his Executive Order. This includes the arrest or apprehension of an alien whom an immigration officer has probable cause to believe is in violation of the immigration laws. It also includes initiation of removal proceedings against any alien who is subject to removal under any provision of the INA, and the referral of appropriate cases for criminal prosecution. The Department shall prioritize aliens described in the Department's Enforcement Priorities (Section A) for arrest and removal.

The exercise of prosecutorial discretion with regard to any alien who is subject to arrest, criminal prosecution, or removal in accordance with law shall be made on a case-by-case basis in consultation with the head of the field office component, where appropriate, of CBP, ICE, or USCIS that initiated or will initiate the enforcement action, regardless of which entity actually files any applicable charging documents: CBP Chief Patrol Agent, CBP Director of Field Operations, ICE Field Office Director, ICE Special Agent-in-Charge, or the USCIS Field Office Director, Asylum Office Director or Service Center Director.

Prosecutorial discretion shall not be exercised in a manner that exempts or excludes a specified class or category of aliens from enforcement of the immigration laws. The General Counsel shall issue guidance consistent with these principles to all attorneys involved in immigration proceedings.

D. Establishing the Victims of Immigration Crime Engagement (VOICE) Office

Criminal aliens routinely victimize Americans and other legal residents. Often, these victims are not provided adequate information about the offender, the offender's immigration status, or any enforcement action taken by ICE against the offender. Efforts by ICE to engage these victims have been hampered by prior Department of Homeland Security (DHS) policy extending certain Privacy Act protections to persons other than U.S. citizens and lawful permanent residents, leaving victims feeling marginalized and without a voice. Accordingly, I am establishing the Victims of Immigration Crime Engagement (VOICE) Office within the Office of the Director of ICE, which will create a programmatic liaison between ICE and the known victims of crimes committed by removable aliens. The liaison will facilitate engagement with the victims and their families to ensure, to the extent permitted by law, that they are provided information about the offender, including the offender's immigration status and custody status, and that their questions and concerns regarding immigration enforcement efforts are addressed.

To that end, I direct the Director of ICE to immediately reallocate any and all resources that are currently used to advocate on behalf of illegal aliens to the new VOICE Office, and to

immediately terminate the provision of such outreach or advocacy services to illegal aliens.

Nothing herein may be construed to authorize disclosures that are prohibited by law or may relate to information that is Classified, Sensitive but Unclassified (SBU), Law Enforcement Sensitive (LES), For Official Use Only (FOUO), or similarly designated information that may relate to national security, law enforcement, or intelligence programs or operations, or disclosures that are reasonably likely to cause harm to any person.

E. Hiring Additional ICE Officers and Agents

To enforce the immigration laws effectively in the interior of the United States in accordance with the President's directives, additional ICE agents and officers are necessary. The Director of ICE shall—while ensuring consistency in training and standards—take all appropriate action to expeditiously hire 10,000 agents and officers, as well as additional operational and mission support and legal staff necessary to hire and support their activities. Human Capital leadership in CBP and ICE, in coordination with the Under Secretary for Management and the Chief Human Capital Officer, shall develop hiring plans that balance growth and interagency attrition by integrating workforce shaping and career paths for incumbents and new hires.

F. Establishment of Programs to Collect Authorized Civil Fines and Penalties

As soon as practicable, the Director of ICE, the Commissioner of CBP, and the Director of USCIS shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties which the Department is authorized under the law to assess and collect from aliens and from those who facilitate their unlawful presence in the United States.

G. Aligning the Department's Privacy Policies With the Law

The Department will no longer afford Privacy Act rights and protections to persons who are neither U.S. citizens nor lawful permanent residents. The DHS Privacy Office will rescind the DHS *Privacy Policy Guidance memorandum*, dated January 7, 2009, which implemented the DHS "mixed systems" policy of administratively treating all personal information contained in DHS record systems as being subject to the Privacy Act regardless of the subject's immigration status. The DHS Privacy Office, with the assistance of the Office of the General Counsel, will develop new guidance specifying the appropriate treatment of personal information DHS maintains in its record systems.

H. Collecting and Reporting Data on Alien Apprehensions and Releases

The collection of data regarding aliens apprehended by ICE and the disposition of their cases will assist in the development of agency performance metrics and provide transparency in the immigration enforcement mission. Accordingly, to the extent permitted by law, the Director of ICE shall develop a standardized method of reporting statistical data regarding aliens apprehended

by ICE and, at the earliest practicable time, provide monthly reports of such data to the public without charge.

The reporting method shall include uniform terminology and shall utilize a format that is easily understandable by the public and a medium that can be readily accessed. At a minimum, in addition to statistical information currently being publicly reported regarding apprehended aliens, the following categories of information must be included: country of citizenship, convicted criminals and the nature of their offenses, gang members, prior immigration violators, custody status of aliens and, if released, the reason for release and location of their release, aliens ordered removed, and aliens physically removed or returned.

The ICE Director shall also develop and provide a weekly report to the public, utilizing a medium that can be readily accessed without charge, of non-Federal jurisdictions that release aliens from their custody, notwithstanding that such aliens are subject to a detainer or similar request for custody issued by ICE to that jurisdiction. In addition to other relevant information, to the extent that such information is readily available, the report shall reflect the name of the jurisdiction, the citizenship and immigration status of the alien, the arrest, charge, or conviction for which each alien was in the custody of that jurisdiction, the date on which the ICE detainer or similar request for custody was served on the jurisdiction by ICE, the date of the alien's release from the custody of that jurisdiction and the reason for the release, an explanation concerning why the detainer or similar request for custody was not honored, and all arrests, charges, or convictions occurring after the alien's release from the custody of that jurisdiction.

I. No Private Right of Action

This document provides only internal DHS policy guidance, which may be modified, rescinded, or superseded at any time without notice. This guidance is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigation prerogatives of DHS.

In implementing these policies, I direct DHS Components to consult with legal counsel to ensure compliance with all applicable laws, including the Administrative Procedure Act.

From: Elzea, Jennifer
Sent: 16 Feb 2017 12:51:43 -0500
To: Montenegro, Gail R; #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C) Christensen, Gillian; (b)(6);(b)(7)(C)
Subject: RE: OPA ISSUE PAPER: CHI Tribune writing on sensitive locations

Adding DHS.

Jennifer D. Elzea
Press Secretary (Acting)
Office of Public Affairs
U.S. Immigration and Customs Enforcement
Office: 202-732-(b)(6);(b)(7)(C)
Mobile: 202-59-(b)(6);(b)(7)(C)

From: Montenegro, Gail R
Sent: Thursday, February 16, 2017 12:38 PM
To: #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C)
Subject: OPA ISSUE PAPER: CHI Tribune writing on sensitive locations

ISSUE: *Chicago Tribune* religion reporter Manya Brachear is writing about congregations that provide sanctuary. She wants to know if the 2011 sensitive locations memo is still in effect and, if so, is requesting an ICE statement to explain the rationale for avoiding these locations.
Deadline: 4pm eastern.

PROPOSED RESPONSE (Previously approved language provided by HQ OPA 11/22/16):
“U.S. Immigration and Customs Enforcement (ICE) has existing guidance concerning enforcement actions at or focused on sensitive locations that clarifies what types of locations are covered by these policies. ICE conducts enforcement actions prioritizing the removal of national security, border security and public safety threats.

The ICE sensitive locations policy, which remains in effect, provides that enforcement actions at sensitive locations should generally be avoided, and require either prior approval from an appropriate supervisory official or exigent circumstances necessitating immediate action. DHS is committed to ensuring that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so without fear or hesitation.”

PAO will also refer the reporter to the sensitive locations Q&A.

REPORTER’S EMAIL:
Gail,

I'm working on a story about the role congregations want to play in protecting people they don't believe have been granted due process before being deported, otherwise known as the sanctuary movement. Many clergy and activists refer to the 2011 memo from former ICE director John Morton that declares houses of worship, hospitals and schools to be sensitive locations. I've attached a copy of that memo.

While I understand that does not mean these locales are wholly protected, the memo does guide ICE agents to avoid enforcement actions unless there is imminent danger, a dangerous felon, or the risk of evidence being destroyed. Does this policy still hold? Or has it been superseded by another? If the latter is correct, could you please provide whatever new memos or guidance on this particular matter have been issued? If nothing has changed, could you please explain the agency's current rationale for avoiding sensitive locations or confirm that the rationale stated in the memo still applies?

"This policy is meant to ensure that ICE officers and agents exercise sound judgment when enforcing federal law at or focused on sensitive locations and make substantial efforts to avoid unnecessarily alarming local communities."

I'm trying to wrap this up by the end of business today.

Many thanks,

Manya Brachear Pashman
Chicago Tribune Religion Reporter
Religion News Association, President
312.804.1234 (b)(6);(b)(7)
[Facebook](#) | [Twitter](#)
[Instagram](#) | [LinkedIn](#)



Gail Montenegro, Public Affairs Officer
Department of Homeland Security
U.S. Immigration and Customs Enforcement (ICE)
312 347-1234 (b)(6);(b)(7)(C)
Covering the following states: IL, IN, WI, KY

From: Elzea, Jennifer
Sent: 16 Feb 2017 13:51:47 -0500
To: Cutrell, Carissa F; #ICE OPA ERO Issue Paper
Cc: Christensen, Gillian; (b)(6);(b)(7)(C)
Subject: RE: OPA ISSUE: TIME magazine query on Virginia arrests

Adding DHS.

Jennifer D. Elzea
Press Secretary (Acting)
Office of Public Affairs
U.S. Immigration and Customs Enforcement
Office: 202-732- (b)(6);(b)(7)(C)
Mobile: 202-59 (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)

From: Cutrell, Carissa F
Sent: Thursday, February 16, 2017 1:49 PM
To: #ICE OPA ERO Issue Paper
Subject: OPA ISSUE: TIME magazine query on Virginia arrests

ISSUE: A Time magazine reporter requested ICE comment on reports that undocumented migrants were apprehended outside of a church in northern Virginia. The reporter is hoping to get some information on what took place and whether it's common practice for ICE officers to apprehend people so close to what have been deemed sensitive locations?

RESPONSE: "Every day, as part of routine targeted enforcement operations, U.S. Immigration and Customs Enforcement (ICE) arrests criminal aliens and other individuals who are in violation of our nation's immigration laws.

"ICE conducts targeted immigration enforcement in compliance with federal law and agency policy. ICE does not conduct sweeps or raids that target aliens indiscriminately.

"The ICE sensitive locations policy, which remains in effect, provides that enforcement actions at sensitive locations should generally be avoided, and require either prior approval from an appropriate supervisory official or exigent circumstances necessitating immediate action. DHS is committed to ensuring that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so without fear or hesitation."

(b)(5)

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

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

Carissa Cutrell
Public Affairs Officer
Student and Exchange Visitor Program

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

757-441- (b)(6);(b)(7)(C) desk)

202-271- (b)(6);(b)(7)(C) cell)

From: Elzea, Jennifer
Sent: 16 Feb 2017 18:27:30 -0500
To: (b)(6);(b)(7)(C) #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C)
Subject: RE: OPA Issue: San Antonio media asking about ICE arrest of in-status DACA recipient

Has the release already taken place? Or could we request confirmation when it does take place? We are trying to determine if we (OPA) should release a version of the statement below in the short term, or whether it is worth waiting for his release to deploy a statement that includes that info (which we, of course, would not do until his release is confirmed).

Thanks!

Jenn

Jennifer D. Elzea
Press Secretary (Acting)
Office of Public Affairs
U.S. Immigration and Customs Enforcement
Office: 202-732-
Mobile: 202-59-
(b)(6);(b)(7)(C)

From: Bible, Daniel
Sent: Thursday, February 16, 2017 6:16 PM
To: Rusnok, Carl; #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C)
Subject: RE: OPA Issue: San Antonio media asking about ICE arrest of in-status DACA recipient

Update: He is being released on an order of supervision. We will review his case once his criminal case is over.

Daniel A. Bible | Field Office Director | San Antonio Field Office
DHS | ICE | Enforcement and Removal Operations
1777 NE Loop 410 (b)(6);(b)(7)(C) San Antonio, TX 78217
Desk: 210.284- (b)(6);(b)(7)(C) Phone: 202.200- (b)(6);(b)(7)(C)

From: Rusnok, Carl
Sent: Thursday, February 16, 2017 4:57 PM
To: #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C)
Subject: OPA Issue: San Antonio media asking about ICE arrest of in-status DACA recipient
Importance: High

Issue: ICE PAO is receiving multiple media requests asking ICE to confirm if an alleged DACA recipient by the name of (b)(6);(b)(7)(C) 20, from Honduras, was transferred to ICE custody after he was arrested in Bexar County. According to Bexar County, (b)(6);(b)(7)(C) was arrested

for possessing marijuana. **Media's main interest is if ICE is now detaining people with DACA if they're charged with minor misdemeanor offenses.**

SNA PAO has seven media requests pending. PAO anticipates more requests to come in. Note that he has current DACA status, but also has a final order from 2004.

ICE DRAFT STATEMENT

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

EXTERNAL - FOR BACKGROUND ON DACA Please contact U.S. Citizenship and Immigration Service Public Affairs

The POC for USCIS in Texas is (b)(6);(b)(7)(C) Office: (972) 893 (b)(6);(b)(7)(C) email
(b)(6);(b)(7)(C)

INTERNAL - SNA ERO INFORMATON ON (b)(6);(b)(7)(C)

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

DISPOSITION:

Subject was processed as a T-Other with a Final Order and served all corresponding forms and will be held at the South Texas Detention Complex in Pearsall, Texas pending his removal from the US via ICE Air

Carl Rusnok

Director of Communications, Central Region (Spokesman)
based in Dallas, TX

U.S. Immigration and Customs Enforcement (ICE) www.ice.gov

(b)(6);(b)(7)(C)
214-905- (b)(6); (office)
214-850- (b)(7)(C) (cell)

FROM MEDIA

From: Buch, Jason L. (b)(6);(b)(7)(C)
Sent: Thursday, February 16, 2017 1:43 PM
To: (b)(6);(b)(7)(C)
Subject: DACA recipient detained?

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

Say Si just posted this on their Facebook page. RAICEs says this guy had DACA at one point, but it's not clear if it was renewed. Do you know if he has DACA and why he was detained?

Dear SAY Sí Community and Friends,

Yesterday one of our alumni, (b)(6);(b)(7)(C) was detained and arrested by Immigration (ICE). We are saddened and disappointed, but are working to help him in every way we can. We want to tell (b)(6);(b)(7)(C) story. (b)(6);(b)(7)(C) moved to San Antonio from Honduras when he was 3 years old. He and his dad moved to our city to find work, to find a better life. (b)(6);(b)(7)(C) joined SAY Sí in 2009 as a middle school student after our executive director gave a presentation about the opportunity to join our artistic community. (b)(6);(b)(7)(C) was drawn to SAY Sí because of his creative interests (doodling and building with legos) and began to find his place at SAY Sí in our Visual Arts high school program. As a high school student he had the opportunity to mentor middle school students every week. One of the biggest changes we saw in (b)(6);(b)(7)(C) was his transformation into a leader and his developed interest in seeking higher education. With assistance from SAY Sí staff, (b)(6);(b)(7)(C) received the help he needed to submit college applications and apply for scholarships to attend college. He was awarded a scholarship that covered 75% of tuition to attend the Southwest School of Art in San Antonio, and is currently in his second year there. We want you to know that the current policies of our administration are affecting lives you're connected to - people in our community, our students, our families. These are not just things that you see on the news. (b)(6);(b)(7)(C) is a beloved member of the SAY Sí family and has been for 8 years. He has worked hard to build a life here. This is interrupting that life - a life full of promise and opportunity.

If you have been affected in any way by these recent events, please share (b)(6);(b)(7)(C) story and know that you are not alone.

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

Jason Buch
Reporter
San Antonio Express-News
O: 210-250-(b)(6);(b)(7)(C)
M: 956-508-(b)(6);(b)(7)(C)
F: 210-250-3232

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

Subject: DACA recipient in Bexar County jail

Friends and family of a (b)(6);(b)(7)(C) are reporting that he's been transferred into ICE custody at the Bexar County jail. They also say he's a DACA recipient. Court records show he was charged with misdemeanor pot possession (less than 2 ounces) this week.

Is ICE now detaining people with DACA if they're charged with minor misdemeanor offenses?

Michael Barajas

Editor

San Antonio Current

915 Dallas

San Antonio, TX 78215

210.388-(b)(6);(b)(7)(C)

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

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

***Sent:** Thursday, February 16, 2017 3:37 PM

To: ICEMedia

Subject: DACA student detained by ICE?

Hello!

My name is (b)(6);(b)(7)(C) and I'm a freelance journalist in the Rio Grande Valley of south Texas.

I'm working on a story right now for Public Radio International and I'm on a tight deadline.

I was wondering if I could get information, or a statement, as to why (b)(6);(b)(7)(C) a DACA recipient, was detained by ICE and what happened that led to that?

Also, why is ICE detaining DACA recipients?

Any information would be greatly appreciated.

Thank you and I look forward to hearing back soon because I am on a tight deadline and I'm trying to understand what has happened.

Thanks!

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

[] *****

Good afternoon,

I'm a reporter for *The Daily Beast* writing a story about the arrest of (b)(6);(b)(7)(C) a DACA-protected student who has been detained to the center in Pearsall, Texas. Supposedly the arrest was yesterday evening or this morning. I would like to know the official circumstances (time, date, where) of the arrest, and if Mr. (b)(6);(b)(7)(C) has a criminal record, and general reasoning for the arrest. Will he be deported, and when? Does this create precedent for other students registered under DACA?

Best,

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

Jorge Rivas with Fusion here.

Univision is reporting a young man named (b)(6);(b)(7)(C) was detained in San Antonio. (b)(6);(b)(7)(C) was born in Honduras and was granted DACA.

Can you confirm his arrest? If he was in fact detained, why was he detained?

DEADLINE: URGENT

jorge rivas

(b)(6);(b)(7)(C)
n
t
i. (b)(6);(b)(7)(C)



From: Elzea, Jennifer
Sent: 17 Feb 2017 18:55:10 -0500
To: Albence, Matthew (b)(6);(b)(7)(C) ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C); Christensen, Gillian (b)(6);(b)(7)(C)
Subject: RE: OPA ISSUE: ABC affiliate query re: Sensitive Locations

Thanks, Matt. We've also been pointing reporters to this [FAQ](#) on the Sensitive Locations Policy where it clarifies specifically that Courthouses do not fall under this policy:

Are courthouses sensitive locations?

Courthouses do not fall under ICE or CBP's policies concerning enforcement actions at or focused on sensitive locations.

--

Please let us know if there are any issues with that.

Thank you!

Jenn

Jennifer D. Elzea
Press Secretary (Acting)
Office of Public Affairs
U.S. Immigration and Customs Enforcement
Office: 202-732-(b)(6);(b)(7)(C)
Mobile: 202-593-(b)(6);(b)(7)(C)

From: Albence, Matthew
Sent: Friday, February 17, 2017 6:52 PM
To: Elzea, Jennifer; Zamarripa, Leticia; #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C); Christensen, Gillian; (b)(6);(b)(7)(C)
Subject: RE: OPA ISSUE: ABC affiliate query re: Sensitive Locations

All:

Courthouses are not included in the sensitive location policy. There is a separate policy that deals w/courthouses. Thanks!

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

From: Elzea, Jennifer
Sent: Friday, February 17, 2017 5:17 PM
To: (b)(6);(b)(7)(C) ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C); Christensen, Gillian; (b)(6);(b)(7)(C)
Subject: RE: OPA ISSUE: ABC affiliate query re: Sensitive Locations

Adding DHS.

Jennifer D. Elzea

Press Secretary (Acting)

Office of Public Affairs

U.S. Immigration and Customs Enforcement

Office: 202-732-(b)(6);(b)(7)(C)

Mobile: 202-594-(b)(6);(b)(7)(C)

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

From: Zamarripa, Leticia

Sent: Friday, February 17, 2017 5:17 PM

To: #ICE OPA ERO Issue Paper

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

Subject: OPA ISSUE: ABC affiliate query re: Sensitive Locations

All:

ABC affiliate reporter is requesting comment regarding sensitive locations in which ICE does not conduct enforcement actions. He is working on a follow-up to the story about the transgender domestic violence victim who was arrested last week by HSI El Paso BEST members at the El Paso county courthouse. (Border Patrol agents assigned to BEST made the arrest.) PAO plans to release statement by 6 p.m. Eastern.

STATEMENT:

PROPOSED RESPONSE (Previously approved language provided by HQ OPA 11/22/16):

“U.S. Immigration and Customs Enforcement (ICE) has existing guidance concerning enforcement actions at or focused on sensitive locations that clarifies what types of locations are covered by these policies. ICE conducts enforcement actions prioritizing the removal of national security, border security and public safety threats.

The ICE sensitive locations policy, which remains in effect, provides that enforcement actions at sensitive locations should generally be avoided, and require either prior approval from an appropriate supervisory official or exigent circumstances necessitating immediate action. DHS is committed to ensuring that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so without fear or hesitation.”

Leticia Zamarripa

Public Affairs Officer/Spokeswoman

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement (ICE)

(915) 857-(b)(6);(b)(7)(C) office

(915) 857-6083 fax

(915) 726-(b)(6);(b)(7)(C) mobile

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

Follow ICE



From: (b)(6);(b)(7)(C)
Sent: 16 Feb 2017 13:26:47 -0500
To: #OPLASCREmailAlerts
Cc: (b)(6);(b)(7)(C)
Subject: Alert Notification - HOU - (b)(6);(b)(7)(C) Media
Attention

This alert is being elevated based on media interest; it is an initial notification and of interest to ILPD.

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

(b)(6);(b)(7)(C) a native and citizen of Mexico born on (b)(6);(b)(7)(C) purportedly entered the United States without inspection on or about July 31, 2001. He petitioned USCIS for Deferred Action for Childhood Arrivals (DACA); the petition was approved on September 27, 2013. Subsequently, USCIS extended (b)(6);(b)(7)(C) DACA status until August 24, 2017. (b)(6);(b)(7)(C) is inadmissible to the United States pursuant to INA § 212(a)(6)(A)(i).

(b)(6);(b)(7)(C) is currently in the custody of the Harris County Sheriff's Office, and his criminal case (#(b)(6);(b)(7)(C)) is pending in the 178th District Court of Harris County, Texas. The District Court has not set a bond to date. On February 8, 2017, ERO-HOU interviewed (b)(6);(b)(7)(C) at the Harris County Jail and placed a detainer on him.

OCC-HOU's POC for this matter is ACC (b)(6);(b)(7)(C)

Media links:

<https://coveringkaty.com/2017/02/09/teen-charged-with-murder-after-woman-was-stabbed-near->

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

<http://www.click2houston.com/news/suspect-charged-in-stabbing-death-of-> (b)(6);(b)(7)(C)

<http://abc13.com/news/man-charged-in-fatal-stabbing-of-co-workers-mom/1743863/>

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

Deputy Chief Counsel

DHS, ICE, Office of Chief Counsel

126 Northpoint Dr. (b)(6);(b)(7)(C)

Houston, TX 77060

(281) 931 (b)(6);(b)(7)(C)

***** Warning *** Attorney/Client Privilege *** Attorney Work Product ***** This communication and any attachments may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other

than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies. Furthermore do not print, copy, re-transmit, disseminate, or otherwise use this information. Any disclosure of this communication or its attachments must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act, 5 USC §§ 552(b)(5), (b)(7).

From: (b)(6);(b)(7)(C)
Sent: 15 Feb 2017 08:16:51 -0500
To: Davis, Mike P
Cc: (b)(6);(b)(7)(C)
Subject: RE: Head's up: DACA FUG Ops arrest
Attachments: DHS STATEMENT ON DACA AND (b)(6);(b)(7)(C) ASE (2).docx

*Amended version that removes a parenthetical noting an abbreviation for DHS. I realized I never used Department again.

From: (b)(6);(b)(7)(C)
Sent: Wednesday, February 15, 2017 8:13 AM
To: Davis, Mike P
Cc: (b)(6);(b)(7)(C)
Subject: RE: Head's up: DACA FUG Ops arrest

Mike:

I went ahead and used the document you sent me to add information. I also wordsmithed it a bit. Please let me know if you would like me to add additional information, as I kept it high-level.

Also, I wasn't aware of the alien's past immigration history, so I added a comment bubble to note where I assumed removal proceedings were just initiated against him for the first time.

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

From: Davis, Mike P
Sent: Wednesday, February 15, 2017 7:37 AM
To: (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: FW: Head's up: DACA FUG Ops arrest

FYI.

Sent via the GOOD application by:

Michael P. Davis
Acting Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C) office)
(202) 904 (b)(6);(b)(7)(C) cell)

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

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---

This document may contain confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: Maher, Joseph
Sent: Wednesday, February 15, 2017 7:25:18 AM
To: Davis, Mike P
Cc: (b)(6);(b)(7)(C)
Subject: FW: Head's up: DACA FUG Ops arrest

Mike -- I haven't looked at this yet, but wanted to send to you as it relates to my prior email.

Thanks again for your help on this.

From: (b)(6);(b)(7)(C)
Sent: Wednesday, February 15, 2017 6:50:07 AM
To: Maher, Joseph (b)(6);(b)(7)(C); Christensen, Gillian (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C); Palmer, David (b)(6);(b)(7)(C)
Subject: RE: Head's up: DACA FUG Ops arrest

First cut at a statement on DACA and the (b)(6);(b)(7) case. I'm still the new guy so chop away, but I wanted to get something started as early as possible so we can get this out this morning for today's news cycle.

(b)(6);(b)(7) please send to the ICE team for their review and edits, and to USCIS for the needed numbers in the highlighted paragraph.

Thanks,

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

From: Maher, Joseph
Sent: Tuesday, February 14, 2017 8:03 PM
To: (b)(6);(b)(7)(C)
Christensen, Gillian (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C); Palmer, David (b)(6);(b)(7)(C)
Subject: RE: Head's up: DACA FUG Ops arrest

Clear for OGC. As mentioned below, ICE privacy has the delegated authority under the routine use authorization, so if they cleared then it's fine to go.

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

Sent: Tuesday, February 14, 2017 7:53 PM

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

Christensen, Gillian (b)(6);(b)(7)(C)

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

Maher,

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

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

Subject: RE: Head's up: DACA FUG Ops arrest

Suggested edits:

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

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

Sent: Tuesday, February 14, 2017 7:33 PM

To: Christensen, Gillian <(b)(6);(b)(7)(C)>

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

(b)(6);(b)(7)(C) Maher, Joseph (b)(6);(b)(7)(C)

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

Subject: RE: Head's up: DACA FUG Ops arrest

(b)(6);(b)(7)(C)
Updated with new first sentence and simplified language.

Joe (b)(6);(b)(7)(C) any concerns?

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

From: Christensen, Gillian

Sent: Tuesday, February 14, 2017 7:22 PM

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

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

Maher, Joseph

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

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

Subject: RE: Head's up: DACA FUG Ops arrest

How about this?

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

Sent: Tuesday, February 14, 2017 7:18 PM

To: Christensen, Gillian (b)(6);(b)(7)(C)

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

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

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

; Maher, Joseph (b)(6);(b)(7)(C)

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

(b)(5)

Subject: RE: Head's up: DACA FUG Ops arrest

From: Christensen, Gillian

Sent: Tuesday, February 14, 2017 7:04 PM

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

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

Maher, Joseph

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

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

Subject: RE: Head's up: DACA FUG Ops arrest

The ICE privacy office cleared on the response and they have delegated authority from the DHS Privacy Office to clear info like this in certain cases.

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

Sent: Tuesday, February 14, 2017 7:02 PM

To: Christensen, Gillian (b)(6);(b)(7)(C)

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

Maher,

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

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

Subject: RE: Head's up: DACA FUG Ops arrest

We don't discuss individual cases but we are going to say he admitted to gang affiliation?

From: Christensen, Gillian

Sent: Tuesday, February 14, 2017 7:00 PM

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

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

Maher, Joseph

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

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

Subject: RE: Head's up: DACA FUG Ops arrest

Here you go:

ISSUE: Numerous national and local news organizations are seeking ICE comment regarding the arrest of DACA recipient (b)(6);(b)(7)(C) who was encountered at a residence in Des Moines, Wash., while ERO Seattle CAP officers were attempting to locate a previously deported felon. During an interview (b)(6);(b)(7)(C) admitted to formerly being associated with a California gang and currently being associated with a local Washington gang. USCIS does not discuss individual cases based on the Privacy Act so there is no mention of DACA status in the proposed response.

BACKGROUND:

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

COB: Mexico

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

Immigration History

- At an unknown date and time (b)(6);(b)(7)(C) illegally entered the U.S. at an unknown location.
- 12/6/2013: granted DACA by USCIS.
- 2/10/2017: encountered at a residence in Des Moines, Wash., during a targeted op for a prior deported felon. He was arrested and deemed a public safety risk based on gang affiliation. Issued a Notice to Appear and remains in ICE custody at the Northwest Detention Center, Tacoma, Wash., pending removal proceedings before an Immigration Judge.
- USCIS issued a Notice of Action to terminate DACA.
- admitted to being associated with the (b)(7)(E) while in California.
- claims to have left California to get away from the (b)(7)(E) and now resides in Washington and is affiliated with the (b)(7)(E)

*DHS databases indicate (b)(6);(b)(7)(C) has no prior criminal history.

PROPOSED RESPONSE:

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

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

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

Sent: Tuesday, February 14, 2017 6:58 PM

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

(b)(6);(b)(7)(C) Maher, Joseph (b)(6);(b)(7)(C)

Cc: (b)(6);(b)(7)(C) Christensen, Gillian

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

Subject: RE: Head's up: DACA FUG Ops arrest

Do we have the facts yet?

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

Sent: Tuesday, February 14, 2017 6:50 PM

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

(b)(6);(b)(7)(C) Maher, Joseph (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C); Christensen, Gillian

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

Subject: FW: Head's up: DACA FUG Ops arrest

See below and attached. Media interest is very likely to grow, particularly with the portrayal of this as the "first DACA arrest" of the administration.

Joe copied because of the court involvement, which may affect our ability to say much about the case.

However, pinging ICE for additional details/circumstances of the arrest.

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

From: Christensen, Gillian

Sent: Tuesday, February 14, 2017 6:31 PM

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

Subject: Head's up: DACA FUG Ops arrest

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

Per our discussion, we are starting to get calls (including CNN) on a case of a DACA recipient arrested last week by ICE and who is currently in detention.

Reporters are calling this "The First DACA Arrest of the New Administration."

We're working on running the details to ground and putting together a statement. This is something that could grow legs quickly. Criminal history, if there is one, is unclear at this moment. I should have an answer soon.

According to the attached, "Mr. (b)(6);(b)(7)(C) is the twenty-three year old father of a United States citizen. Mr. (b)(6);(b)(7)(C) has twice been granted deferred action under the DACA program. He was brought to the United States from Mexico in or around 2001, when he was approximately 7 years old. Under the DACA program, DHS has twice determined that Mr. (b)(6);(b)(7)(C) poses no threat to national security or public safety.¹ Mr. (b)(6);(b)(7)(C) has been in the custody of ICE in Tacoma, Washington since Friday, February 10, 2017."

Thanks!
Gillian

From: (b)(6);(b)(7)(C)
Sent: Tuesday, February 14, 2017 6:22 PM
To: Christensen, Gillian (b)(6);(b)(7)(C)
Subject: comment please

Page 063 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 064 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: (b)(6);(b)(7)(C)
Sent: 17 Feb 2017 11:08:09 -0500
To: Davis, Mike P
Subject: DACA paragraphs

Mike:

See below. I did an intro and explained the issues (I also made one observation that may allow us reconcile the memo and the EO); however, I did not pose a specific recommendation as I am not entirely sure which direction you and others you have spoken to would like to go. However, I think this should give you the information you need to elevate any position.

Please let me know if you need more on this.

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

(b)(5)

(b)(5)

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

Chief, Immigration Law and Practice Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW, Stop 5900
Washington, DC 20536-5900
Direct Line: (202) 732-(b)(6);(b)(7)(C)
iPhone: (202) 489-(b)(6);(b)(7)(C)
Email: (b)(6);(b)(7)(C)

***** Warning *** Attorney/Client Privilege *** Attorney Work Product *****

This communication and any attachments may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies. Furthermore do not print, copy, re-transmit, disseminate, or otherwise use this information. Any disclosure of this communication or its attachments must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552(b)(5), (b)(7).

From: (b)(6);(b)(7)(C)
Sent: 17 Feb 2017 11:14:31 -0500
To: Davis, Mike P
Subject: RE: DACA paragraphs

I made a few minor tweaks in this version. Sorry for the second version.

From: (b)(6);(b)(7)(C)
Sent: Friday, February 17, 2017 11:08 AM
To: Davis, Mike P
Subject: DACA paragraphs

Mike:

See below. I did an intro and explained the issues (I also made one observation that may allow us reconcile the memo and the EO); however, I did not pose a specific recommendation as I am not entirely sure which direction you and others you have spoken to would like to go. However, I think this should give you the information you need to elevate any position.

Please let me know if you need more on this.

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

(b)(5)

(b)(5)

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

Chief, Immigration Law and Practice Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW, Stop 5900
Washington, DC 20536-5900
Direct Line: (202) 732-(b)(6);(b)(7)(C)
iPhone: (202) 489-(b)(6);(b)(7)(C)
Email: (b)(6);(b)(7)(C)

***** Warning *** Attorney/Client Privilege *** Attorney Work Product *****

This communication and any attachments may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and

copies. Furthermore do not print, copy, re-transmit, disseminate, or otherwise use this information. Any disclosure of this communication or its attachments must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552(b)(5), (b)(7).

From: Akinbolaji, Lade R
Sent: 16 Feb 2017 17:58:12 -0500
To: (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C) Davis, Mike P
Subject: FW: URGENT REVIEW NEEDED: Implementation memo PA products
Attachments: Fact Sheet Executive Order Protecting the Nation from Foreign Terrorist Entry to the US.docx, Fact Sheet Executive Order Border Security and Immigration Enforcement (clean).docx, 2.10.17 - STATEMENT ON IMPLEMENTATION MEMORANDA.DOCX, 2.10.17 All Employee Message on Implementation Memos.docx, Q&A on EO Implementation Guidance on Border Security.docx, Fact Sheet Executive Order Enhancing Public Safety in the Interior of th... (SM).docx, Q and A Executive Order DRAFT 010617Final draft.docx

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

See below- the ask is for us to clear the attachments by 7pm tonight.

Lade R. Akinbolaji, Esq
(lah-day---- ah-kin-bola-gee)
Chief of Staff
OPLA | ICE | 202.732 (b)(6);(b)(7)(C)

From: Seguin, Debbie
Sent: Thursday, February 16, 2017 5:51:18 PM
To: (b)(6);(b)(7)(C) ERO
Taskings: Akinbolaji, Lade R; Moore, Marc J
Cc: (b)(6);(b)(7)(C) #MASTAFF; #ICE DD STAFF
Subject: FW: URGENT REVIEW NEEDED: Implementation memo PA products

Hi all,

So the Department is asking for response by 7PM tonight. Please focus on major equities and/or objections.

ERO please look at the Interior memo and provide input/comment/answers.

Do the best that you can and send any major concerns my way before 7PM. Thanks.

Debbie

From: Valerio, Tracey A
Sent: Thursday, February 16, 2017 5:21 PM
To: Seguin, Debbie
Subject: FW: URGENT REVIEW NEEDED: Implementation memo PA products

Sent with Good (www.good.com)

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

Sent: Thursday, February 16, 2017 5:15:05 PM

To: (b)(6);(b)(7)(C); Roman Thomas; (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C); Cantor, Jonathan; Maher, Joseph;

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

(b)(6);(b)(7)(C); Valerio, Tracey A; (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C); Shah, Dimple; (b)(6);(b)(7)(C); Robbins, Timothy S; (b)(6);(b)(7)(C)

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

Cc: (b)(6);(b)(7)(C); Gulghum, Chip; (b)(6);(b)(7)(C)

Subject: URGENT REVIEW NEEDED: Implementation memo PA products

All,

As promised, please find attached OPA materials for the implementing memo roll out. I know many of you have already seen these, but we wanted to be sure everyone had a chance to review. Please note that we need your showstopper only edits back to OPA (b)(6);(b)(7)(C) by 7pm tonight. I'm so sorry for the quick turn on these.

ICE, I've flagged a few things in the Interior Enforcement EO that we need you to address.

Thanks much.



Press Office
U.S. Department of Homeland Security

FACT SHEET

UPDATED February 10, 2017 5:00pm EST
Contact: DHS Press Office, 202-282-8010

PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY TO THE UNITED STATES

In accordance with the federal district judge's ruling, DHS has suspended any and all actions implementing the affected sections of the Executive Order entitled, "Protecting the Nation from Foreign Terrorist Entry into the United States." This includes actions to suspend passenger system rules that identify travelers subject to the Executive Order. DHS personnel will resume inspection of travelers in accordance with prior standard policy and procedures.

The Executive Order signed on January 27, 2017 allows for the proper review and establishment of standards to prevent terrorist or criminal infiltration by foreign nationals. In order to ensure that the United States government can conduct a thorough and comprehensive analysis of the national security risks posed from our immigration system, the Executive Order imposes a 90-day suspension on entry to the United States of nationals of certain designated countries—countries that were designated by Congress and the Obama Administration as posing national security risks in the Visa Waiver Program.

In order to protect Americans, and to advance the national interest, the United States must ensure that those entering this country will not pose a threat to the American people subsequent to their entry, and that they do not bear malicious intent toward the United States and its people. The Executive Order protects the United States from countries compromised by terrorism and ensures a more rigorous vetting process. This Executive Order ensures that we have a functional immigration system that safeguards our national security.

This Executive Order, as well as the two issued on January 25, provide the Department with additional resources, tools and personnel to carry out the critical work of securing our borders, enforcing the immigration laws of our nation, and ensuring that individuals who pose a threat to national security or public safety cannot enter or remain in our country. Protecting the American people is the highest priority of our government and this Department.

The Department of Homeland Security will faithfully execute the immigration laws and the President's Executive Order, and we will treat all of those we encounter humanely and with professionalism.

Authorities

The Congress provided the President of the United States, in section 212(f) of the Immigration and Nationality Act (INA), with the authority to suspend the entry of any class of aliens the president deems detrimental to the national interest. This authority has been exercised by nearly every president since President Carter, and has been a component of immigration laws since the enactment of the INA in 1952.

Actions

For the next 90 days, nearly all travelers, except U.S. citizens traveling on passports from Iraq, Syria, Sudan, Iran, Somalia, Libya, and Yemen will be temporarily suspended from entry to the United States. The 90-day period will allow for proper review and establishment of standards to prevent terrorist or criminal infiltration by foreign nationals.

DHS and the Department of State have the authority, on a case-by-case basis, to issue visas or allow the entry of nationals of these countries into the United States when it serves the national interest. These seven countries were designated by Congress and the Obama Administration as posing a significant enough security risk to warrant additional scrutiny in the visa waiver context.

Secretary Kelly has deemed the entry of lawful permanent residents to be in the national interest. Accordingly, absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare, lawful permanent resident status will be a dispositive factor in our case-by-case determinations.

In the first 30 days, DHS will perform a global country-by-country review of the information each country provides when their citizens apply for a U.S. visa or immigration benefit. Countries will have 60 days after the review is complete to comply with any requests from the U.S. government to update or improve the quality of the information they provide.

Similarly, the Refugee Admissions Program will be temporarily suspended for the next 120 days while DHS and interagency partners review screening procedures to ensure refugees admitted in the future do not pose a security risk to citizens of the United States.

Upon resumption of the U.S. Refugee Admissions Program, refugee admissions to the United States will not exceed 50,000 for fiscal year 2017.

The Executive Order does not prohibit entry of, or visa issuance to, travelers with diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas.

The Department of Homeland Security along with the Department of State, the Office of the Director of National Intelligence, and the Federal Bureau of Investigation will develop uniform screening standards for all immigration programs government-wide.

The Department of Homeland Security will also expedite the completion and implementation of a biometric entry-exit tracking system of all travelers into the United States.

As part of a broader set of government actions, the Department of State will review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal.

The Department of State will restrict the Visa Interview Waiver Program and require additional nonimmigrant visa applicants to undergo an in-person interview.

Transparency

The Department of Homeland Security, in order to be more transparent with the American people, and to more effectively implement policies and practices that serve the national interest will make information available to the public every 180 days. In coordination with the Department of Justice, DHS will provide information regarding the number of foreign nationals charged with terrorism-related offense or gender-based violence against women while in the United States.



Press Office
U.S. Department of Homeland Security

FACT SHEET

UPDATED February 13, 2017 10:00am EST
Contact: DHS Press Office, 202-282-8010

EXECUTIVE ORDER: BORDER SECURITY AND IMMIGRATION ENFORCEMENT IMPROVEMENTS

Federal immigration law both imposes the responsibility and provides the means for the Federal Government, in cooperation with Border States, to secure the Nation's southern border. The purpose of this order is to direct executive departments and agencies to deploy all lawful means to secure the Nation's southern border, to prevent further illegal immigration into the United States, and to repatriate illegal aliens swiftly, consistently, and humanely.

The Order directs executive departments and agencies to deploy all lawful means to secure the Nation's southern border; to prevent further illegal immigration into the United States; and to repatriate illegal aliens swiftly, consistently, and humanely. This includes establishing operational control of the border, establishing and controlling a physical barrier, detention of illegal aliens at or near the border, and ending the practice of "catch and release" and returning aliens to the territory from which they came pending formal proceedings.

This order also directs the Secretary to hire an additional 5,000 border agents and to empower state and local law enforcement to support enforcement of immigration law, to the maximum extent permitted by law, and to ensure prosecution guidelines place a high priority on crimes having a nexus to our southern border.

Authorities

By the authority vested in the President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) (INA), the Secure Fence Act of 2006 (Public Law 109 367) (Secure Fence Act), and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104 208 Div. C) (IIRIRA), and in order to ensure the safety and territorial integrity of the United States as well as to ensure that the Nation's immigration laws are faithfully executed.

Actions

DHS will take all appropriate steps to project long-term funding requirements and to immediately plan, design, and construct a physical wall along the southern border, using appropriate materials and technology to most effectively achieve complete operational control of the southern border.

In addition, DHS will also produce a comprehensive study of the security of the southern border, to be completed within 180 days of this order to include the current state of southern border security, all geophysical and topographical aspects of the southern border, the availability of Federal and State resources necessary to achieve complete operational control of the southern border, and a strategy to obtain and maintain complete operational control of the southern border.

Transparency

The Department of Homeland Security, in order to be more transparent with the American people, and to more effectively implement policies and practices that serve the national interest will make information available to the public monthly data on aliens apprehended at or near the southern border.



Press Office
U.S. Department of Homeland Security

Press Release

February 10, 2017
Contact: DHS Press Office, 202-282-8010

SECRETARY KELLY ISSUES IMPLEMENTATION MEMORANDA ON EXECUTIVE ORDERS

WASHINGTON – Today, Secretary of Homeland Security John Kelly issued two memoranda to the Department of Homeland Security workforce providing further direction to implement the recent executive orders on border security and enforcement of U.S. immigration laws.

In accordance with the Department's commitment to be transparent with the American people, and to more effectively implement policies and practices that serve the national interest, consolidated information regarding the Department operations in relation to the executive orders is available at www.dhs.gov/executiveorders.

As we implement these executive orders to help keep the American people safe, we are and will remain in compliance with all judicial orders.

###



Homeland Security

February 10, 2017

President Trump has recently signed several executive orders that touch our Department operations and impact the execution of our mission to secure the homeland. As you have likely seen reported, the implementation of these executive orders have generated a significant amount of interest in what we do, and reinforce the importance of securing the border and enforcing our nation's laws.

Today, I have issued implementation memos regarding two of the executive orders that impact Department operations, *Border Security and Immigration Enforcement Improvements*, and *Enhancing Public Safety in the Interior of the United States*.

These implementation memoranda, along with fact sheets and Q&A documents, are available at www.dhs.gov/executiveorders. I will continue to keep you informed and provide substantive information to help you to successfully perform your duties. As part of this, we will ensure this page is updated early and often, as appropriate.

As we implement these executive orders to help keep the American people safe, we are and will remain in compliance with all judicial orders. As always, I ask each of you to continue to respect your authority and those we serve.

Thank you again for your service to our great nation and in accomplishing our vital missions.

Sincerely,

John F. Kelly
Secretary of Homeland Security

With honor and integrity, we will safeguard the American people, our homeland, and our values.



Press Office
U.S. Department of Homeland Security

Q&A

February 10, 2017
Contact: DHS Press Office, 202-282-8010

DHS IMPLEMENTATION OF THE EXECUTIVE ORDER ON BORDER SECURITY AND IMMIGRATION ENFORCEMENT

WASHINGTON – On XXX, Secretary of Homeland Security John Kelly signed a memorandum implementing the president’s Executive Order entitled “Border Security and Immigration Enforcement Improvements,” issued on January 25, 2017. This document is designed to answer some frequently asked questions about how the Department will operationally implement the guidance provided by the president’s order.

Q1. What does this border security assessment include?

A1. CBP is considering the following factors:

- The current state of southern border security;
- All geophysical and topographical aspects of the southern border;
- The availability of Federal and State resources necessary to achieve complete operational control of the southern border.
- This analysis will inform CBP’s strategy to obtain and maintain complete operational control of the southern border.

Q2. Who will conduct this assessment?

A2. The assessment will be a collaborative effort that will include the U.S. Border Patrol and other CBP components in the areas of operations, budgeting, engineering, and legal support.

Q3. How long will this assessment take?

A3. The Executive Order directs CBP to produce a comprehensive study of the security of the southern border within 180 days, or no later than July 4, 2017.

Q4. What is CBP currently doing as part of the construction of the wall?

A4. CBP is currently determining the U.S. Border Patrol's operational requirements, including a review of existing border infrastructure. As part of the assessment, CBP will determine if part of the infrastructure already in place meets the operational needs of the agents on the frontline.

Q5. Where will the initial construction be located?

A5. Initial construction of new infrastructure will focus on those areas that are most critical to our nation's border security.

Q6. Will the new wall be uniform in design, scope, and function?

A6. CBP is assessing the operational requirements for the wall.

Q7: Does the Alternatives to Detention program fall under the umbrella of “catch and release” policies being abolished?

A7: No. The use of Alternatives to Detention, including the use of ankle monitors, will continue on a case-by-case basis at the discretion of the officers on the ground.

Q8: What are ICE's priorities under this Executive Order?

A8: Under the Executive Order, ICE will not exempt classes or categories of removal aliens from potential enforcement. All of those in violation of immigration law face arrest, detention and removal.

Q9: Will ICE deport people for driving without a license, since it's often an immigration-related issue?

A9: All of those in violation of immigration law are subject to arrest, detention and removal from the United States.

Q10: What is the new goal for ICE's detention capacity?

A10: Although detention space may be limited at times, ICE is committed to arresting and processing all removable aliens. ICE agents and officers will make individualized custody determinations in every case, prioritizing detention resources on aliens subject to expedited removal and aliens removable on any criminal ground, national security or related ground or for fraud or material misrepresentation.

Q11: What is ICE planning in terms of obtaining additional detention centers or bed space? Have any contracts or RFPs yet been drafted? How long will it take to obtain additional bed space? How much will it cost per bed/day? Where will they be located?

A11: Following the issue of this order, ICE has already increased its detention capacity by approximately 1,100 beds.

To support the further need for increased detention capacity, particularly along the Southwest Border, ICE is currently defining contracting requirements. A list of 27 potential detention locations has already been compiled, which could supply approximately 21,000 additional beds. ICE is in the process of obtaining quotes, preparing occupancy plans, and arranging for on-site medical support from those locations.

Q12: Will ICE still be hiring the 10,000 officers called for in the executive orders?

A12: ICE has prepared projections for payroll and associated costs for the 10,000 new special agents and officers and personnel in support offices. ICE is developing a hiring plan that includes a split of 85 percent deportation officers and 15 percent criminal investigators. This strategy enables ICE to amplify its work among multiple lines of both civil and criminal immigration enforcement.

Q13: What is the 287(g) program and how will it be used by ICE?

A13: The 287(g) program allows local law enforcement agencies to participate as an active partner in identifying criminal aliens in their custody, and placing ICE detainers on these individuals. Removing criminal aliens from our communities produces a higher level of public safety for everyone. To strengthen the 287(g) program, ICE field leadership has begun examining local operational needs and liaising with potential 287(g) partners. Existing 287(g) applications are also undergoing an expedited review process.

Q14: Are 287(g) officers now going to do ICE's job?

A14: The 287(g) program, one of ICE's top partnership initiatives, enables a state and local law enforcement entity to enter into a partnership with ICE, under a joint memorandum of agreement. The state or local entity receives delegated authority for immigration enforcement within their jurisdictions.

Q15: When will 287g task force agreements be available to local jurisdictions? Will these new task force agreements be modeled after the previously cancelled task force model?

A15: ICE is developing a strategy to further expand the 287(g) Program, to include types of 287(g) programs, locations, and recruitment strategies. To strengthen the 287(g) Program, ICE field leadership has begun examining local operational needs and liaising with potential 287(g) partners. Existing 287(g) applications are also undergoing an expedited review process. To support the training needed for existing and new 287(g) partners, ICE is updating the 287(g) Training Curriculum.

Q16: How will ICE accommodate an immigration judge in each of its facilities? How about asylum officers?

A16: ICE is working with the Executive Office for Immigration Review and U.S. Citizenship and Immigration Services to review current procedures and resources in order to identify efficiencies and best practices to improve the system. Most dedicated detention facilities already house immigration courts and have enough space to accommodate asylum officers. ICE is also seeking to increase the use of technology, mainly through the use of video teleconferencing, in locations with insufficient space or staffing.

Q17: What are you doing to reduce the reach of violent crime and transnational criminal organizations?

A17: To better target gang members responsible for violent crime and transnational criminal activities, ICE has notified field leadership to immediately assess and, if possible, realign resources to support Operation Community Shield.

Q18: Could USCIS customers be affected by the policies on the detention of aliens seeking

admission pending a final determination of their inadmissibility and deportability, including eligibility for immigration relief?

A18: The policies are consistent with INA provisions that mandate the detention of certain aliens seeking admission and allow for the exercise of discretionary parole authority only on a case-by-case basis, and only for urgent humanitarian reasons or significant public benefit.

Q19: The Secretary's memorandum outlines certain situations where CBP and ICE may release an alien detained under section 235(b) of the INA, who was apprehended or encountered after illegally entering or attempting to illegally enter the United States. One of the situations is where the alien obtains an administratively final order granting relief or protection from removal or DHS determines that the individual is a U.S. citizen or an alien who is a lawful permanent resident, refugee, or asylee; or holds another valid immigration status such as Temporary Protected Status or a valid non-immigrant visa.

A19: The guidance is effective upon establishment of a plan to surge immigration judges and asylum officers to process recent border entrants, and establishment of appropriate processing and detention facilities.

Q20: How does the expansion of expedited removal account for those who may be eligible for immigration benefits?

A20: If an immigration officer determines that an arriving alien is inadmissible under INA sections 212(a)(6)(C) or 212(a)(7), the officer shall, consistent with all applicable laws, order the individual removed from the United States without further hearing or review, unless the individual:

- Is an unaccompanied alien child, as defined in 6 U.S.C. § 279(g)(2);
- Indicates an intention to apply for asylum or a fear of persecution or torture or a fear of return to his or her country, or
- Claims to have a valid immigration status within the United States or to be a U.S. citizen.
-

Q21: How will the enhancements to asylum referrals and credible fear determinations under INA section 235(b)(1) affect the work of USCIS?

A21: The Secretary's memorandum outlines several points:

- The Director of USCIS shall ensure that asylum officers conduct credible fear interviews in a manner that allows the interviewing officer to elicit all relevant information from the alien as is necessary to make a legally sufficient determination.
- The Director shall also increase the operational capacity of FDNS and continue to strengthen its integration to support FOD, RAIO, and SCOPS, consulting with OP&S as appropriate.
- The USCIS Director, CBP Commissioner, and ICE Director shall review their agencies' fraud detection, deterrence, and prevention measures and report to the Secretary within 90 days regarding fraud vulnerabilities in the asylum and benefits adjudication processes, and propose measures to enhance fraud detection, deterrence, and prevention.
- The asylum officer, as part of making a credible fear finding, shall determine the credibility of statements made by the individual in support of his or her claim. This determination should include, but not be limited to, consideration of the statistical likelihood that the claim would be granted by the Executive Office for Immigration Review (EOIR).

- The asylum officer shall make a positive credible fear finding only after the officer has considered all relevant evidence and determined, based on credible evidence, that the alien has a significant possibility of establishing eligibility for asylum, or for withholding or deferral of removal under the Convention Against Torture, based on established legal authority.

Q22: How does the memorandum address the processing and treatment of unaccompanied alien minors at the border?

A22: The memo instructs the USCIS Director, CBP Commissioner, and ICE Director to develop uniform written guidance and training for all employees and contractors of those agencies regarding the proper processing of unaccompanied alien children, the timely and fair adjudication of their claims for relief from removal, and, if appropriate, their safe repatriation at the conclusion of removal proceedings. In developing such guidance and training, they shall establish standardized review procedures to confirm that alien children who are initially determined to be “unaccompanied alien child[ren],” as defined in 6 U.S.C. § 279(g)(2), continue to fall within the statutory definition when being considered for the legal protections afforded to such children as they go through the removal process.

Q23: How might the allocation of additional resources and personnel to the southern border for detention of aliens and adjudication of claims affect USCIS personnel?

A23: The screening of credible fear claims by USCIS and adjudication of asylum claims by EOIR at detention facilities located at or near the point of apprehension will facilitate an expedited resolution of those claims and result in lower detention and transportation costs. Accordingly, to the greatest extent practicable, the Director of USCIS is directed to increase the number of asylum officers and FDNS officers assigned to detention facilities located at or near the border with Mexico to properly and efficiently adjudicate credible fear and reasonable fear claims and to counter asylum-related fraud.

Q24: How does the Secretary’s memorandum address the use of parole authority, as set forth in INA section 212(d)(5)?

A24: The memo notes that the statutory language appears to strongly counsel in favor of using the parole authority sparingly and only in individual cases where, after careful consideration of the circumstances, parole is needed because of demonstrated urgent humanitarian reasons or significant public benefit. It states the practice of granting parole to certain aliens in pre-designated categories in order to create immigration programs not established by Congress has contributed to a border security crisis, undermined the integrity of the immigration laws and the parole process, and created an incentive for additional illegal immigration.

Therefore, the USCIS Director, CBP Commissioner, and ICE Director are directed to ensure that, pending the issuance of final regulations clarifying the appropriate use of the parole power, appropriate written policy guidance and training is provided to employees exercising parole authority, including advance parole. These employees should be familiar with the proper exercise of parole under section 212(d)(5) of the INA and exercise such parole authority only on a case-by-case basis, consistent with the law and written policy guidance.

Page 084 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 085 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 086 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 087 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 088 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 089 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 090 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: Microsoft Outlook
Sent: 17 Feb 2017 15:45:08 -0500
To: (b)(6);(b)(7)(C)
Subject: Delivered: OPA Issue: Huffingpost request regarding a number of ICE issues
Attachments: OPA Issue: Huffingpost request regarding a number of ICE issues

Your message has been delivered to the following recipients:

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

Subject: OPA Issue: Huffingpost request regarding a number of ICE issues

From: Pruneda, Adelina A
Sent: 17 Feb 2017 15:45:06 -0500
To: #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C)

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

Subject: OPA Issue: Huffingpost request regarding a number of ICE issues
Importance: High

Team,

ISSUE: Huffington Post reporter, (b)(6);(b)(7)(C) is working on a story that is covering several ICE issues. Reporter is asking for ICE's reaction to Austin, Texas ISD teachers sending pamphlets home to parents warning them about ICE. He's also asking about a El Paso woman seeking protective order from court when she was arrested. He's also asking about an alleged arrest out of an Alexandria Church shelter. The reporter wants to know whether the 2011 ICE guidelines on sensitive locations still stand. And if ICE has rescinded the prosecutorial discretion guidelines and deportation priorities from 2011 and 2014.

PROPOSED RESPONSE:

(b)(5)

FROM REPORTER

From: Roque Planas (b)(6);(b)(7)(C)
Sent: Friday, February 17, 2017 11:41 AM
To: ICEMedia; Pruneda, Adelina A
Subject: Does the sensitive areas memo still stand?

Hi everyone,
I hope you're well. I'm working on a story about how teachers and parents in the Austin area have been telling me their kids are feeling nervous about the ICE arrests that occurred through

Operation Cross-Check over the last couple of weeks. A few people have told me that ICE agents parked a vehicle across the street from a school. There was also this reported arrest outside of an Alexandria church shelter. And there was the reported arrest at an El Paso county courthouse of a woman who was reportedly seeking a protective order to shield her from domestic abuse.

So I'm wondering if the 2011 guidelines on sensitive locations still stand. I'm also wondering if ICE has officially rescinded the prosecutorial discretion guidelines and deportation priorities from 2011 and 2014, since the priorities outlined in the sanctuary city executive order are much more expansive.

Please let me know. Best,
Roque

--

Roque Planas
National Reporter, The Huffington Post
347.260 (b)(6); (cell)
(b)(6);(b)(7)(C)



Nina Pruneda, Public Affairs Officer
Department of Homeland Security
U.S. Immigration and Customs Enforcement (ICE)
210-321 (b)(6);(b)(7)(C)

Covering the following areas: Austin, Del Rio, Eagle Pass, Falcon Dam, Laredo, McAllen, Harlingen, Brownsville and San Antonio

*In seeking truth you have to get both sides of a story.
By Walter Cronkite*

From: (b)(6);(b)(7)(C)
Sent: 18 Feb 2017 12:05:16 -0500
To: Davis, Mike P; (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws
Attachments: Draft D1 memo on S1 priorities 2.17.17 v1 (AVL-CSK-MAF).docx

Please see our edits/comments.

Thanks,

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

Chief
Homeland Security Investigations Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C) (office)
(646) 221 (b)(7)(C) (cell)

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

*** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT ***

This document contains confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration & Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: Davis, Mike P
Sent: Friday, February 17, 2017 8:17 PM
To: (b)(6);(b)(7)(C)
Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Please give this a look. I'm fine if you share it with your immediate mgmt teams for review but please don't disseminate further than that. Thanks.

Sent via the GOOD application by:

Michael P. Davis
Acting Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C) (office)
(202) 904 (b)(7)(C) (cell)

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

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---

This document may contain confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: Seguin, Debbie

Sent: Friday, February 17, 2017 6:23:56 PM

To: Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Minus DD.

Hi all,

As we continue to await further information from DHS as to when the S1 memo will be issued, OP put together the attached draft ICE implementation memo for your consideration. Given the close hold nature of the S1 memo, I am sending the draft ICE memo directly to you. Not sure what the timeline is currently, but I'm sure we will receive further guidance.

Thank you,
Debbie

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

From: Valerio, Tracey A

Sent: Friday, February 17, 2017 2:59 PM

To: Davis, Mike P; Ragsdale, Daniel H; Albence, Matthew; Edge, Peter T

Cc: Seguin, Debbie (b)(6);(b)(7)(C)

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Per EO Implementation TF, please do not disseminate further, and stand down on sending additional guidance. WH is reviewing now.

Sent with Good (www.good.com)

From: Davis, Mike P

Sent: Friday, February 17, 2017 2:18:39 PM

To: Ragsdale, Daniel H; Valerio, Tracey A; Albence, Matthew; Edge, Peter T

Cc: (b)(6);(b)(7)(C) Seguin, Debbie (b)(6);(b)(7)(C)

Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

FYSA.

Sent via the GOOD application by:

Michael P. Davis
Acting Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C) (office)
(202) 904 (b)(6);(b)(7)(C) (cell)

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

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---

This document may contain confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

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

Sent: Friday, February 17, 2017 1:44:12 PM

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

Cc: Davis, Mike P; (b)(6);(b)(7)(C)

Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Per your request – two new S1 memos.

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

Sent: Friday, February 17, 2017 1:34 PM

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

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

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

Subject: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

All, FYI. Reading them now myself.

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

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

Office of the General Counsel
U.S. Department of Homeland Security
office: 202-447-
cell: 202-579-
SIPR/HSDN:
JWICS:

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

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

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

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

Page 098 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 099 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 100 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 101 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 102 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 103 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 104 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: Kice, Virginia C
Sent: 14 Feb 2017 17:39:50 -0500
To: #ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C) Mack, Lauren K
Subject: OPA - Voice of San Diego on Local Law Enforcement Cooperation

ISSUE: San Diego PAO provided a reporter from *Voice of San Diego* background on ICE detainer and notification requests lodged with local law enforcement. The reporter was also provided San Diego removal numbers for fiscal years 2014 to 2016. The reporter asked about the term ‘sanctuary city’ after reading about it in the AP’s pool notes from a meeting the DHS Secretary hosted with state and local law enforcement officials in San Diego during his visit to the San Ysidro Port of Entry. PAO provided background on ERO’s excellent relationships with local law enforcement, including working inside local jails and the use of databases that alert ICE when criminal aliens are booked into local jails.

PROPOSED QUOTE: PAO requesting authorization for reporter to use a comment from PAO during the background interview about ICE’s longstanding, excellent relationships with the state and local law enforcement agencies in San Diego.

(b)(5)

Lauren Mack
Public Affairs Officer/Spokeswoman
U.S. Immigration and Customs Enforcement
619-744-(b)(6);(b)(7)(C) (office)
619-719-(b)(6);(b)(7)(C) (iPhone)

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

www.ICE.gov

From: Microsoft Outlook
Sent: 17 Feb 2017 16:34:24 -0500
To: (b)(6);(b)(7)(C)
Subject: Delivered: RE: OPA Issue: Huffingpost request regarding a number of ICE issues
Attachments: RE: OPA Issue: Huffingpost request regarding a number of ICE issues

Your message has been delivered to the following recipients:

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

Subject: RE: OPA Issue: Huffingpost request regarding a number of ICE issues

From: Pruneda, Adelina A
Sent: 17 Feb 2017 16:34:23 -0500
To: Albence, Matthew;#ICE OPA ERO Issue Paper
Cc: (b)(6);(b)(7)(C) Achim, Deborah (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
Subject: RE: OPA Issue: Huffingpost request regarding a number of ICE issues
Importance: High

Mr. Albence, are you ok with the highlighted portion?

Team,

ISSUE: Huffington Post reporter, Roque Planas, is working on a story that is covering several ICE issues. Reporter is asking for ICE's reaction to Austin, Texas ISD teachers sending pamphlets home to parents warning them about ICE. He's also asking about a El Paso woman seeking protective order from court when she was arrested. He's also asking about an alleged arrest out of an Alexandria Church shelter. The reporter wants to know whether the 2011 ICE guidelines on sensitive locations still stand. And if ICE has rescinded the prosecutorial discretion guidelines and deportation priorities from 2011 and 2014.

PROPOSED RESPONSE:

(b)(5)

FROM REPORTER

From: Roque Planas [<mailto:roque.planas@huffingtonpost.com>]
Sent: Friday, February 17, 2017 11:41 AM
To: ICEMedia; Pruneda, Adelina A
Subject: Does the sensitive areas memo still stand?

Hi everyone,

I hope you're well. I'm working on a story about how teachers and parents in the Austin area have been telling me their kids are feeling nervous about the ICE arrests that occurred through Operation Cross-Check over the last couple of weeks. A few people have told me that ICE agents parked a vehicle across the street from a school. There was also this reported arrest outside of an Alexandria church shelter. And there was the reported arrest at an El Paso county courthouse of a woman who was reportedly seeking a protective order to shield her from domestic abuse.

So I'm wondering if the 2011 guidelines on sensitive locations still stand. I'm also wondering if ICE has officially rescinded the prosecutorial discretion guidelines and deportation priorities from 2011 and 2014, since the priorities outlined in the sanctuary city executive order are much more expansive.

Please let me know. Best,
Roque

--

Roque Planas
National Reporter, The Huffington Post
347.260.(b)(6);(b)(7)(C)

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



Nina Pruneda, Public Affairs Officer
Department of Homeland Security
U.S. Immigration and Customs Enforcement (ICE)
210-321.(b)(6);(b)(7)(C)

Covering the following areas: Austin, Del Rio, Eagle Pass, Falcon Dam, Laredo, McAllen, Harlingen, Brownsville and San Antonio

*In seeking truth you have to get both sides of a story.
By Walter Cronkite*

From: (b)(6);(b)(7)(C)
Sent: 1 Feb 2017 11:29:14 -0500
To: (b)(6);(b)(7)(C)
Subject: Sanctuary City EO
Attachments: SF Complaint re Sanctuary.pdf

FYSA

Sanctuary City lawsuit

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

Deputy Principal Legal Advisor for General and Administrative Law
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-732 (b)(6);(b)(7)(C)

E-mail (b)(6);(b)(7)(C)

*** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT ***

This document contains confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration & Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

DENNIS J. HERRERA, State Bar #139669
 City Attorney
 JESSE C. SMITH, State Bar #122517
 Chief Assistant City Attorney
 RONALD P. FLYNN, State Bar #184186
 Chief Deputy City Attorney
 YVONNE R. MERÉ, State Bar #173594
 Chief of Complex and Affirmative Litigation
 MOLLIE M. LEE, State Bar #251404
 SARA J. EISENBERG, State Bar #269303
 Deputy City Attorneys
 City Hall, Room 234
 1 Dr. Carlton B. Goodlett Place
 San Francisco, California 94102-4602
 Telephone: (415) 554-4748
 Facsimile: (415) 554-4715
 E-Mail: brittany.feitelberg@sfgov.org

Attorneys for Plaintiff
 CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN
 FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United
 States, UNITED STATES OF AMERICA,
 JOHN F. KELLY, Secretary of United States
 Department of Homeland Security, DANA J.
 BOENTE, Acting Attorney General of the
 United States, DOES 1-100,

Defendants.

Case No.

COMPLAINT FOR DECLARATORY AND
 INJUNCTIVE RELIEF

INTRODUCTION

1
2 1. The City and County of San Francisco (“San Francisco”) seeks declaratory and
3 injunctive relief against the United States of America and the above-named federal officials for
4 violating the Tenth Amendment, U.S. Const. amend. X. San Francisco further seeks a declaration that
5 it complies with Title 8, Section 1373 of the United States Code (“Section 1373”) under the
6 Declaratory Judgment Act, 28 U.S.C. Sections 2201 and 2202 *et seq.*

7 2. In blatant disregard of the law, the President of the United States seeks to coerce local
8 authorities into abandoning what are known as “Sanctuary City” laws and policies. To accomplish this
9 objective, on January 25, 2017, the President issued an Executive Order entitled, “Enhancing Public
10 Safety in the Interior of the United States.” Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017)
11 (“Executive Order”). The Executive Order announces that it is the Executive Branch’s policy to
12 withhold federal funds from “sanctuary jurisdictions,” and directs the Attorney General and Secretary
13 of Homeland Security to ensure that sanctuary jurisdictions do not receive Federal grants, and directs
14 the Attorney General to take enforcement action against any local entity that “hinders the enforcement
15 of Federal law.” This strikes at the heart of established principles of federalism and violates the United
16 States Constitution.

17 3. The President and San Francisco agree that San Francisco is a Sanctuary City, but
18 disagree about what that means. San Francisco laws limit when city employees and agencies may
19 assist with the enforcement of federal immigration law. These laws generally prohibit city employees
20 from using city funds or resources to assist in the enforcement of federal immigration law, unless
21 required by federal or state law. They specifically prohibit local law enforcement officers from
22 cooperating with Immigration and Customs Enforcement (“ICE”) detainer requests, which are
23 voluntary, and limit when local law enforcement officers may give ICE advance notice of a person’s
24 release from local jail.

25 4. Like many other cities, San Francisco is a city of immigrants, many of whom are
26 undocumented, who come here to live, work, and raise families. San Francisco is safer when all
27 people, including undocumented immigrants, feel safe reporting crimes. San Francisco is healthier
28 when all residents, including undocumented immigrants, access public health programs. And San

1 Francisco is economically and socially stronger when all children, including undocumented
2 immigrants, attend school. Using city and county resources for federal immigration enforcement
3 breeds distrust of local government and officials who have no power to change federal laws, and can
4 also wrench apart family and community structures that support residents and thus conserve resources.
5 For these reasons, among others, San Francisco has directed its employees and officers not to assist the
6 Federal government in enforcing federal immigration law, with limited exceptions.

7 5. San Francisco faces the imminent loss of federal funds and impending enforcement
8 action if it does not capitulate to the President's demand that it help enforce federal immigration law.
9 At least one jurisdiction has already succumbed to this presidential fiat.

10 6. The Executive Order relies on Title 8, Section 1373 of the United States Code ("Section
11 1373"), which provides that local governments may not prohibit or restrict any government entity or
12 official from "sending to, or receiving from, [federal immigration officials] information regarding the
13 citizenship or immigration status . . . of any individual." San Francisco seeks declaratory relief that its
14 Sanctuary City laws comply with Section 1373. San Francisco does not prohibit or restrict its
15 employees from sharing information about the citizenship or immigration status of any individual with
16 federal immigration officials.

17 7. The Executive Order is a severe invasion of San Francisco's sovereignty. The
18 Executive Order not only interferes with San Francisco's ability to direct the official actions of its
19 officers and employees but also threatens new consequences for failing to comply with 1373. In this
20 action, San Francisco seeks declaratory relief that Section 1373 is unconstitutional on its face and as
21 applied to state and local Sanctuary City laws such as San Francisco's. The Executive Branch may not
22 commandeer state and local officials to enforce federal law.

23 8. The Constitution establishes a balance of power between the state and Federal
24 governments, as well as among the coordinate branches of Federal government, to prevent the
25 excessive accumulation of power in any single entity and reduce the risk of tyranny and abuse from
26 any government office. In so doing, the Tenth Amendment provides that "[t]he powers not delegated
27 to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States
28

1 respectively, or to the people.” This state sovereignty extends to political subdivisions of the State,
2 including cities and counties such as San Francisco.

3 9. This lawsuit is about state sovereignty and a local government’s autonomy to devote
4 resources to local priorities and to control the exercise of its own police powers, rather than being
5 forced to carry out the agenda of the Federal government. Under the Constitution and established
6 principles of federalism, state and local governments have this autonomy. The Executive Order
7 purports otherwise to wrest this autonomy from state and local governments, and a court order is
8 needed to resolve this controversy.

9 10. San Francisco recognizes that there will be additional developments related to the
10 Executive Order in the weeks and months to come. But the consequences threatened by the Executive
11 Order are too severe for San Francisco to wait. The Executive Order threatens the loss of more than \$1
12 billion in federal funds that support vital services, the loss of community trust, and the loss of San
13 Francisco’s sovereign authority to set and follow its own laws on matters appropriately and
14 historically within the control of local government. San Francisco has no choice but to seek the
15 intervention of this Court to ensure that its rights and residents are protected, and that the
16 Administration complies with Federal law and the Constitution.

17 JURISDICTION AND VENUE

18 11. The Court has jurisdiction under 28 U.S.C. Sections 1331 and 1346. This Court has
19 further remedial authority under the Declaratory Judgment Act, 28 U.S.C. Sections 2201 and 2202 *et*
20 *seq.*

21 12. Venue properly lies within the Northern District of California because Plaintiff, City
22 and County of San Francisco, resides in this judicial district and a substantial part of the events or
23 omissions giving rise to this action occurred in this District. 28 U.S.C. §1391(e).

24 PARTIES

25 13. Plaintiff, City and County of San Francisco (“San Francisco”), is a municipal
26 corporation organized and existing under and by virtue of the laws of the State of California, and is a
27 charter city and county.
28

14. Defendant Donald J. Trump is the President of the United States. He is sued in his official capacity.

15. Defendant United States of America is sued under 28 U.S.C. Section 1346.

16. The U.S. Department of Homeland Security (“DHS”) is a cabinet department of the United States Federal government with the primary mission of securing the United States. Defendant John F. Kelly is the Secretary of DHS. Secretary Kelly is responsible for executing relevant provisions of the Executive Order. Secretary Kelly is sued in his official capacity.

17. The Attorney General (“AG”) is a cabinet department of the United States Federal government overseeing the Department of Justice. Defendant Dana J. Boente is the Acting Attorney General. Acting Attorney General Boente is responsible for executing relevant provisions of the Executive Order. Acting Attorney General Dana J. Boente is sued in his official capacity.¹

18. Doe 1 through Doe 100 are sued under fictitious names. Plaintiffs do not now know the true names or capacities of said Defendants, who were responsible for the alleged violations alleged, but pray that the same may be alleged in this complaint when ascertained.

FACTUAL ALLEGATIONS

I. SAN FRANCISCO’S SANCTUARY CITY LAWS

19. San Francisco is a Sanctuary City and has been since 1989. In the 1980s, thousands of Central American refugees fled countries in the midst of violent civil wars to seek legal protection in the United States. Against the backdrop of this humanitarian crisis, San Francisco began enacting the ordinances that, as later amended, make up San Francisco’s Sanctuary City laws.

20. Numerous other municipalities—including New York, D.C., Chicago, Los Angeles, New Orleans, Santa Clara, Minneapolis, and Houston—have also enacted Sanctuary City laws. Although the details of their ordinances differ, all of these jurisdictions have adopted laws or policies that limit using local resources to implement and enforce federal immigration laws.

21. Today, San Francisco’s body of Sanctuary City law is contained in two chapters of San Francisco’s Administrative Code: Chapters 12H and 12I.

¹ Jeff Sessions has been nominated to serve as Attorney General and will replace Acting Attorney General Dana J. Boente, if confirmed.

1 22. Importantly, these chapters do not protect criminals or prevent people from being
2 prosecuted for illegal acts. Instead, they protect children by ensuring that their parents feel safe taking
3 them to playgrounds, to schools, and to hospitals. They protect families from being split up when
4 parents of children born in the United States are deported. And they protect the safety and health of all
5 residents of San Francisco by helping to ensure that everyone, including undocumented immigrants,
6 feels safe reporting crimes, cooperating with police investigations, and seeking medical treatment.
7 Specifically, Chapters 12H and 12I apply as follows.

8 23. San Francisco Administrative Code Chapter 12H—the full text of which is attached as
9 Exhibit 1—prohibits San Francisco departments, agencies, commissions, officers, and employees from
10 using San Francisco funds or resources to assist in the enforcement of Federal immigration law or to
11 gather or disseminate information regarding the release status, or other confidential identifying
12 information, of an individual unless such assistance is required by Federal or state law.

13 24. San Francisco Administrative Code Chapter 12I—the full text of which is attached as
14 Exhibit 2—prohibits San Francisco law enforcement officials from detaining an individual who is
15 otherwise eligible for release from custody on the basis of a civil immigration detainer request issued
16 by the Federal government.

17 25. Section 287.7 of Title 8 of the Code of Federal Regulations provides that such a
18 detainer “serves to advise another law enforcement agency that the Department seeks custody of an
19 alien presently in the custody of that agency, for the purpose of arresting and removing the alien.”
20 Subsection (d) provides that “[u]pon a determination by the Department to issue a detainer for an alien
21 not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien
22 for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit
23 assumption of custody by the Department.”

24 26. A detainer request issued under this section is distinct from a criminal warrant, which
25 San Francisco honors consistent with its Sanctuary City laws. A detainer request is not issued by a
26 judge and is not based on a finding of probable cause. It is simply a request by ICE that a state or local
27 law enforcement agency hold individuals after their release date to provide ICE agents extra time to
28 decide whether to take those individuals into federal custody and then deport them.

27. Complying with such a detainer request requires committing scarce law enforcement personnel and resources to track and respond to requests, detain individuals in holding cells, and supervise and feed individuals during the prolonged detention. And the Federal government has made clear that the local agency bears the financial burden of the detention, providing that “[n]o detainer issued as a result of a determination made under this chapter . . . shall incur any fiscal obligation on the part of the Department.” 8 C.F.R. 287(e).

28. Chapter 12I also prohibits San Francisco law enforcement officials from responding to a federal immigration officer’s request for advance notification of the date and time an individual in San Francisco’s custody is being released, unless the in question meets certain criteria. *See* Section 12I.3(c), (d).

29. Finally, as relevant here, Chapter 12I provides that “[l]aw enforcement officials shall not arrest or detain an individual, or provide any individual’s personal information to a federal immigration officer, on the basis of an administrative warrant, prior deportation order, or other civil immigration document based solely on alleged violations of the civil provisions of immigration laws.” *See* Section 12I.3(e). “Personal information” is defined as “any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information.” *See* Section 12I.2.

30. The legislative findings set forth in Chapter 12I evidence the legitimate local purpose of San Francisco’s Sanctuary City laws. For example, the Legislature declared:

Fostering a relationship of trust, respect, and open communication between City employees and City residents is essential to the City’s core mission of ensuring public health, safety, and welfare, and serving the needs of everyone in the community, including immigrants. The purpose of this Chapter 12I, as well as of Administrative Code Chapter 12H, is to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation between residents and City officials, including especially law enforcement and public health officers and employees, and to ensure community security, and due process for all. (*See* Section 12I.2.)

31. Chapter 12I makes clear that its purpose and effect are limited to matters “relating to federal civil immigration detainers, notification of release of individuals, transmission of personal information, or civil immigration documents, based solely on alleged violations of the civil provisions of immigration laws.” Chapter 12I expressly states that “[i]n all other respects, local law enforcement

1 agencies may continue to collaborate with federal authorities to protect public safety.” *See* Section
2 12I.4.

3 32. Further underscoring that San Francisco’s Sanctuary City laws arise from San
4 Francisco’s commitment and responsibility to ensure public safety and welfare, the Board of
5 Supervisors, as San Francisco’s legislative body, found that public safety is “founded on trust and
6 cooperation of community residents and local law enforcement.” Section 12I.1. Citing a study by the
7 University of Illinois, which found that at least 40% of Latinos surveyed were less likely to provide
8 information to police because they feared exposing themselves, family, or friends to a risk of
9 deportation, the Legislature stated that “civil immigration detainers and notifications regarding release
10 undermine community trust of law enforcement by instilling fear in immigrant communities of coming
11 forward to report crimes and cooperate with local law enforcement agencies.” *Id.*; *see also id.* (“The
12 City has enacted numerous laws and policies to strengthen communities and to build trust between
13 communities and local law enforcement. Local cooperation and assistance with civil immigration
14 enforcement undermines community policing strategies.”).

15 33. The Board of Supervisors also had a public health purpose for its decision to restrict
16 disclosure of confidential information: “To carry out public health programs, the City must be able to
17 reliably collect confidential information from all residents Information gathering and cooperation
18 may be jeopardized if release of personal information results in a person being taken into immigration
19 custody.” *Id.*

20 34. Finally, the Board of Supervisors determined that enforcing immigration detainer
21 requests would require San Francisco to redirect scarce local law enforcement personnel and
22 resources—noting that the costs of “responding to a civil immigration detainer can include, but [are]
23 not limited to, extended detention time, the administrative costs of tracking and responding to
24 detainers, and the legal liability for erroneously holding an individual who is not subject to a civil
25 immigration detainer.” *Id.* In short, the Board of Supervisors concluded that “[c]ompliance with civil
26 immigration detainers and involvement in civil immigration enforcement diverts limited local
27 resources from programs that are beneficial to the City.” *Id.*
28

35. San Francisco departments have adopted policies and practices consistent with Chapters 12H and 12I.

36. California law incorporates local Sanctuary City laws such as Chapters 12H and 12I. The TRUST Act states that that local law enforcement officials may comply with ICE detainer requests only if (1) the continued detention would not violate any federal, state, or local law, or any local policy, and (2) the defendant's criminal history meets specified conditions. Cal. Gov't Code §§ 7282, 7282.5. Thus, because in San Francisco ICE detentions are prohibited under local law, they are also prohibited under state law.

II. SECTION 1373

37. Section 1373 provides that "a local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [federal immigration officials] information regarding the citizenship or immigration status . . . of any individual." 8 U.S.C. § 1373(a). This restriction exclusively regulates government entities.

38. Section 1373 requires San Francisco to allow its employees to use city resources, including San Francisco tax dollars, to respond to requests for information about citizenship and immigration status.

39. On May 31, 2016, in response to a request from the Office of the Attorney General, the Office of the Inspector General ("OIG") of the Department of Justice issued a memorandum ("OIG Memo") regarding potential violations of Section 1373 by recipients of funding from the Edward Byrne Memorial Justice Assistance Grant Program ("JAG"). Memorandum from Michael E. Horowitz, Inspector Gen., to Karol V. Mason, Assistant Att'y Gen. for the Office of Justice Programs, "Department of Justice Referral of Allegations of Potential Violations of 8 U.S.C. § 1373 by Grant Recipients" (May 31, 2016), <https://oig.justice.gov/reports/2016/1607.pdf>.²

40. In analyzing the local laws and policies of ten selected state and local jurisdictions, the OIG demonstrated how the Federal government interprets Section 1373.

² The authorizing legislation for the JAG program requires that all grant applicants certify compliance with the provisions of the authorizing legislation and all other "applicable federal laws." 42 U.S.C. § 3750 et seq. The U.S. Department of Justice, Office of Justice Programs has recently announced that Section 1373 is an "applicable" law under the JAG authorizing legislation.

41. For example, though Section 1373 does not expressly address immigration detainers, 1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

OIG expressed concern that local laws concerning the handling of detainer requests “may have a broader practical impact on the level of cooperation afforded to ICE by these jurisdictions and may, therefore, be inconsistent with at least the intent of Section 1373.” *OIG Memo* at 7. It went on to state that local laws and policies that “purport to be focused on civil immigration detainer requests [and say nothing about sharing immigration status with ICE] . . . may nevertheless be affecting ICE’s interactions with the local officials regarding ICE immigration status requests.” *Id.*

42. *OIG* also stated that such immigration detainer request policies “may be causing local officials to believe and apply the policies in a manner that prohibits or restricts cooperation with ICE in all respects . . . [which], of course, would be inconsistent with and prohibited by Section 1373.” *Id.* at 8.

43. In the *OIG Memo*, the Federal government also endorses the view that local jurisdictions hinder the enforcement of Federal immigration law if they do not honor detainer requests or if they place any other limitations on cooperation with ICE. *See, e.g., id.* at 4 (stating that even though Section 1373 does not specifically address restrictions by state or local entities on cooperation with ICE regarding detainers, “[a] primary and frequently cited indicator of limitations placed on cooperation by state and local jurisdictions with ICE is how the particular state or local jurisdiction handles immigration detainer requests issued by ICE”).

44. In the *OIG Memo*, *OIG* recommended that the U.S. Department of Justice, Office of Justice Programs (“OJP”) provide JAG recipients clear guidance on their obligation to comply with Section 1373 and require them to certify that they comply with that section. *See id.* at 9.

45. In response to these recommendations, in July and October 2016 OJP issued guidance regarding compliance with Section 1373. *See Office of Justice Programs, Guidance Regarding Compliance with 8 U.S.C. § 1373*, U.S. Dep’t Just. (July 7, 2016) (“OJP July Guidance”); Office of Justice Programs, *Additional Guidance Regarding Compliance with 8 U.S.C. § 1373*, U.S. Dep’t Just. (October 6, 2016) (“OJP October Guidance”).

46. In the OJP July Guidance, OJP stated that to comply with Section 1373, “[y]our personnel *must* be informed that notwithstanding any state or local policies to the contrary, federal law

1 does not allow any government entity or official to prohibit the sending or receiving of information
 2 about an individual's citizenship or immigration status with any federal, state or local government
 3 entity and officials." OJP July Guidance at 1 (emphasis added). Accordingly, OJP reads into the law
 4 an affirmative obligation to instruct personnel regarding the substance of Section 1373.

5 47. In the October 2016 Guidance, OIG stated that all JAG applicants must comply with—
 6 and certify their compliance with—Section 1373. OJP October Guidance at 1.

7 48. As a subgrantee of a JAG grant, San Francisco is required to certify its compliance with
 8 Section 1373.

9 **III. SAN FRANCISCO COMPLIES WITH SECTION 1373**

10 49. San Francisco complies with Section 1373.

11 50. The plain language of Section 1373 states that "a local government entity or official
 12 may not prohibit, or in any way restrict, any government entity or official from sending to, or
 13 receiving from, [federal immigration officials] information regarding the citizenship or immigration
 14 status . . . of any individual." 8 U.S.C. § 1373(a). Nothing in San Francisco Administrative Code
 15 Chapters 12H or 12I limits communications regarding *citizenship or immigration status* in any way.

16 51. And, indeed, under ICE's Secure Communities program (also known as "S-Comm")
 17 whenever an individual is taken into custody, the person is digitally fingerprinted and those
 18 fingerprints are sent to the California Department of Justice and ultimately the FBI. The FBI forwards
 19 the fingerprints to DHS, which allows ICE to determine the immigration status of everyone in San
 20 Francisco custody.

21 52. Under Chapter 12I and the TRUST Act, San Francisco does not enforce detainer
 22 requests (*see* ¶24, *supra*), and does not respond to notification requests from the Federal government
 23 unless certain conditions are met (*see* ¶28, *supra*)—but compliance with such requests is not, in fact,
 24 required by Section 1373, which speaks only to communications regarding *citizenship and*
 25 *immigration status*. By contrast, San Francisco does comply with criminal warrants.

26 53. Also, complying with civil immigration detainer requests alone, in the absence of
 27 probable cause for the detainer, would violate the Fourth Amendment to the United States Constitution
 28 and could subject San Francisco to civil liability for this harm. *See Arizona v. United States*, 132 S. Ct.

2492, 2509 (2012) (noting that “[d]etaining individuals solely to verify their immigration status would raise constitutional concerns”); *Morales v. Chadbourne*, 793 F.3d 208, 217 (1st Cir. 2015); *see also Melendres v. Arpaio*, 695 F.3d 990, 1000-01 (9th Cir. 2012) (applying the Fourth Amendment to immigration arrests).

54. San Francisco has affirmatively instructed personnel regarding the substance of Section 1373. For example, in a recent memorandum to all San Francisco employees, the San Francisco Human Resources Director explained: “Although federal law states that a ‘local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual’ (8 U.S.C. § 1373), Chapters 12H and 12I impose other types of restrictions, which are consistent with federal law and are summarized below.”

IV. THE EXECUTIVE ORDER

55. On January 25, 2017, President Donald J. Trump issued the Executive Order attached as Exhibit 3.³

56. The Executive Order declares that “Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.” Executive Order, at 8799.

57. To address the purported harm caused by Sanctuary Cities, the Executive Order establishes the policy that “jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law.” *Id.*

³ On January 27, 2017, President Trump issued a second Executive Order relating to immigration issues entitled, “Protecting The Nation From Foreign Terrorist Entry Into The United States.” The January 27, 2017 Executive Order barred individuals from certain countries from entering the United States. Since its issuance, five courts have issued orders granting temporary relief against the January 27, 2017 Executive Order. *See Darweesh v. Trump*, United States District Court, Eastern District of New York, Case No. 17 Civ. 480; *Tootkaboni v. Trump*, United States District Court, District of Massachusetts, Case No. 17-cv-10154; *Aziz v. Trump*, United States District Court, Eastern District of Virginia, Case No. 1:17-cv-116; *Doe v. Trump*, United States District Court, Western District of Washington, Case No. 17-cv-00126; *Vayeghan v. Trump*, United States District Court, Central District of California, Case No. CV 17-0702.

1 58. Specifically, Section 9(a) of the Executive Order states: “It is the policy of the
2 executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a
3 State, shall comply with 8 U.S.C. 1373.” *Id.* at 8801.

4 59. The Executive Order establishes a funding restriction:

5 In furtherance of this policy, the Attorney General and the Secretary, in their discretion
6 and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse
7 to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive
8 Federal grants, except as deemed necessary for law enforcement purposes by the
9 Attorney General or the Secretary. The Secretary has the authority to designate, in his
discretion and to the extent consistent with law, a jurisdiction as a sanctuary
jurisdiction.

10 *Id.* (the “Funding Restriction”).

11 60. The Funding Restriction imposes new funding conditions on existing federal funds that
12 go beyond the statutory conditions imposed by Congress.

13 61. Also, the Funding Restriction imposes funding conditions that are not germane to the
14 purpose of the funds insofar as it reaches funds that are unrelated to law enforcement or immigration.

15 62. The Funding Restriction also imposes conditions so severe that they cross the line
16 distinguishing encouragement from coercion. The Funding Restriction threatens a significant percent
17 of San Francisco’s overall budget, including virtually the entire funding stream for critical programs to
18 its residents, such as Medicaid.

19 63. Finally, the Funding Restriction imposes new funding conditions that require
20 jurisdictions to act unconstitutionally insofar as Defendants interpret Section 1373 to require San
21 Francisco to detain individuals who would otherwise be released from custody. Such detentions would
22 violate, *inter alia*, the Fourth Amendment.

23 64. For all these reasons, the Funding Restriction violates the Tenth Amendment, the
24 Spending Clause, and Article 1, sec. 1 of the United States Constitution.

25 65. The Executive Order also mandates enforcement action:

26 The Attorney General shall take appropriate enforcement action against any entity that
27 violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents
or hinders the enforcement of Federal law.

28 *Id.* (the “Enforcement Directive”).

66. The Enforcement Directive commandeers state and local governments by, *inter alia*, compelling them to enforce federal law under threat of legal action, violating Tenth Amendment to the United States Constitution.

V. DEFENDANTS CHARACTERIZE SAN FRANCISCO AS A SANCTUARY CITY THAT WILL LOSE FEDERAL FUNDING

67. In the Executive Order, Defendants equate Sanctuary Cities with jurisdictions that fail to comply with Section 1373.

68. Defendants characterize San Francisco as a Sanctuary City.

69. For example, in a written campaign speech then-candidate Donald J. Trump gave in Phoenix, Arizona on August 31, 2016, he expressly referred to San Francisco as a Sanctuary City. *See Donald J. Trump: Address on Immigration*, Donald J. Trump for President (Aug. 31, 2016), <https://www.donaldjtrump.com/press-releases/donald-j.-trump-address-on-immigration> (“Another victim is Kate Steinle, gunned down in the Sanctuary City of San Francisco by an illegal immigrant deported five previous times.”).

70. Not only have Defendants made clear that they consider San Francisco a Sanctuary City, but they have also repeatedly indicated that Sanctuary Cities, like San Francisco, violate federal law and should have their federal funding revoked.

- In statements to the Daily Caller on July 7, 2015, Congressman Darrell Issa and Attorney General nominee Senator Jeff Sessions criticized San Francisco and other sanctuary jurisdictions for failing to honor detainers. Attorney General nominee Senator Jeff Sessions stated, “This disregarding of detainers and releasing persons that ICE has put a hold on — it goes against all traditions of law enforcement. Laws and courtesies within departments — if you have somebody charged with a crime in one city, you hold them until you complete your business with them So what was happening was, ICE authorities were filing detainers and sanctuary cities were saying, ‘We’re not gonna honor them. They finished paying for the crime they committed in our city — we’ve released them.’” Kerry Picket, *Sen. Sessions: City Officials Harboring Illegal Immigrant Felons Could Be Charged with Crime*, Daily

1 Caller (July 7, 2015, 10:07 PM), [http://dailycaller.com/2015/07/07/sen-sessions-](http://dailycaller.com/2015/07/07/sen-sessions-city-officials-harboring-illegal-immigrant-felons-could-be-charged-with-crime/#ixzz4XE9I12Ux)
 2 [city-officials-harboring-illegal-immigrant-felons-could-be-charged-with-](http://dailycaller.com/2015/07/07/sen-sessions-city-officials-harboring-illegal-immigrant-felons-could-be-charged-with-crime/#ixzz4XE9I12Ux)
 3 [crime/#ixzz4XE9I12Ux](http://dailycaller.com/2015/07/07/sen-sessions-city-officials-harboring-illegal-immigrant-felons-could-be-charged-with-crime/#ixzz4XE9I12Ux).

- 4 • On July 8, 2015, Attorney General nominee Senator Jeff Sessions gave a speech to
 5 Congress describing San Francisco as “a jurisdiction that is known to release illegal
 6 immigrants back into the public,” and one which refused to “honor” a detainer
 7 sought by federal authorities. News Release, Office of Senator Jeff Sessions,
 8 Senator Sessions Calls on Congress To Take Up Immigration Reform for
 9 Americans (July 9, 2015), [http://www.sessions.senate.gov/public/index.cfm/news-](http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=B7A98B63-8ECA-4A4E-B5C8-4A665F2343DE)
 10 [releases?ID=B7A98B63-8ECA-4A4E-B5C8-4A665F2343DE](http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=B7A98B63-8ECA-4A4E-B5C8-4A665F2343DE).
- 11 • In an interview with Breitbart News in May 2016, then-candidate Donald J. Trump
 12 stated, “Sanctuary cities are a disaster They’re a safe-haven for criminals and
 13 people that should not have a safe-haven in many cases. It’s just unacceptable.
 14 We’ll be looking at sanctuary cities very hard.” Matthew Boyle, *Exclusive —*
 15 *Donald J. Trump to San Francisco: Sanctuary Cities ‘Unacceptable,’ A ‘Disaster’*
 16 *Creating ‘Safe-Haven for Criminals’*, Breitbart News (May 16, 2016),
 17 [http://www.breitbart.com/2016-presidential-race/2016/05/16/exclusive-donald-j-](http://www.breitbart.com/2016-presidential-race/2016/05/16/exclusive-donald-j-trump-to-san-francisco-sanctuary-cities-unacceptable-a-disaster-creating-safe-haven-for-criminals/)
 18 [trump-to-san-francisco-sanctuary-cities-unacceptable-a-disaster-creating-safe-](http://www.breitbart.com/2016-presidential-race/2016/05/16/exclusive-donald-j-trump-to-san-francisco-sanctuary-cities-unacceptable-a-disaster-creating-safe-haven-for-criminals/)
 19 [haven-for-criminals/](http://www.breitbart.com/2016-presidential-race/2016/05/16/exclusive-donald-j-trump-to-san-francisco-sanctuary-cities-unacceptable-a-disaster-creating-safe-haven-for-criminals/). This Breitbart news report further stated that, “Trump’s
 20 comments . . . come in response to efforts by far left progressive organizations in
 21 San Francisco to expand that city’s sanctuary city laws.” *Id.*
- 22 • Another Breitbart News article published on November 21, 2016 regarding
 23 Sanctuary Cities quoted Texas Republican Congressman John Culberson as stating,
 24 “The law requires cooperation with immigration officials 100 percent of the time.”
 25 Bob Price, *Sanctuary Cities Risk Losing DOJ Funds in 2017, Texas Congressman*
 26 *Says*, Breitbart News (Nov. 21, 2016),
 27 [http://www.breitbart.com/texas/2016/11/21/sanctuary-cities-risk-losing-doj-funds-](http://www.breitbart.com/texas/2016/11/21/sanctuary-cities-risk-losing-doj-funds-2017-texas-congressman-says/)
 28 [2017-texas-congressman-says/](http://www.breitbart.com/texas/2016/11/21/sanctuary-cities-risk-losing-doj-funds-2017-texas-congressman-says/).

- In a statement by White House Press Secretary Sean Spicer on January 25, 2017 announcing the issuance of the Executive Order, Spicer stated, “We are going to strip federal grant money from the sanctuary states and cities that harbor illegal immigrants. The American people are no longer going to have to be forced to subsidize this disregard for our laws.” White House, *1/25/17: White House Press Briefing*, YouTube (Jan. 25, 2017), <https://www.youtube.com/watch?v=OaPriMVvtZA>.

71. In a speech at the GOP Congressional Republican Retreat in Philadelphia on January 26, 2017, President Trump reiterated his views on Sanctuary Cities: “And finally, at long last, cracking down on Sanctuary Cities. It’s time to restore the civil rights of Americans to protect their jobs, their hopes, and their dreams for a much better future. Congress passed these laws to serve our citizens. It is about time those laws were properly enforced. They are not enforced.” *See* Donald J. Trump, President Trump Remarks at Congressional Republican Retreat, C-Span (Jan 26, 2017), <https://www.c-span.org/video/?422829-1/president-trump-tells-congressional-republicans-now-deliver>.

72. A press release from the Office of the Press Secretary for the White House issued on January 28, 2017 detailing President Trump’s First Week of Action, reads in relevant part: “President Trump signed an executive order to ensure that immigration laws are enforced throughout the United States, including halting federal funding for sanctuary cities.” Press Release, The White House, Office of the Press Secretary, President Trump’s First Week of Action (Jan. 28, 2017), <https://www.whitehouse.gov/the-press-office/2017/01/28/president-trumps-first-week-action>.

73. Defendants’ statements establish their view that Sanctuary Cities, like San Francisco, violate Section 1373 and will lose federal funding—apparently all or almost all federal funding—under the Executive Order.

VI. SECTION 1373 AND THE EXECUTIVE ORDER HARM SAN FRANCISCO

A. Section 1373(a) Impermissibly Intrudes on State Sovereignty

74. Section 1373(a) unconstitutionally regulates “States in their sovereign capacity.” *Reno, v. Condon*, 528 U.S. 141, 151 (2000). It necessarily regulates governments in their capacities as

1 governments. It does not “subject state governments to generally applicable laws.” *New York v. U.S.*,
 2 505 U.S. 144, 160 (1992). On the contrary, in every possible application, it targets “government
 3 entit[ies] or official[s]” for special treatment. 8 U.S.C. § 1373(a).

4 75. Congress may not command States to provide the Federal government with information
 5 “that only state officials have access to,” *Printz v. United States*, 521 U.S. 898, 932 n.17 (1997). The
 6 Federal government must not regulate its fellow governments in their capacities as governments.

7 76. Also, Section 1373 targets government entities’ and officials’ authority to control their
 8 subordinates—an authority at the heart of a government’s existence as a government. “[A] State can
 9 act only through its officers and agents.” *Nevada v. Hicks*, 533 U.S. 353, 365 (2001). “Through the
 10 structure of its government, and the character of those who exercise government authority, a State
 11 defines itself as a sovereign.” *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991).

12 77. By preventing state and local governments from directing employees how to handle
 13 information about citizenship and immigration status, Section 1373 makes it impossible for local
 14 jurisdictions freely to choose and clearly to establish how they will handle this information. Under
 15 Section 1373, San Francisco cannot legislate or regulate that government officials and employees will
 16 never share citizenship or immigration information. Yet Congress has no power “to require the States
 17 to govern according to Congress’ instructions.” *New York*, 505 U.S. at 162 (emphasis added).

18 78. Section 1373 mandates uncertainty where Sanctuary City laws seek to provide
 19 certainty. Because of Section 1373, San Francisco cannot tell the public that it will never share
 20 information about citizenship or immigration status. Any attempt to impose a uniform rule is fettered
 21 by the individual discretion of over 30,000 employees and officials. This is not the way San Francisco
 22 chooses to govern. It is chaos imposed by the Federal government.

23 79. To the extent the Executive Order incorporates Section 1373(a), it is invalid for all of
 24 the reasons described above.

25 **B. Federal Funds Received by San Francisco**

26 80. San Francisco receives in excess of \$1.2 billion annually in federal funds. This is
 27 approximately 13% of San Francisco’s annual budget.
 28

1 81. Only a small percentage of all federal funds received by San Francisco relate to
2 immigration or law enforcement.

3 82. San Francisco receives federal funds for entitlement programs for its residents
4 including Medicaid and Medicare, Temporary Assistance to Needy Families, Supplemental Nutrition
5 Assistance Program, Foster Care, Child Welfare Programs, and Child Support Services.

6 83. San Francisco also receives federal grants for infrastructure and transportation projects,
7 public health programs, workforce development, supportive housing, and veterans' services, among
8 other things.

9 84. Congress has established numerous conditions governing eligibility for these funds. For
10 instance, to receive Medicaid funds, a state must create a state plan that includes assurances to the
11 Federal government that the state will provide specified types of care and that the state regulates health
12 insurance providers to ensure access to medical assistance, among many other requirements. 42 U.S.C.
13 § 1396(a).

14 85. As with entitlement programs, most federal grants are awarded based on statutory
15 eligibility criteria. For example, HUD Community Development Block Grants fund many projects to
16 combat evictions, maintain stable housing occupancy and supply, and incentivize affordable unit
17 construction. These grants require the grantee to prepare a statement of community development
18 objectives and projected use of funds, provide a citizen participation plan, and certify other
19 enumerated criteria. 42 U.S.C. § 5304.

20 86. No federal funds received by San Francisco have statutory conditions specifically
21 requiring compliance with Section 1373.

22 87. San Francisco receives most federal funds as reimbursements. Thus, San Francisco is
23 currently providing services and benefits that the Federal government has agreed to reimburse. The
24 Executive Order calls into question whether the Federal government will in fact reimburse San
25 Francisco for these funds. This presents San Francisco with a Hobson's choice. San Francisco, facing
26 possible reductions, could cut services now, harming the public. Or San Francisco could continue to
27 spend knowing that if cuts come they could come suddenly, outside of the budget process, and the San
28

1 Francisco will have to impose service cuts even more radically at that time, given that funds have
2 already been spent in anticipation of federal reimbursement.

3 **C. Budget Impact of the Executive Order**

4 88. The Executive Order's threat to cut federal funds impairs San Francisco's internal
5 government operations by hampering its budget process. The threatened loss of federal funds renders
6 San Francisco unable to prepare a balanced budget for the next fiscal year.

7 89. San Francisco has already begun the seven-month process of adopting the annual
8 budget for the fiscal year beginning on July 1, 2017. On December 13, 2016, the Mayor and the
9 Controller (San Francisco's chief financial officer) issued budget instructions to all San Francisco
10 departments with detailed guidance on the preparation of departments' budget requests. Public
11 hearings have begun to consider departmental budget proposals. Most San Francisco departments must
12 submit their budget requests for the coming fiscal year to the Controller by February 21. The
13 Controller must submit a consolidated budget proposal to the Mayor by March 1, the Mayor must
14 submit budget proposal to the Board of Supervisors by June 1, and the Board must approve a balanced
15 budget by August 1.

16 90. The Executive Order's threat to cut federal funds is manifestly coercive. This is why at
17 least one jurisdiction has already changed its policy about immigration detainers in response to the
18 Executive Order. The day after the Executive Order was issued, Miami-Dade County Mayor Carlos
19 Gimenez instructed the county's interim corrections director to "fully cooperate" with the Federal
20 government and comply with all immigration detainer requests, eliminating a previous federal
21 reimbursement requirement. "It's really not worth the risk of losing millions of dollars to the residents
22 of Miami-Dade County in discretionary money from the feds," said Mayor Gimenez. Ray Sanchez,
23 *Trump's Sanctuary Crackdown*, CNN Politics (Jan. 27, 2017, 6:34 PM ET),
24 <http://www.cnn.com/2017/01/27/politics/miami-dade-mayor-sanctuary-crackdown/>. There is little
25 doubt that is exactly what the President intends in his promise to end sanctuary cities.

26 **D. Community Relations Impact of the Executive Order**

27 91. The Executive Order fosters an atmosphere of fear and distrust between undocumented
28 immigrants and local government officials in San Francisco.

92. By heightening undocumented immigrants' concerns that any interaction with San Francisco officials will lead to their information being turned over to ICE, the Executive Order discourages undocumented immigrants from reporting crimes, seeking public health services, and otherwise engaging with San Francisco programs and services. This threat harms public safety, public health, and San Francisco's ability to act in what San Francisco has determined to be the best interest of its residents, consistent with federal and state law.

93. The Executive Order undermines San Francisco's ability to provide critical services not just to undocumented immigrants, but to all residents. When witnesses and crime victims will not talk to the police, law enforcement suffers and the entire community is less safe. When children are not vaccinated or the sick are not treated for communicable diseases, illness spreads throughout the community. The United States Constitution guarantees states and local governments, such as San Francisco, that they may make those decisions and do not have to carry out the Federal government's immigration programs.

94. San Francisco has been forced to expend its tax dollars educating San Francisco officials and reassuring residents in response to the Executive Order.

95. As a result, the Executive Order causes the very harms San Francisco's Sanctuary City laws were designed to prevent. The Executive Order destroys rather than "foster[s] respect and trust between law enforcement and residents," wastes rather than "protect[s] limited local resources," and discourages rather than "encourage[s] cooperation between residents and City officials, including especially law enforcement and public health officers and employees." San Francisco Administrative Code Ch. 12I.1.

CAUSES OF ACTION

COUNT ONE

DECLARATORY RELIEF – SAN FRANCISCO COMPLIES WITH 8 U.S.C. § 1373

96. Plaintiffs repeat and incorporate by reference each allegation of the prior paragraphs as if fully set forth herein.

97. San Francisco contends that it complies with Section 1373. San Francisco Administrative Code Chapters 12H and 12I do not prohibit, or in any way restrict, any government

entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

98. Defendants contend that San Francisco does not comply with Section 1373.

99. An actual controversy presently exists between San Francisco and Defendants about whether San Francisco complies with Section 1373.

100. A judicial determination resolving this controversy is necessary and appropriate at this time.

COUNT TWO

TENTH AMENDMENT – 8 U.S.C. § 1373(a) IS UNCONSTITUTIONAL

101. Plaintiffs repeat and incorporate by reference each allegation of the prior paragraphs as if fully set forth herein.

102. On its face, Section 1373 commandeers state and local governments in violation of the Tenth Amendment to the Constitution by, *inter alia*, regulating the “States in their sovereign capacity,” *Reno*, 528 U.S. at 151, limiting state authority to regulate internal affairs and determine the duties and responsibilities of state employees, *Gregory*, 501 U.S. at 460, and ultimately forcing States to allow their employees to use state time and state resources to assist in the enforcement of federal statutes regulating private individuals, *Reno*, 528 U.S. at 151, and to provide information that belongs to the State and is available to them only in their official capacity, *Printz*, 521 U.S. at 932-33 & n.17.

103. As applied to invalidate state and local Sanctuary City laws, like San Francisco Administrative Code Chapters 12H and 12I, which were enacted to further legitimate local interests grounded in the basic police powers of local government and related to public health and safety, Section 1373(a) commandeers state and local governments and violates the Tenth Amendment to the United States Constitution.

COUNT THREE

TENTH AMENDMENT – EXECUTIVE ORDER SECTION 9(A)’S ENFORCEMENT DIRECTIVE IS UNCONSTITUTIONAL

104. Plaintiffs repeat and incorporate by reference each allegation of the prior paragraphs as if fully set forth herein.

1 9. Grant any other further relief that the Court deems fit and proper.

2
3 Dated: January 31, 2017

4 DENNIS J. HERRERA
5 City Attorney
6 RONALD FLYNN
7 JESSE C. SMITH
8 YVONNE R. MERÉ
9 MOLLIE M. LEE
10 SARA J. EISENBERG
11 Deputy City Attorneys

12 By: /s/ Dennis J. Herrera
13 DENNIS J. HERRERA
14 City Attorney

15 By: /s/ Mollie M. Lee
16 MOLLIE M. LEE
17 Deputy City Attorney

18 Attorneys for Plaintiff
19 CITY AND COUNTY OF SAN FRANCISCO
20
21
22
23
24
25
26
27
28

FILER'S ATTESTATION

I, Mollie M. Lee, am the ECF user whose identification and password are being used to file this COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF. Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that the other above-named signatories concur in this filing.

EXHIBIT 1

San Francisco Administrative Code

CHAPTER 12H: IMMIGRATION STATUS

- Sec. 12H.1. City and County of Refuge.
- Sec. 12H.2. Use of City Funds Prohibited.
- Sec. 12H.3. Clerk of Board to Transmit Copies of this Chapter; Informing City Employees.
- Sec. 12H.4. Enforcement.
- Sec. 12H.5. City Undertaking Limited to Promotion of General Welfare.
- Sec. 12H.6. Severability.

SEC. 12H.1. CITY AND COUNTY OF REFUGE.

It is hereby affirmed that the City and County of San Francisco is a City and County of Refuge.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.2. USE OF CITY FUNDS PROHIBITED.

No department, agency, commission, officer, or employee of the City and County of San Francisco shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information as defined in Chapter 12I in the City and County of San Francisco unless such assistance is required by Federal or State statute, regulation, or court decision. The prohibition set forth in this Chapter 12H shall include, but shall not be limited to:

(a) Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the Federal agency charged with enforcement of the Federal immigration law and relating to alleged violations of the civil provisions of the Federal immigration law, except as permitted under Administrative Code Section 12I.3.

(b) Assisting or cooperating, in one's official capacity, with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City and County, State, or Federal criminal laws.

(c) Requesting information about, or disseminating information, in one's official capacity, regarding the release status of any individual or any other such personal information as defined in Chapter 12I, except as permitted under Administrative Code Section 12I.3, or conditioning the provision of services or benefits by the City and County of San Francisco upon immigration status, except as required by Federal or State statute or regulation, City and County public assistance criteria, or court decision.

(d) Including on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by the City and County of San Francisco any question regarding immigration status other than those required by Federal or State statute, regulation, or court decision. Any such questions existing or being used by the City and County at the time this Chapter is adopted shall be deleted within sixty days of the adoption of this Chapter.

SEC. 12H.2-1. [REPEALED.]

(Added by Ord. 282-92, App. 9/4/92; amended by Ord. 238-93, App. 8/4/93; Ord. 228-09, File No. 091032, App. 10-28-2009; repealed by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

SEC. 12H.3. CLERK OF BOARD TO TRANSMIT COPIES OF THIS CHAPTER; INFORMING CITY EMPLOYEES.

The Clerk of the Board of Supervisors shall send copies of this Chapter, including any future amendments thereto that may be made, to every department, agency and commission of the City and County of San Francisco, to California's United States Senators, and to the California Congressional delegation, the Commissioner of the Federal agency charged with enforcement of the Federal immigration law, the United States Attorney General, and the Secretary of State and the President of the United States. Each appointing officer of the City and County of San Francisco shall inform all employees under her or his jurisdiction of the prohibitions in this ordinance, the duty of all of her or his employees to comply with the prohibitions in this ordinance, and that employees who fail to comply with the prohibitions of the ordinance shall be subject to appropriate disciplinary action. Each City and County employee shall be given a written directive with instructions for implementing the provisions of this Chapter.

(Added by Ord. 375-89, App. 10/24/89; Ord. 228-09, File No. 091032, App. 10-28-2009)

SEC. 12H.4. ENFORCEMENT.

The Human Rights Commission shall review the compliance of the City and County departments, agencies, commissions and employees with the mandates of this ordinance in particular instances in which there is question of noncompliance or when a complaint alleging noncompliance has been lodged.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.5. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

In undertaking the adoption and enforcement of this Chapter, the City is assuming an undertaking only to promote the general welfare. This Chapter is not intended to create any new rights for breach of which the City is liable in money damages to any person who claims that such breach proximately caused injury. This section shall not be construed to limit or proscribe any other existing rights or remedies possessed by such person.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.6. SEVERABILITY.

If any part of this ordinance, or the application thereof, is held to be invalid, the remainder of this ordinance shall not be affected thereby, and this ordinance shall otherwise continue in full force and effect. To this end, the provisions of this ordinance, and each of them, are severable.

(Added by Ord. 375-89, App. 10/24/89)

EXHIBIT 2

CHAPTER 12I:

CIVIL IMMIGRATION DETAINERS

Sec. 12I.1.	Findings.
Sec. 12I.2.	Definitions.
Sec. 12I.3.	Restrictions on Law Enforcement Officials.
Sec. 12I.4.	Purpose of this Chapter.
Sec. 12I.5.	Semiannual Report.
Sec. 12I.6.	Severability.
Sec. 12I.7.	Undertaking for the General Welfare.

SEC. 12I.1. FINDINGS.

The City and County of San Francisco (the "City") is home to persons of diverse racial, ethnic, and national backgrounds, including a large immigrant population. The City respects, upholds, and values equal protection and equal treatment for all of our residents, regardless of immigration status. Fostering a relationship of trust, respect, and open communication between City employees and City residents is essential to the City's core mission of ensuring public health, safety, and welfare, and serving the needs of everyone in the community, including immigrants. The purpose of this Chapter 12I, as well as of Administrative Code Chapter 12H, is to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation between residents and City officials, including especially law enforcement and public health officers and employees, and to ensure community security, and due process for all.

The United States Immigration and Customs Enforcement ("ICE") is responsible for enforcing the civil immigration laws. ICE's programs, including Secure Communities and its replacement, the Priority Enforcement Program ("PEP"), seek to enlist local law enforcement's voluntary cooperation and assistance in its enforcement efforts. In its description of PEP, ICE explains that all requests under PEP are for voluntary action and that any request is not an authorization to detain persons at the expense of the federal government. The federal government should not shift the financial burden of federal civil immigration enforcement, including personnel time and costs relating to notification and detention, onto local law enforcement by requesting that local law enforcement agencies continue detaining persons based on non-mandatory civil immigration detainers or cooperating and assisting with requests to notify ICE that a person will be released from local custody. It is not a wise and effective use of valuable City resources at a time when vital services are being cut.

ICE's Secure Communities program (also known as "S-Comm") shifted the burden of federal civil immigration enforcement onto local law enforcement. S-Comm came into operation after the state sent fingerprints that state and local law enforcement agencies had transmitted to the California Department of Justice ("Cal DOJ") to positively identify the arrestees and to check their criminal history. The FBI would forward the fingerprints to the Department of Homeland Security ("DHS") to be checked against immigration and other databases. To give itself time to take a detainee into immigration custody, ICE would send an Immigration Detainer – Notice of Action (DHS Form I-247) to the local law enforcement official requesting that the local law enforcement official hold the individual for up to 48 hours after that individual would otherwise be released ("civil immigration detainers"). Civil Immigration detainers may be issued without evidentiary support or probable cause by border patrol agents, aircraft pilots, special agents, deportation officers, immigration inspectors, and immigration adjudication officers.

Given that civil immigration detainers are issued by immigration officers without judicial oversight, and the regulation authorizing civil immigration detainers provides no minimum standard of proof for their issuance, there are serious questions as to their constitutionality. Unlike criminal warrants, which must be supported by probable cause and issued by a neutral magistrate, there are no such requirements for the issuance of a civil immigration detainer. Several federal courts have ruled that because civil immigration detainers and other ICE "Notice of Action" documents are issued without probable cause of criminal conduct, they do not meet the Fourth Amendment requirements for state or local law enforcement officials to arrest and hold an individual in custody. (*Miranda-Olivares v. Clackamas Co.*, No. 3:12-cv-02317-ST *17 (D.Or. April 11, 2014) (finding that detention pursuant to an immigration detainer is a seizure that must comport with the Fourth Amendment). *See also Morales v. Chadbourne*, 996 F. Supp. 2d 19, 29 (D.R.I 2014); *Villars v. Kubiowski*, No. 12-cv-4586 *10-12 (N.D. Ill. filed May 5, 2014).)

On December 4, 2012, the Attorney General of California, Kamala Harris, clarified the responsibilities of local law enforcement agencies under S-Comm. The Attorney General clarified that S-Comm did not require state or local law enforcement officials to determine an individual's immigration status or to enforce federal immigration laws. The Attorney General also clarified that civil immigration detainers are voluntary requests to local law enforcement agencies that do not mandate compliance. California local law enforcement agencies may determine on their own whether to comply with non-mandatory civil immigration detainers. In a June 25, 2014, bulletin, the Attorney General warned that a federal court outside of California had held a county liable for damages where it voluntarily complied with an ICE request to detain an individual, and the individual was otherwise eligible for release and that local law enforcement agencies may also be held liable for such conduct. Over 350 jurisdictions, including Washington, D.C., Cook County, Illinois, and many of California's 58 counties, have already acknowledged the discretionary nature of civil immigration detainers and are declining to hold people in their jails for the additional 48 hours as requested by ICE. Local law enforcement agencies' responsibilities, duties, and powers are regulated by state law. However, complying with non-mandatory civil immigration detainers frequently raises due process concerns.

According to Section 287.7 of Title 8 of the Code of Federal Regulations, the City is not reimbursed by the federal government for the costs associated with civil immigration detainers alone. The full cost of responding to a civil immigration detainer can include, but is not limited to, extended detention time, the administrative costs of tracking and responding to detainers, and the legal liability for erroneously holding an individual who is not subject to a civil immigration detainer. Compliance with civil immigration detainers and involvement in civil immigration enforcement diverts limited local resources from programs that are beneficial to the City.

The City seeks to protect public safety, which is founded on trust and cooperation of community residents and local law enforcement. However, civil immigration detainers and notifications regarding release undermine community trust of law enforcement by instilling fear in immigrant communities of coming forward to report crimes and cooperate with local law enforcement agencies. A 2013 study by the University of Illinois, entitled "Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement," found that at least 40% of Latinos surveyed are less likely to provide information to police because they fear exposing themselves, family, or friends to a risk of deportation. Indeed, civil immigration detainers have resulted in the transfer of victims of crime, including domestic violence victims, to ICE.

The City has enacted numerous laws and policies to strengthen communities and to build trust between communities and local law enforcement. Local cooperation and assistance with civil immigration enforcement undermines community policing strategies.

In 2014, DHS ended the Secure Communities program and replaced it with PEP. PEP and S-Comm share many similarities. Just as with S-Comm, PEP uses state and federal databases to check an individual's fingerprints against immigration and other databases. PEP employs a number of tactics to facilitate transfers of individuals from local jails to immigration custody.

First, PEP uses a new form (known as DHS Form I-247N), which requests notification from local jails about an individual's release date prior to his or her release from local custody. As with civil immigration detainers, these notification requests are issued by immigration officers without judicial oversight, thus raising questions

about local law enforcement's liability for constitutional violations if any person is overdetained when immigration agents are unable to be present at the time of the person's release from local custody.

Second, under PEP, ICE will continue to issue civil immigration detainer requests where local law enforcement officials are willing to respond to the requests, and in instances of "special circumstances," a term that has yet to be defined by DHS. Despite federal courts finding civil immigration detainers do not meet Fourth Amendment requirements, local jurisdictions are often unable to confirm whether or not a detention request is supported by probable cause or has been reviewed by a neutral magistrate.

The increase in information-sharing between local law enforcement and immigration officials raises serious concerns about privacy rights. Across the country, including in the California Central Valley, there has been an increase of ICE agents stationed in jails, who often have unrestricted access to jail databases, booking logs, and other documents that contain personal information of all jail inmates.

The City has an interest in ensuring that confidential information collected in the course of carrying out its municipal functions, including but not limited to public health programs and criminal investigations, is not used for unintended purposes that could hamper collection of information vital to those functions. To carry out public health programs, the City must be able to reliably collect confidential information from all residents. To solve crimes and protect the public, local law enforcement depends on the cooperation of all City residents. Information gathering and cooperation may be jeopardized if release of personal information results in a person being taken into immigration custody.

In late 2015, Pedro Figueroa, an immigrant father of an 8-year-old U.S. citizen, sought the San Francisco Police Department's help in locating his stolen vehicle. When Mr. Figueroa went to the police station to retrieve his car, which police had located, he was detained for some time by police officers before being released, and an ICE agent was waiting to take him into immigration custody immediately as he left the police station. It was later reported that both the Police Department and the San Francisco Sheriff's Department had contact with ICE officials while Mr. Figueroa was at the police station. He spent over two months in an immigration detention facility and remains in deportation proceedings. Mr. Figueroa's case has raised major concerns about local law enforcement's relationship with immigration authorities, and has weakened the immigrant community's confidence in policing practices. Community cooperation with local law enforcement is critical to investigating and prosecuting crimes. Without the cooperation of crime victims – like Mr. Figueroa – and witnesses, local law enforcement's ability to investigate and prosecute crime, particularly in communities with large immigrant populations, will be seriously compromised.

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.1 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.2. DEFINITIONS.

"Administrative warrant" means a document issued by the federal agency charged with the enforcement of the Federal immigration law that is used as a non-criminal, civil warrant for immigration purposes.

"Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:

- (a) All criminal charges against the individual have been dropped or dismissed.
- (b) The individual has been acquitted of all criminal charges filed against him or her.
- (c) The individual has served all the time required for his or her sentence.
- (d) The individual has posted a bond, or has been released on his or her own recognizance.
- (e) The individual has been referred to pre-trial diversion services.

(f) The individual is otherwise eligible for release under state or local law.

"Civil immigration detainer" means a non-mandatory request issued by an authorized federal immigration officer under Section 287.7 of Title 8 of the Code of Federal Regulations, to a local law enforcement official to maintain custody of an individual for a period not to exceed 48 hours and advise the authorized federal immigration officer prior to the release of that individual.

"Convicted" means the state of having been proved guilty in a judicial proceeding, unless the convictions have been expunged or vacated pursuant to applicable law. The date that an individual is Convicted starts from the date of release.

"Firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion as defined in Penal Code Section 16520.

"Law enforcement official" means any City Department or officer or employee of a City Department, authorized to enforce criminal statutes, regulations, or local ordinances; operate jails or maintain custody of individuals in jails; and operate juvenile detention facilities or maintain custody of individuals in juvenile detention facilities.

"Notification request" means a non-mandatory request issued by an authorized federal immigration officer to a local law enforcement official asking for notification to the authorized immigration officer of an individual's release from local custody prior to the release of an individual from local custody. Notification requests may also include informal requests for release information by the Federal agency charged with enforcement of the Federal immigration law.

"Personal information" means any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information.

"Serious Felony" means all serious felonies listed under Penal Code Section 1192.7(c) that also are defined as violent felonies under Penal Code Section 667.5(c); rape as defined in Penal Code Sections 261, and 262; exploding a destructive device with intent to injure as defined in Penal Code Section 18740; assault on a person with caustic chemicals or flammable substances as defined in Penal Code Section 244; shooting from a vehicle at a person outside the vehicle or with great bodily injury as defined in Penal Code Sections 26100(c) and (d).

"Violent Felony" means any crime listed in Penal Code Section 667.5(c); human trafficking as defined in Penal Code Section 236.1; felony assault with a deadly weapon as defined in Penal Code Section 245; any crime involving use of a firearm, assault weapon, machine gun, or .50 BMG rifle, while committing or attempting to commit a felony that is charged as a sentencing enhancement as listed in Penal Code Sections 12022.4 and 12022.5.

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.2 added by Ord. 391-90, App. 12/6/90; amended by Ord. 278-96, App. 7/3/96; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.3. RESTRICTIONS ON LAW ENFORCEMENT OFFICIALS.

(a) Except as provided in subsection (b), a law enforcement official shall not detain an individual on the basis of a civil immigration detainer after that individual becomes eligible for release from custody.

(b) Law enforcement officials may continue to detain an individual in response to a civil immigration detainer for up to 48 hours after that individual becomes eligible for release if the continued detention is consistent with state and federal law, and the individual meets both of the following criteria:

(1) The individual has been Convicted of a Violent Felony in the seven years immediately prior to the date of the civil immigration detainer; and

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a Violent Felony and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

In determining whether to continue to detain an individual based solely on a civil immigration detainer as permitted in this subsection (b), law enforcement officials shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to: the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

This subsection (b) shall expire by operation of law on October 1, 2016, or upon a resolution passed by the Board of Supervisors that finds for purposes of this Chapter, the federal government has enacted comprehensive immigration reform that diminishes the need for this subsection (b), whichever comes first.

(c) Except as provided in subsection (d), a law enforcement official shall not respond to a federal immigration officer's notification request.

(d) Law Enforcement officials may respond to a federal immigration officer's notification request if the individual meets both of the following criteria:

(1) The individual either:

(A) has been Convicted of a Violent Felony in the seven years immediately prior to the date of the notification request; or

(B) has been Convicted of a Serious Felony in the five years immediately prior to the date of the notification request; or

(C) has been Convicted of three felonies identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, arising out of three separate incidents in the five years immediately prior to the date of the notification request; and

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

In determining whether to respond to a notification request as permitted by this subsection (d), law enforcement officials shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to, the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

(e) Law enforcement officials shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, on the basis of an administrative warrant, prior deportation order, or other civil immigration document based solely on alleged violations of the civil provisions of immigration laws.

(f) Law enforcement officials shall make good faith efforts to seek federal reimbursement for all costs incurred in continuing to detain an individual, after that individual becomes eligible for release, in response each civil immigration detainer.

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.3 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.4. PURPOSE OF THIS CHAPTER.

The intent of this Chapter 12I is to address requests for non-mandatory civil immigration detainers, voluntary notification of release of individuals, transmission of personal information, and civil immigration documents based solely on alleged violations of the civil provisions of immigration laws. Nothing in this Chapter shall be construed to apply to matters other than those relating to federal civil immigration detainers, notification of release of individuals, transmission of personal information, or civil immigration documents, based solely on alleged violations of the civil provisions of immigration laws. In all other respects, local law enforcement agencies may continue to collaborate with federal authorities to protect public safety. This collaboration includes, but is not limited to, participation in joint criminal investigations that are permitted under local policy or applicable city or state law.

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.4 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.5. SEMIANNUAL REPORT.

By no later than July 1, 2014, the Sheriff and Juvenile Probation Officer shall each provide to the Board of Supervisors and the Mayor a written report stating the number of detentions that were solely based on civil immigration detainers during the first six months following the effective date of this Chapter, and detailing the rationale behind each of those civil immigration detainers. Thereafter, the Sheriff and Juvenile Probation Officer shall each submit a written report to the Board of Supervisors and the Mayor, by January 1st and July 1st of each year, addressing the following issues for the time period covered by the report:

(a) a description of all communications received from the Federal agency charged with enforcement of the Federal immigration law, including but not limited to the number of civil immigration detainers, notification requests, or other types of communications.

(b) a description of any communications the Department made to the Federal agency charged with enforcement of the Federal immigration law, including but not limited to any Department's responses to inquiries as described in subsection 12I.5 and the Department's determination of the applicability of subsections 12I.3(b), 12I.3(d) and 12I.3(e).

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.5 added by Ord. 391-90, App. 12/6/90; amended by Ord. 304-92, App. 9/29/92; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.6. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Chapter 12I or its application, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter 12I. The Board of Supervisors hereby declares that it would have passed this Chapter 12I and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter 12I would be subsequently declared invalid or unconstitutional.

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013)

(Former Sec. 12I.6 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

CODIFICATION NOTE

1. So in Ord. 204-13.

SEC. 12I.7. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Chapter 12I the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Added by Ord. 204-13, File No. 130764, App. 10/8/2013, Eff. 11/7/2013)

(Former Sec. 12I.7 added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.8.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.10.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.11.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

EXHIBIT 3

Presidential Documents

Executive Order 13768 of January 25, 2017

Enhancing Public Safety in the Interior of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies (agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

(a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;

(b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;

(c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;

(d) Ensure that aliens ordered removed from the United States are promptly removed; and

(e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. *Enforcement of the Immigration Laws in the Interior of the United States.* In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. *Enforcement Priorities.* In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. *Civil Fines and Penalties.* As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States.

Sec. 7. *Additional Enforcement and Removal Officers.* The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. *Federal-State Agreements.* It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. Sanctuary Jurisdictions. It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. Review of Previous Immigration Actions and Policies. (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as “Secure Communities” referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. Department of Justice Prosecutions of Immigration Violators. The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. Recalcitrant Countries. The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. Office for Victims of Crimes Committed by Removable Aliens. The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. *Privacy Act.* Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. *Reporting.* Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. *Transparency.* To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

(a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;

(b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and

(c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. *Personnel Actions.* The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

Sec. 18. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be "Donald Trump", located in the upper right quadrant of the page.

THE WHITE HOUSE,
January 25, 2017.

[FR Doc. 2017-02102
Filed 1-27-17; 11:15 am]
Billing code 3295-F7-P

From:

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

Sent:

3 Feb 2017 12:25:21 -0500

To:

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

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

Cc:

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

Subject:

FOR SES APPROVAL - 86466 - S1BB - Trip to Seattle & San Diego - ICE

Operational Briefing

Attachments:

OPLA FINAL - 86446 S1 BM - ICE Operational Briefing 020217 (CLS edits).docx,

OPLA FINAL - 86446 - HSI Background Attachment A.docx, OPLA FINAL - 86446 - HSI Background

Attachment B.docx, OPLA FINAL - ERO 17024002 S1 BM - ICE Operational Briefing 2.2.2017.docx

Good Afternoon SES Team,

This task was due at 12:00 PM today. SES approval is required.

Background:

OPLA was asked to review briefing documents for S1's upcoming trip to Seattle and San Diego. The purpose of the briefing is to familiarize S1 with ICE's operations in the area.

Components:

HSI and ERO drafted documents.

Divisions:

HSILD provided an edit.

CLS provided edits.

ECU provided comments and edits.

Recommended Closing:

OPLA reviewed for legal sufficiency and provides edits. For substantive legal issues, please contact CLS Deputy Chief (b)(6);(b)(7)(C) OPLA's closing is cleared by:

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

Chief | Executive Communications Unit

Office of the Principal Legal Advisor | U.S. Immigration and Customs Enforcement

D: (202) 732 (b)(6);(b)(7)(C) | M: (202) 607 (b)(6);(b)(7)(C) | E: (b)(6);(b)(7)(C)

WarningAttorney-Client Privilege***Attorney Work Product***

This communication and any attachments may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Please notify the sender if this e-mail has been misdirected and immediately destroy all originals and copies.

Furthermore, do not print, copy or re-transmit, disseminate or otherwise use this information. Any disclosure of this communication or its attachments must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act, 5 USC 552(b)(5), (b)(7).



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

From: iceopstasking@sp.ice.dhs.gov [mailto:iceopstasking@sp.ice.dhs.gov]

Sent: Thursday, February 02, 2017 10:49 AM

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

OPLA Tasking: (b)(6);(b)(7)(C)

Subject: New task from HQEXOPS: 86466 - RFI - S1BB - Trip to Seattle & San Diego - ICE Operational Briefing FOLDERID 86446

Please do not reply to this e-mail. It is from an unmonitored system account. All action should occur within OESIMS.

Due Date:
2/2/2017 4:00:00 PM

Instructions:

ICE EXECUTIVE SECRETARY TASKINGS
Request for Information
S1BB - Trip to Seattle & San Diego - ICE Operational Briefing
86446
Program-Level Clearance Required: SES

Tasking Assignments:

Program Assignment	Program	Due Date	Time
Lead Program	HSI Taskings	2/2/2017	NLT 5PM
Non-Lead Program	ERO Taskings	2/2/2017	NLT 4:00PM
Non-Lead Program	OPLA Taskings	2/3/2017	NLT 11AM

- OES is not responsible for coordinating or consolidating Program Office responses.
- **The lead program office must reconcile all ICE intra-agency comments and/or questions prior to closing their task bar.**

Instructions:

- Please prepare an operational briefing memo for S1's upcoming trip to San Diego.
- Similar documents were prepared for S1's trip earlier this week for the Texas operational briefing. Please refer to the attached 3 documents (3121829, 3121834, 3121839) and submit your responses in the same format.
- Your input must be BRIEF.
- This is a briefing so you cannot upload many different attachments.
- Please provide your response in the required format, template, font, and page amount stated.
- Pay close attention to the proper use of acronyms and that ICE is the overall stated agency response.
- Any Law Enforcement Sensitive information provided must be labeled correctly.
- Program offices are required to review and edit all responses prior to submission.
- Immediately contact ICE Taskings if you believe a program with equities has been inadvertently overlooked.

Failure to complete any of the above requirements will result in a re-task.

Thank you,

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

Taskings Assistant
Executive Secretary Tasking
Office of the Director
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C)
Unclass: iceexecsec@dhs.gov

This message is part of an automated workflow, please do not change the text in the subject line when responding or forwarding the message.

Folder Subject: 86466 - RFI - S1BB - Trip to Seattle & San Diego - ICE Operational Briefing
Folder Originator: DHS
Due Date: 2/2/2017 4:00:00 PM
Workflow ID: 763bf943-b71b-491f-8448-5134f5c6633f
Folder Location:

https://oesims.ice.dhs.gov/apps/oesims/_layouts/OESIMS2010/FullFolder.aspx?ID=86446

Task ID: 455556

Workflow Task ID: bb6d6abf-cdd6-4b4d-9ed9-cd92b854c73a

Assignment ID: bdcf8cfb-3546-46fd-9cde-9061f0c76cb7

Page 155 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 156 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 157 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 158 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 159 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 160 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 161 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 162 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 163 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 164 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: (b)(6);(b)(7)(C)
Sent: 19 Feb 2017 10:06:27 -0500
To: Davis, Mike P
Cc: (b)(6);(b)(7)(C)
Subject: DACA White Paper for OGC
Attachments: DACA White Paper CLEAN (AVL 2.18.17)(MAF).docx
Importance: High

Mike,

As requested by OGC, attached is a white paper that discusses ICE's authority to arrest and remove DACA recipients. While this paper was fueled by the media accounts of the arrest of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) – a DACA recipient, who was taken into custody during an enforcement action where his father was the target, we made it clear that the paper would not be case-specific. We plan to elevate to (b)(6);(b)(7)(C) on Tuesday.

This was a collaborative effort between EROLD, ILPD, and DCLD. Please let me know if you have any edits/comments.

Thanks,

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

Chief
Homeland Security Investigations Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C) office)
(646) 221 (b)(6);(b)(7)(C) cell)

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

*** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT ***

This document contains confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration & Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

Page 166 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 167 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 168 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 169 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 170 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: Seguin, Debbie
Sent: 20 Feb 2017 21:31:22 -0500
To: (b)(6);(b)(7)(C) Albence, Matthew; Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey
A; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws
Attachments: Draft D1 memo on S1 priorities - OPLA, ERO, HSI edits combined.docx
Importance: High

Thanks all. We did not see any show stoppers and largely accepted (comment removed for some of the more straightforward issues) or addressed your comments in highlight. Given that we are being asked to send this to the FO ASAP. Please take 15mins to review and let me know if you have concerns. **I plan to send a clean and tracked changed copy to D1 and DD in NLT 15mins at 9:45PM.**

Negative response appreciated.

Thank you again for the quick review and responses!

Debbie

From: (b)(6);(b)(7)(C)
Sent: Monday, February 20, 2017 6:41 PM
To: Albence, Matthew; Seguin, Debbie; Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Debbie,

Please see attached HSI edits/comments on the OPLA version of the document.

Thanks,

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

From: Albence, Matthew
Sent: Monday, February 20, 2017 6:22 PM
To: Seguin, Debbie; Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Debbie:

See attached for my edits/comments. Thanks!

Matt

From: Seguin, Debbie
Sent: Monday, February 20, 2017 6:16 PM
To: Albence, Matthew; Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Hi all,

Checking on status from ERO and HSI, can I get your responses by 7PM?

I need time to go through the documents and resend for concurrence as necessary.

Please let me know. Thank you!

Debbie

Sent with Good (www.good.com)

From: Albence, Matthew
Sent: Monday, February 20, 2017 4:23:27 PM
To: Seguin, Debbie; Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

10-4

Sent with Good (www.good.com)

From: Seguin, Debbie
Sent: Monday, February 20, 2017 4:03:58 PM
To: Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

If it is not too much trouble, please try to use OPLA's version as ERO and HSI may be able to address some of OPLA's comments. Thank you.

Debbie

From: Davis, Mike P
Sent: Monday, February 20, 2017 3:53 PM
To: (b)(6);(b)(7)(C) Sequin, Debbie; (b)(6);(b)(7)(C) Valerio, Tracey A; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

OPLA feedback is attached. Thanks.

Michael P. Davis
Acting Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(O) 202-732-(b)(6);(b)(7)(C) (M) 202-904-(b)(6);(b)(7)(C)

From: (b)(6);(b)(7)(C)
Sent: Monday, February 20, 2017 3:50 PM
To: Sequin, Debbie; (b)(6);(b)(7)(C) Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

HSI is reviewing.

From: Sequin, Debbie
Sent: Monday, February 20, 2017 3:27:22 PM
To: (b)(6);(b)(7)(C) Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

As (b)(6);(b)(7)(C) indicated, the FO is looking to review our draft guidance. I am trying to confirm timeline, but we will likely need responses back from you today for consolidation tonight. Given the holiday weekend, I am adding more folks to get the review started if not already.

Can I get confirmation from OPLA, ERO, and HSI that you are in the process of reviewing and can get comments back today? If not, please provide me with your timeline. Thank you!

Debbie

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

Sent: Monday, February 20, 2017 2:22 PM

To: Seguin, Debbie; Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Good afternoon folks,

We just learned that the WH and DHS cleared the implementation guidance and is expected to be released today. Please expedite review for D2 and AD1 clearance.

Thanks,

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

Sent with BlackBerry Work (www.blackberry.com)

From: Seguin, Debbie (b)(6);(b)(7)(C)

Date: Friday, Feb 17, 2017, 6:23 PM

To: Valerio, Tracey A (b)(6);(b)(7)(C), Davis, Mike P (b)(6);(b)(7)(C)

Albence, Matthew (b)(6);(b)(7)(C) Edge, Peter T (b)(6);(b)(7)(C)

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

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Minus DD.

Hi all,

As we continue to await further information from DHS as to when the S1 memo will be issued, OP put together the attached draft ICE implementation memo for your consideration. Given the close hold nature of the S1 memo, I am sending the draft ICE memo directly to you. Not sure what the timeline is currently, but I'm sure we will receive further guidance.

Thank you,

Debbie

From: Valerio, Tracey A

Sent: Friday, February 17, 2017 2:59 PM

To: (b)(6);(b)(7)(C); Ragsdale, Daniel H; Albence, Matthew; Edge, Peter T

Cc: Seguin, Debbie; (b)(6);(b)(7)(C)

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Per EO Implementation TF, please do not disseminate further, and stand down on sending additional guidance. WH is reviewing now.

Sent with Good (www.good.com)

From: Davis, Mike P
Sent: Friday, February 17, 2017 2:18:39 PM
To: Ragsdale, Daniel H; Valerio, Tracey A; Albence, Matthew; Edge, Peter T
Cc: (b)(6);(b)(7)(C) Seguin, Debbie; (b)(6);(b)(7)(C)
Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

FYSA.

Sent via the GOOD application by:

Michael P. Davis
Acting Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732-(b)(6);(b)(7)(C) office)
(202) 904-(b)(6);(b)(7)(C) cell)

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

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---

This document may contain confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6);(b)(7)(C)
Sent: Friday, February 17, 2017 1:44:12 PM
To: (b)(6);(b)(7)(C)
Cc: DAVIS, MIKE P; (b)(6);(b)(7)(C)
Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Per your request – two new S1 memos.

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

Sent: Friday, February 17, 2017 1:34 PM

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

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

Subject: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

All, FYI. Reading them now myself. (b)(6);(b)(7)(C)

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

Office of the General Counsel

U.S. Department of Homeland Security

office: 202-447 (b)(6);(b)(7)(C)

cell: 202-579 (b)(6);(b)(7)(C)

SIPR/HSDN: (b)(6);(b)(7)(C)

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

Page 177 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 178 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 179 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 180 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 181 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 182 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 183 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 184 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: Seguin, Debbie
Sent: 20 Feb 2017 21:54:35 -0500
To: Homan, Thomas;Ragsdale, Daniel H
Cc: Valerio, Tracey A;Albence, Matthew;Edge, Peter T;Davis, Mike P;Robbins, Timothy S;(b)(6);(b)(7)(C) #ICE DD STAFF;#MASTAFF(b)(6);(b)(7)(C)
Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws
Attachments: Draft D1 memo on S1 priorities - combined (clean).docx, Draft D1 memo on S1 priorities - OPLA, ERO, HSI edits combined.docx
Importance: High

Mr. Homan, Mr. Ragsdale,

Please find attached for your review and consideration a draft ICE implementation memo in anticipation of the issuance of the S1 memos. For your convenience, we are providing you with a clean and track-changed version. Once we receive your comments and input, we will also make any additional formatting changes necessary. As well, changes may be necessary once we receive the final S1 memos.

Feel free to call my cell if I may be of further assistance. (202) 270-(b)(6);(b)(7)(C)

Debbie W. Seguin
Assistant Director
Office of Policy
U.S. Immigration and Customs Enforcement
202-732-(b)(6);(b)(7)(C) (Office)
202-270-(b)(6);(b)(7)(C) (Cell)

From: (b)(6);(b)(7)(C)
Sent: Monday, February 20, 2017 9:06 PM
To: Seguin, Debbie
Cc: Valerio, Tracey A
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

10-4; thanks

Sent with BlackBerry Work (www.blackberry.com)

From: Seguin, Debbie (b)(6);(b)(7)(C)
Date: Monday, Feb 20, 2017, 9:05 PM
To: (b)(6);(b)(7)(C)
Cc: Valerio, Tracey A (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

I'm on page 6 of 8. Trying to address everyone's comments. After I'm done, I plan to send it to the EADs and give them 15-20mins to look it over then send.

From: (b)(6);(b)(7)(C)
Sent: Monday, February 20, 2017 9:04 PM
To: Seguin, Debbie
Cc: Valerio, Tracey A
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Good evening,

D1 just pinged again for an update. How are we looking? Anything I can help with?

Thanks,

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

From: Seguin, Debbie (b)(6);(b)(7)(C)
Date: Monday, Feb 20, 2017, 7:03 PM
To: (b)(6);(b)(7)(C)
Cc: Valerio, Tracey A (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Will do.

Sent with Good (www.good.com)

From: (b)(6);(b)(7)(C)
Sent: Monday, February 20, 2017 6:58:55 PM
To: Seguin, Debbie
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Once HSI's and ERO's edits are merged, please forward to D2 and D1 for a tandem review.

Thanks for all of the hard work!

From: Seguin, Debbie (b)(6);(b)(7)(C)
Date: Monday, Feb 20, 2017, 6:16 PM
To: Albence, Matthew (b)(6);(b)(7)(C); Davis, Mike P (b)(6);(b)(7)(C); Valerio, Tracey A (b)(6);(b)(7)(C); Edge, Peter T (b)(6);(b)(7)(C); Miller, Philip T (b)(6);(b)(7)(C)

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

Moore, Marc J

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

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Hi all,

Checking on status from ERO and HSI, can I get your responses by 7PM?

I need time to go through the documents and resend for concurrence as necessary.

Please let me know. Thank you!

Debbie

Sent with Good (www.good.com)

From: Albence, Matthew

Sent: Monday, February 20, 2017 4:23:37 PM

To: Seguin, Debbie; Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

10-4

Sent with Good (www.good.com)

From: Seguin, Debbie

Sent: Monday, February 20, 2017 4:03:58 PM

To: Davis, Mike P; (b)(6);(b)(7)(C) Valerio, Tracey A; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

If it is not too much trouble, please try to use OPLA's version as ERO and HSI may be able to address some of OPLA's comments. Thank you.

Debbie

From: Davis, Mike P

Sent: Monday, February 20, 2017 3:53 PM

To: (b)(6);(b)(7)(C) Seguin, Debbie (b)(6);(b)(7)(C) Valerio, Tracey A; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

OPLA feedback is attached. Thanks.

Michael P. Davis

Acting Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(O) 202-732 (b)(6);(b)(7)(C) (M) 202-904 (b)(6);(b)(7)(C)

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

Sent: Monday, February 20, 2017 3:50 PM

To: Seguin, Debbie (b)(6);(b)(7)(C) Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

HSI is reviewing.

From: Seguin, Debbie

Sent: Monday, February 20, 2017 3:27:22 PM

To: (b)(6);(b)(7)(C) Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T; Miller, Philip T; (b)(6);(b)(7)(C) Moore, Marc J; (b)(6);(b)(7)(C)

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

Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

As (b)(6);(b)(7)(C) indicated, the FO is looking to review our draft guidance. I am trying to confirm timeline, but we will likely need responses back from you today for consolidation tonight. Given the holiday weekend, I am adding more folks to get the review started if not already.

Can I get confirmation from OPLA, ERO, and HSI that you are in the process of reviewing and can get comments back today? If not, please provide me with your timeline. Thank you!

Debbie

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

Sent: Monday, February 20, 2017 2:22 PM

To: Seguin, Debbie; Valerio, Tracey A; Davis, Mike P; Albence, Matthew; Edge, Peter T
Cc: (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Good afternoon folks,

We just learned that the WH and DHS cleared the implementation guidance and is expected to be released today. Please expedite review for D2 and AD1 clearance.

Thanks,

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

Sent with BlackBerry Work (www.blackberry.com)

From: Seguin, Debbie (b)(6);(b)(7)(C)
Date: Friday, Feb 17, 2017, 6:23 PM
To: Valerio, Tracey A (b)(6);(b)(7)(C); Davis, Mike P (b)(6);(b)(7)(C)
Albence, Matthew (b)(6);(b)(7)(C); Edge, Peter T (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Minus DD.

Hi all,

As we continue to await further information from DHS as to when the S1 memo will be issued, OP put together the attached draft ICE implementation memo for your consideration. Given the close hold nature of the S1 memo, I am sending the draft ICE memo directly to you. Not sure what the timeline is currently, but I'm sure we will receive further guidance.

Thank you,
Debbie

From: Valerio, Tracey A
Sent: Friday, February 17, 2017 2:59 PM
To: Davis, Mike P; Ragsdale, Daniel H; Albence, Matthew; Edge, Peter T
Cc: (b)(6);(b)(7)(C); Seguin, Debbie; (b)(6);(b)(7)(C)
Subject: RE: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Per EO Implementation TF, please do not disseminate further, and stand down on sending additional guidance. WH is reviewing now.

Sent with Good (www.good.com)

From: Davis, Mike P
Sent: Friday, February 17, 2017 2:18:39 PM
To: Ragsdale, Daniel H; Valerio, Tracey A; Albence, Matthew; Edge, Peter T
Cc: (b)(6);(b)(7)(C) Seguin, Debbie; (b)(6);(b)(7)(C)
Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

FYSA.

Sent via the GOOD application by:

Michael P. Davis
Acting Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(202) 732 (b)(6);(b)(7)(C) (office)
(202) 904 (b)(6);(b)(7)(C) (cell)
(b)(6);(b)(7)(C)

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---

This document may contain confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6);(b)(7)(C)
Sent: Friday, February 17, 2017 1:44:12 PM
To: (b)(6);(b)(7)(C)
Cc: Davis, Mike P; (b)(6);(b)(7)(C)
Subject: FW: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

Per your request – two new S1 memos.

From: (b)(6);(b)(7)(C)
Sent: Friday, February 17, 2017 1:34 PM
To: (b)(6);(b)(7)(C)

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

Subject: Signed S1 Memo on Implementing the President's Border Security Policies and Signed S1 Memo on Enforcement of Immigration Laws

All, FYI. Reading them now myself.

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

Office of the General Counsel
U.S. Department of Homeland Security
office: 202-447-
cell: 202-579-
SIPR/HSDN:
JWICS:

Page 192 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 193 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 194 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 195 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 196 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 197 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 198 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 199 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 200 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 201 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 202 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 203 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 204 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 205 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 206 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: Davis, Mike P
Sent: 13 Feb 2017 10:52:02 -0500
To: Homan, Thomas
Cc: Robbins, Timothy S
Subject: FW: ICE/OPLA Executive Order Issues
Attachments: I-247A Immigration Detainer 1.27.17 clean.docx, FW: Memo re: State/Local Authority to Honor Detainers, RE: 1373

Tom,

(b)(5)

Thanks,
Mike

Michael P. Davis
Acting Principal Legal Advisor
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(O) 202-732-(b)(6);(b)(7)(C) (M) 202-904-(b)(6);(b)(7)(C)

From: Davis, Mike P
Sent: Monday, January 30, 2017 5:37 PM
To: (b)(6);(b)(7)(C)
Subject: ICE/OPLA Executive Order Issues

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

(b)(5)

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

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

I'll keep you posted as additional items occur to me. I think our meeting set for Wednesday morning may be a good time to discuss some of this.

Best regards,
Mike

Michael P. Davis
Acting Principal Legal Advisor
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-732-(b)(6);(b)(7)(C)
Cell: 202-904-C
E-mail: (b)(6);(b)(7)(C)

***** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT *****

This document contains confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration & Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

Page 210 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 211 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 212 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

From: Davis, Mike P
Sent: 30 Jan 2017 17:12:31 -0500
To: Davis, Mike P
Subject: FW: Memo re: State/Local Authority to Honor Detainers
Attachments: TPs State Authority to Honor Detainers (OPLA 121015).doc, State Authority to Honor Notifications and Detainers (OPLA 121015).docx

From: Davis, Mike P

Sent: Tuesday, March 15, 2016 5:58 PM

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

Cc: (b)(6);(b)(7)(C) Ramlogan, Riah; (b)(6);(b)(7)(C)

Subject: RE: Memo re: State/Local Authority to Honor Detainers

(b)(5)

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

[Redacted]

Thanks,
Mike

Michael P. Davis
Director of Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(O) 202-732- (b)(6);(b)(7)(C) (M) 202-904- (b)(6);(b)(7)(C)

From: Davis, Mike P

Sent: Thursday, December 10, 2015 4:26 PM

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

Cc: (b)(6);(b)(7)(C) Ramlogan, Riah; (b)(6);(b)(7)(C)

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

Subject: RE: Memo re: State/Local Authority to Honor Detainers

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

[Redacted]

(b)(5)

Could you please help us get the attached draft legal opinion circulated for review by OGC, so that we can work towards finalizing a document that can be cleared for public consumption by the Department? The attached talking points document is just attached for OGC's awareness.

Thanks,
Mike

Michael P. Davis
Director of Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(O) 202-732- (b)(6);(b)(7)(C) (M) 202-904- (b)(6);(b)(7)(C)

From: (b)(6);(b)(7)(C)
Sent: Wednesday, October 7, 2015 4:50 PM
To: Davis, Mike P; (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: Memo re: State/Local Authority to Honor Detainers

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

Hope you're well. We've drafted a memo in OGC-IMM regarding the legal authority for state/local LEAs to honor ICE detainers. Would it be workable for ICE OPLA to send us comments and edits by next Wednesday the 14th? There's interest in the front office in moving this ahead.

This builds upon research that (b)(6);(b)(7)(C) had done a few months back, which I believe you saw and commented on. This version, though, is intended to focus on and clarify the specific issue of state/local authority to honor ICE detainers.

(b)(6);(b)(7)(C)
Attorney Advisor
Immigration Law Division
Office of the General Counsel
U.S. Department of Homeland Security

(b)(6);(b)(7)(C)
(202) 447- (b)(6);(office)
(202) 768- (b)(7)(C) (cell)

WarningAttorney/Client Privilege***Attorney Work Product***

This communication and any attachments may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Please notify the sender if this e-mail has been misdirected and immediately destroy all originals and copies. Furthermore, do not print, copy, re-transmit, disseminate, or otherwise use this information. Any disclosure of this communication or its attachments must be approved by the Office of the General Counsel, U.S. Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. §§ 552(b)(5), (b)(7).

Page 216 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 217 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 218 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 219 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 220 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 221 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 222 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 223 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 224 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 225 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 226 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 227 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 228 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

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

Subject:

FW: BAKERSFIELD DETAINMENT

Attachments:

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

.docx

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

Sent: Wednesday, February 15, 2017 3:28 PM

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

Cc:

Subject: RE: BAKERSFIELD DETAINMENT

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

Immigration Case Summary:

06/24/1997 (b)(6);(b)(7)(C) was admitted to the US as a Visitor for pleasure until 12/23/1997. (b)(6);(b)(7)(C) did not depart as require.

08/25/2014 (b)(6);(b)(7)(C) applied for Deferred Action for Childhood Arrivals (DACA).

10/08/2014 (b)(6);(b)(7)(C) s DACA application was approved.

02/11/2017 (b)(6);(b)(7)(C) was arrested by ICE after her release from Kern County Jail, and transferred her to Mesa Verde Detention Facility in Bakersfield, CA.

02/13/2017 After consultation with ICE attorneys, ICE issued (b)(6);(b)(7)(C) a Notice to Appear (NTA), Form I-862 charging § 237(a)(1)(B) of the Immigration and Nationality Act, as a nonimmigrant overstay. The ICE issuance of the NTA cancelled (b)(6);(b)(7)(C) DACA status pursuant to DACA National Standard Operating Procedure.

Criminal History:

02/03/2017 The Superior Court California, County of Kern, Bakersfield, CA convicted (b)(6);(b)(7)(C) for driving under the influence of alcohol and sentenced her two (2) days jail, and three (3) years probation.

CONFIDENTIALITY NOTICE: This document may contain confidential and sensitive U.S. Government information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient and may exempt from public release under the Freedom of Information Act (5USC552). No portion of this email should be furnished to the media, either in written or verbal form. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document and attachments must be approved by the Department of Homeland Security, U.S. Immigration and Customs Enforcement.

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

Sent: Wednesday, February 15, 2017 1:54 PM

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

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

Subject: FW: BAKERSFIELD DETAINMENT

We below. Active DACA. No longer eligible due to recent DUI conviction.

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

Sent: Wednesday, February 15, 2017 3:44:21 PM

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

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

Subject: RE: BAKERSFIELD DETAINMENT

Yes

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

CONFIDENTIALITY NOTICE: This document may contain confidential and sensitive U.S. Government information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient and may exempt from public release under the Freedom of Information Act (5USC552). No portion of this email should be furnished to the media, either in written or verbal form. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document and attachments must be approved by the Department of Homeland Security, U.S. Immigration and Customs Enforcement.

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

Sent: Wednesday, February 15, 2017 1:39 PM

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

Subject: FW: BAKERSFIELD DETAINMENT

See below. Any of our females meet this description?

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

Sent: Wednesday, February 15, 2017 3:35:03 PM

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

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

Subject: FW: BAKERSFIELD DETAINMENT

Hi, (b)(6);(b)(7)(C) I get that this request is EXTREMELY vague, but I wanted to check if we already happen to know if anyone by the name of (b)(6);(b)(7)(C) has active DACA status in Mesa Verde.

Thanks,

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

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

Sent: Wednesday, February 15, 2017 12:51 PM

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

Subject: BAKERSFIELD DETAINMENT

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

The last name should be (b)(6);(b)(7)(C)

Possible arrest on a DUI charge

Detained in Bakersfield since Monday....so arrest could be anywhere from Feb. 10-13 is my best bet.

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

From: Ragsdale, Daniel H
Sent: 6 Feb 2017 21:44:50 -0500
To: Miller, Philip T; Albence, Matthew; (b)(6);(b)(7)(C)
Picard, Vincent M; Gonzalez, Barbara M
Subject: FW: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Sent with Good (www.good.com)

From: (b)(6);(b)(7)(C)
Sent: Monday, February 06, 2017 9:36:26 PM
To: (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C) Fulghum, Chip; (b)(6);(b)(7)(C)
Homan, Thomas; (b)(6);(b)(7)(C) Ragsdale, Daniel H; (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

And let me clarify – this isn't an endorsement of the approach taken by DOJ in the previous administration. Just forwarding as it constitutes somewhat of a baseline that we should be cognizant of as we proceed (consistent with the law, of course).

Thanks again for all of your efforts.

From: (b)(6);(b)(7)(C)
Sent: Monday, February 6, 2017 7:05 PM
To: (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C) Fulghum, Chip (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
Homan, Thomas (b)(5) Maher, Joseph
(b)(6);(b)(7)(C) Ragsdale, Daniel H (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Hi all,

To the extent that it is helpful to your process, I just wanted to make sure we all had the latest FAQs from DOJ's OJP on the issue:

<https://www.bja.gov/funding/Additional-BJA-Guidance-on-Section-1373-October-6-2016.pdf>

Thanks,

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

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

Sent: Monday, February 6, 2017 5:10 PM

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

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

Shah, Dimple (b)(6);(b)(7)(C)

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

Fulghum, Chip (b)(6);(b)(7)(C)

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

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

Homan, Thomas

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

Maier, Joseph (b)(6);(b)(7)(C)

Ragsdale,

Daniel H (b)(6);(b)(7)(C)

Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

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

- attached please find FEMA's input, including the additional question you requested.

For internal DHS discussion, we also attach a draft guidance memo along the lines of what we think OMB is driving to issue following this week's discussions. It's a starting point but still requires a number of issues to be fleshed out before being ready to share outside the Department, including the issue of applicability discussed at length on the call today.

Thank you,

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

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

Sent: Monday, February 06, 2017 2:48 PM

To: Fulghum, Chip (b)(6);(b)(7)(C)

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

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

Homan, Thomas (b)(6);(b)(7)(C)

Maier,

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

; Ragsdale, Daniel H (b)(6);(b)(7)(C)

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

Shah,

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

Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

All,

In light of the call, I'd ask ICE and FEMA to take a stab at drafting specific answers to those questions for which they have a view. We also need to add a question on whether the EO requires us to cease issuing grants immediately. I'd ask FEMA to draft that one.

Please send this group your input by the end of the day so we can consolidate and have OGC review. (b)(6);(b)(7)(C) I'd ask for your final chop after I'm able to consolidate and after OGC reviews.

Then, we can submit to OMB in the morning as requested.

From: (b)(6);(b)(7)(C)
Sent: Monday, February 06, 2017 8:12:57 AM
To: Fulghum, Chip; (b)(6);(b)(7)(C) Homan, Thomas; Maher, Joseph
Cc: (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

All,

Here is the doc with comments from ICE, FEMA and OGC. Chip (b)(6);(b)(7)(C) please let me know if you are comfortable with our submitting to OMB as is or if you have any comments/changes. Ideally, we would get this to OMB in advance of the 1pm meeting.

Thanks!

From: (b)(6);(b)(7)(C)
Sent: Monday, February 06, 2017 7:17:36 AM
To: Fulghum, Chip; (b)(6);(b)(7)(C); Homan, Thomas; Maher, Joseph
Cc: (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation (b)(6);(b)(7)(C)

Thanks to ICE and FEMA for their comments on the doc. I will send a consolidated version later this morning for the group to review. (b)(6);(b)(7)(C) to OGC have anything they want to add?

Note that we will be calling into the meeting from Chip's office for those at the NAC who wish to join.

From: Fulghum, Chip
Sent: Friday, February 03, 2017 10:31:57 PM
To: (b)(6);(b)(7)(C) Homan, Thomas;
(b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: Re: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Sure

All OMB/DHS/DOJ working group will discuss this Monday with all to insure we have a legally sound WH approved way ahead for issuing grants while we rapidly work to answer the key questions surrounding definition, procedures for withholding grant funding and what is

considered germane.

Chip

From: (b)(6);(b)(7)(C)
Sent: Friday, February 03, 2017 10:11 PM
To: Fulghum, Chip; (b)(6);(b)(7)(C) Homan, Thomas;
Maher, Joseph
Cc: (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Chip

Great to connect earlier on this.

When you get a chance, would you pls update everyone on process and considerations?

Lots of email chains floating around

From: Fulghum, Chip
Sent: Friday, February 03, 2017 10:01:38 PM
To: (b)(6);(b)(7)(C) Homan, Thomas;
Maher, Joseph
Cc: (b)(6);(b)(7)(C)
Subject: Re: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Agree and OGC is part of discussion and meeting Monday.

From: (b)(6);(b)(7)(C)
Sent: Friday, February 03, 2017 09:55 PM
To: (b)(6);(b)(7)(C) Homan, Thomas; Maher, Joseph;
Fulghum, Chip
Cc: (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Recommend reaching out to OGC to evaluate any legal issues.

From: (b)(6);(b)(7)(C)
Sent: Friday, February 3, 2017 8:37 PM
To: (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C) Homan, Thomas (b)(6);(b)(7)(C) Maher,
Joseph (b)(6);(b)(7)(C); Fulghum, Chip (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Just making sure (b)(6);(b)(7)(C) connected on process before we release or issue any new grants.
Thx

From: (b)(6);(b)(7)(C)
Sent: Friday, February 03, 2017 8:35:29 PM
To: (b)(6);(b)(7)(C) Homan, Thomas; Maher, Joseph; Fulghum, Chip
Cc: (b)(6);(b)(7)(C)
Subject: RE: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

We have a number of comments/recommendations. (b)(6);(b)(7)(C) will reach out and we'll pull together based on your timeline for inclusion and discussion.

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

From: (b)(6);(b)(7)(C)
Sent: Friday, February 03, 2017 7:37:11 PM
To: (b)(6);(b)(7)(C) Homan, Thomas; Maher, Joseph; Fulghum, Chip
Cc: (b)(6);(b)(7)(C)
Subject: FW: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

Good evening. Please see the attached document from OMB re Section 9 implementation. There is a meeting planned for Monday to discuss. Could you take a look and add any comments/edits so we can consolidate the DHS position w/ (b)(6);(b)(7)(C) and the COS before the Monday afternoon meeting?

Thank you so much!

From: Lee, Karen F. EOP/OMB
Sent: Friday, February 03, 2017 6:40:27 PM
To: Lofthus, Lee EOP; (b)(6);(b)(7)(C) Fulghum, Chip
Cc: Reger, Mark A. EOP/OMB; Abrams, Andrew D. EOP/OMB; Boden, James EOP/OMB; Holm, Jim S. EOP/OMB; Dingley, Julie Allen A. EOP/OMB; Lopez, Sara R. EOP/OMB; Collin, Victoria W. EOP/OMB; Hubbard, Rhea A. EOP/OMB; Nusraty, Tim H. EOP/OMB; Hitter, Thomas E. EOP/OMB
Subject: EO on Enhancing Public Safety in the Interior of the United States - Section 9 implementation

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

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

Attached is our proposed path forward to ensure swift implementation of the Executive Order's Section 9. The document sets forth the proposed scope of applicability and general roles and responsibilities of the various parties. The proposal would assume that DHS & DOJ assume leadership in implementing and enforcing Section 9's provisions.

Please let us know over the weekend if you have high level comments/questions/additions. We will use our time Monday @ 1pm to discuss any suggested modifications to the approach and next steps.

Thanks for your review this weekend -

Karen
202.395 (b)(6),(b)(7)(C)

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

From: (b)(6);(b)(7)(C) A on behalf of Los Angeles Statistics and Taskings Unit
Sent: Monday, January 23, 2017 5:33 PM
To: #ERO LOS ANGEL FLD OFC
Cc: (b)(6);(b)(7)(C)
Subject: Guidance Update: Enforcement Actions at or Near Courthouses

Importance: High

To: All Los Angeles Field Office Employees

Subject: Guidance Update: Enforcement Actions at or Near Courthouses

All Los Angeles ERO Law Enforcement Officers are reminded to adhere to the guidelines below when conducting enforcement actions at or near courthouses.

Thank you,

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

Deportation Officer
U.S. Department of Homeland Security
Immigration and Customs Enforcement
Los Angeles Statistics and Taskings Unit
606 S. Olive Street (b)(6);(b)(7)(C)
Los Angeles, CA 90014
Office: 213-633 (b)(6);(b)(7)(C)
Cell: 213-200 (b)(6);(b)(7)(C)

From: Los Angeles Statistics and Taskings Unit
Sent: Monday, January 26, 2015 8:50 AM
To: #ERO LOS ANGEL FLD OFC
Cc: (b)(6);(b)(7)(C)
Subject: Guidance Update: Enforcement Actions at or Near Courthouses
Importance: High

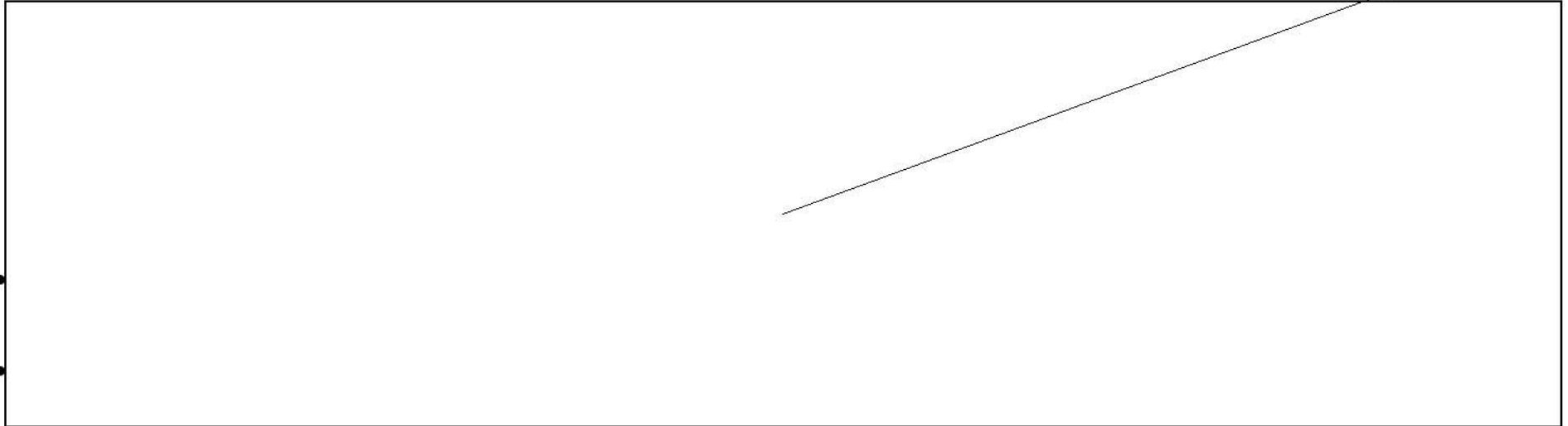
To: All Los Angeles Field Office Employees

Subject: Guidance Update: Enforcement Actions at or Near Courthouses

This message provides important guidance concerning ERO enforcement actions at courthouses, and has been updated to incorporate the enforcement priorities as set forth in Secretary Johnson's November 20, 2014 memorandum, Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants. " **Please ensure immediate distribution to all ERO officers within your AOR.**

(b)(7)(E)

- Enforcement actions at or near courthouses will only be undertaken against:



Thank you,

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

Deportation Officer
Los Angeles Statistics and Taskings Unit
606 South Olive St. (b)(6);(b)(7)(C)
Los Angeles, CA 90014
Office: (213) 633 (b)(6);(b)(7)(C)
Cell: (213) 215 (b)(6);(b)(7)(C)

From: [Office of the Secretary](#)
Subject: Message from the Secretary
Date: Friday, January 27, 2017 10:50:27 AM
Attachments: [image001.png](#)
Importance: High



Homeland Security

January 27, 2017

Message to DHS Employees on President Trump's Executive Orders on Border Security and Public Safety

To all Department of Homeland Security personnel:

We were honored this week to host the President and Vice President of the United States at the Department's headquarters in Washington, D.C. We welcomed them on behalf of every employee of our homeland security team and treated them to a first class visit. President Trump honored us by signing two Executive Orders directly related to our homeland security and law enforcement missions, announcing them in the presence of your colleagues.

These Executive Orders focus on border security, public safety, and enforcing the laws of our Nation. These orders will provide our Department with additional tools and resources to secure our southwest border and to enhance interior enforcement. In the coming days, we will work closely with your component leadership and our interagency partners to implement these orders, and we will keep you informed of how they affect the work you do.

As the President stated, "Homeland Security is in the business of saving lives, and that mandate will guide our actions." Our Department has many missions, and our law enforcement mission is one of the most critical. These Presidential orders will bolster our law enforcement, security, and immigration enforcement officers in the execution of their important duties. They further demonstrate that protecting the American people is the highest priority of our government and this Department.

In doing so, we will perform our mission with professionalism, we will respect our authority and those we serve, and we will treat every person with whom we come into contact humanely and with the utmost dignity.

I am honored and humbled to undertake our homeland security missions with you. Together, our work makes our Nation stronger and our citizens safer. Thank you for your service and for your fidelity to our oath of office.

Sincerely,

John F. Kelly
Secretary of Homeland Security

With honor and integrity, we will safeguard the American people, our homeland, and our values.

From: Albence, Matthew
Sent: 31 Jan 2017 22:41:23 +0000
To: (b)(6);(b)(7)(C) Seguin, Debbie
Cc: Moore, Marc J; (b)(6);(b)(7)(C)
Joseph D
Subject: RE: 17014054 | ICE Executive Action Implementation Matrix
Attachments: ICE Executive Action Implementation Matrix v3 1_31_2017 Immediate (2)(MA).docx

Please see attached for ERO actions. Sorry for the confusion.

From: (b)(6);(b)(7)(C)
Sent: Tuesday, January 31, 2017 5:30 PM
To: (b)(6);(b)(7)(C) Seguin, Debbie
Cc: Moore, Marc J; (b)(6);(b)(7)(C) Albence, Matthew
Subject: RE: 17014054 | ICE Executive Action Implementation Matrix
Importance: High

Hi (b)(6);

Wanted to circle back with you regarding the status updates to the E.O. implementation matrix and confirm that your submission was for the tasking attached? The document we received was edits to an older version of the matrix rather than the status updates to be entered into the newly added column on the right hand side (see attached).

The Front Office is looking for updates on actions taken to implement the E.O. Debbie will be upstairs shortly to discuss.

Thanks,

(b)(6)

From: (b)(6);(b)(7)(C)
Sent: Tuesday, January 31, 2017 4:52 PM
To: (b)(6);(b)(7)(C) Seguin, Debbie; (b)(6);(b)(7)(C)
Cc: Moore, Marc J; (b)(6);(b)(7)(C)
Subject: FW: 17014054 | ICE Executive Action Implementation Matrix

Good afternoon.

Please see attached documents cleared by ERO AD-EAD.

Thank you.

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

Page 242 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 243 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 244 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 245 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 246 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

(b)(6),(b)(7)(C)

From: Rogers, Judy C
Sent: Saturday, February 04, 2017 4:18 PM
To: Robbins, Timothy S; Spero, James
Cc: Davis, Mike P; #ICE DD STAFF; (b)(6),(b)(7)(C)
Subject: RE: TIME-SENSITIVE: Get-backs from S1 Hearing Prep (2-3-17)
Attachments: Copy of CHS Hearing - Component QA Tasking (ICE Consolidated Response).xlsx; S1 hearing prep get backs (02042017) (MA-clear)(OPLA).docx; 17026607 Local Detainer Ordinances 02032017 DRAFT.DOCX; 17026607 Declined Detainers Detention Locations Data 01282017.xlsx

Tim/Jim-

Attached for DD and OD review is the excel spreadsheet which include ICE's responses to questions generated as a follow up to the S1's prep session on Friday. In addition, I have included OPLA's review/edit/comment of ERO's responses, as background. Also, included are the enclosures to ERO's response to the question asking for the number and locations of sanctuary city jurisdictions. OPLA also cleared HSI's response. We are deferring Q#4 to DOJ and DHS HQs for response, and Q#8, we are deferring to CBP.

Let me know when receives DD and OD approval. ICE's responses are due back to the Department NLT 10 a.m. on Sunday, February 5, 2017.

If you need to discuss with me, please call me on my iPhone (202-528-(b)(6),(b)(7)(C)) I am currently on the road and won't get home until 6:30 p.m.

Thanks,

Judy

From: Robbins, Timothy S
Sent: Friday, February 03, 2017 7:51 PM
To: Rogers, Judy C; Spero, James
Cc: Davis, Mike P; #ICE DD STAFF
Subject: RE: TIME-SENSITIVE: Get-backs from S1 Hearing Prep (2-3-17)

Thx Judy, could you please run point on this and make sure OPLA clears our final responses and get this to us by COB tomorrow so I can get both D2 & D1 clearance.

Please don't hesitate to call me with any questions or concerns

Tim
562-533-(b)(6),(b)(7)(C)

Sent with Good (www.good.com)

From: Rogers, Judy C
Sent: Friday, February 03, 2017 7:28:45 PM
To: Robbins, Timothy S; Spero, James
Subject: FW: TIME-SENSITIVE: Get-backs from S1 Hearing Prep (2-3-17)

Good evening, Tim/Jim-

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

We just received this urgent tasking from DHS OLA for responses to the questions raised during the S1 prep session today. I understand from (b)(6);(b)(7)(C) that (A) Director Homan and AD (b)(6);(b)(7)(C) were present at that prep session.

DHS OLA expects to return the responses to their respective questions back to them NLT 10 a.m. Sunday, February 5th.

The bulk of the questions are for ERO but there is one for HSI and OPLA in the attachment. How do you want me to proceed?

Judy Rogers
202-528-(b)(6);(b)(7)(C) (iPhone)

From: (b)(6);(b)(7)(C)
Sent: Friday, February 03, 2017 7:09 PM
To: (b)(6);(b)(7)(C) Hackbarth, Sean M; Rogers, Judy C (b)(6);(b)(7)(C)
Cc: (b)(6);(b)(7)(C)
Subject: TIME-SENSITIVE: Get-backs from S1 Hearing Prep (2-3-17)

All:

After today's first S1 hearing prep session, we have several get-backs and questions that require brief answers. OLA requests component input by 10:00am on Sunday, February 5 to the following S1 requests:

- CBP
 - o Please provide the most up-to-date metrics regarding implementation of the recent Executive Orders.
 - o Please provide an update/status on the four-year-old (Oregon) who was seeking heart surgery.
- CFO/OLA
 - o How many annual reports are currently required by Congress for DHS and Components?
- I&A
 - o Please provide the most current intelligence products on Homegrown Violent Extremism.
 - o Are white supremacist groups included in recent reports/intelligence products on violent extremism?
- ICE
 - o Per the Executive Order on Public Safety, the President directed ICE to report on the number of sanctuary jurisdictions. Please provide any previous report(s) on the number and location of sanctuary jurisdictions.
 - o Per question from Rep. Jackson-Lee regarding the sixteen-year-old who was going to school in Texas on a tourist visa. Why did ICE transfer this sixteen-year-old from Houston to Chicago?

- USSS
 - o Please provide current diversity statistics for the Secret Service.

Additionally, per the attached spreadsheet each Component is tasked with drafting brief responses to the attached list of potential member questions, which were discussed at today's session. For each question assigned to your Component, please draft a concise response (2-4 sentences/talking points) in the corresponding column of the attached spreadsheet. Please return to me by 10:00am on Sunday, February 5.

OLA will work with OGC, Policy and Mr. (b)(6);(b)(7)(C) to finalize the responses in time for Monday's final prep session.

Thank you in advance for your assistance.

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

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

Acting Chief of Staff
Office of Legislative Affairs
Department of Homeland Security
(202) 447- (b)(6);(b)(7)(C) office)
(202) 617- (b)(6);(b)(7)(C) cell)

Page 250 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 251 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 252 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 253 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 254 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 255 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 256 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 257 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 258 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 259 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 260 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 261 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 262 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 263 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 264 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 265 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 266 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 267 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 268 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 269 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 270 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 271 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 272 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 273 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

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

From: (b)(6);(b)(7)(C)
Sent: Monday, February 06, 2017 11:24 AM
To: Valerio, Tracey A; Miller, Philip T; Davis, Mike P; Rogers, Judy C; Robbins, Timothy S;
(b)(6);(b)(7)(C) Albence, Matthew; (b)(6);(b)(7)(C)
Cc: #ICE DD STAFF; (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
Subject: RE: EO Implementation - Sanctuary Jurisdictions
Attachments: Developing Guidance for Sanctuary Jurisdictions (02-04-2017) DHS CONSOLI....docx;
Copy of CHS Hearing - Component QA Tasking (ICE Consolidated Response)-F....xlsx;
Recent Examples of Declined Detainers (02-05-2017).docx; Arrests after Declined
Detainers (02-05-2017).docx

Good morning,

Please see the attached material for today's meeting. Thank you!

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

Special Assistant to the Deputy Director U.S. Immigration and Customs Enforcement

Desk: 202-732 (b)(6);(b)(7)(C)

Cell: 202-253

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

-----Original Appointment-----

From: (b)(6);(b)(7)(C) On Behalf Of DD (b)(6);(b)(7)(C)
Sent: Monday, February 06, 2017 9:00 AM
To: DD (b)(6);(b)(7)(C) Valerio, Tracey A; Miller, Philip T; Davis, Mike P; Rogers, Judy C; Robbins, Timothy S; Spero, James;
(b)(6);(b)(7)(C) Albence, Matthew; (b)(6);(b)(7)(C) #ICE DD STAFF
Subject: EO Implementation - Sanctuary Jurisdictions
When: Monday, February 06, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 11084

Calling into EO Implementation – Sanctuary Jurisdictions meeting

Page 275 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 276 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 277 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 278 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 279 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act

Page 280 of 280

Withheld pursuant to exemption

WIF Draft;(b)(5)

of the Freedom of Information and Privacy Act