

Testimony of

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STATEMENT
OF
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REGARDING

"NO SAFE HAVEN:
ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATORS IN THE UNITED STATES"

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

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226 Dirksen Senate Office Building
Washington, D.C.

Good morning Chairman Durbin, Ranking Member Coburn, and distinguished members of the Subcommittee.

Before discussing our Human Rights Violators Program, I would like to take you back to July 16, 1995. On that date, eight men from an elite unit of the Bosnian Serb Army participated in an almost unimaginable atrocity in Srebrenica, a farm village in Bosnia and Herzegovina. According to one of the perpetrators who was present at the scene, between 1,000 and 1,200 male civilians were executed in a five-hour period. The civilians were lined in groups of ten to fifteen and were summarily executed. The perpetrator, who pleaded guilty to these events, named Marko Boskic as one of the participants in this atrocity.

In late 2002, an Immigration and Customs Enforcement (ICE) special agent learned that Marko Boskic was residing in the United States. This discovery resulted in a nearly two year international investigation conducted by ICE and the Federal Bureau of Investigation (FBI). The investigation uncovered evidence that substantiated Boskic's involvement in the murder of 1,000 to 1,200 civilians. Based on interviews with Boskic conducted by ICE, the FBI and the International Criminal Tribunal for the former Yugoslavia (ICTY), Boskic admitted that he actually pulled the trigger resulting in the deaths of many civilians. On July 12, 2006, Boskic was convicted of visa fraud and later sentenced to 63 months in a federal prison. Upon completion of his sentence in the United States, it is anticipated he will face charges for his atrocities upon his return to Bosnia.

It is my privilege to appear before you today to discuss ICE's comprehensive efforts against human rights violators who have victimized innocent civilians abroad, concealed their acts, and violated U.S. laws. ICE is a U.S. law enforcement agency that is at the forefront of investigating human rights violators involved with genocide, torture, persecution, and extrajudicial killings. In keeping with our mission of national security and public safety, ICE utilizes both immigration and customs authorities to identify and locate these criminals and bring them to justice. ICE, along

with our law enforcement partners and the private sector, are committed to ensuring that the United States is not a safe haven for those who have engaged in such atrocities.

ICE HUMAN RIGHTS VIOLATOR PROGRAM AND RESULTS

In 2003, ICE created the Human Rights Violators and Public Safety Unit and the Human Rights Law Division to investigate and litigate cases involving human rights violators who now reside in the United States. Contributing to the ICE human rights effort is our Victim/Witness Program, which includes over 300 victim/witness coordinators who are trained to address the needs of the victims of these horrific acts.

ICE has over 140 active investigations and is pursuing over 800 leads and removal cases involving suspects from approximately 85 different countries. These cases are predominantly focused on Central and South America, Haiti, the Balkans, and Africa, and represent cases in various stages of investigation, prosecution, or removal proceedings. From Fiscal Year 2004 to date, ICE has made over 100 human rights related arrests and obtained 57 indictments and 28 convictions. From Fiscal Year 2004 to date, ICE has removed 238 human rights violators from the United States.

Due to the fact that human rights violations and atrocities have occurred abroad, law enforcement is often unable to assert U.S. jurisdiction for the substantive crime. In some cases, our ability to apply criminal charges that could have been levied in the U.S., such as visa fraud or false statements, may have expired due to the statute of limitations. In these situations, ICE applies our administrative authorities to ensure that human rights violators are investigated and removed from the United States. The following example demonstrates how ICE utilizes both its criminal and administrative authorities in pursuit of human rights violators.

In September 2005, the ICE office in Phoenix, Arizona, investigated and arrested 20 former Bosnian Serb military members who allegedly belonged to units that were active during the Srebrenica massacre. The 5-year statute of limitations relating to criminal Visa Fraud or False Statements had expired on seven 7 of the 20 violators arrested. ICE was able to use its administrative authorities to arrest and place the 7 offenders into administrative removal proceedings.

ICE PARTNERSHIPS

Successful human rights violations investigations and prosecutions could not be achieved without partnering with other law enforcement agencies, non-governmental organizations (NGO's), and foreign governments. These investigations require ICE to travel the world to find evidence and locate and interview victims and witnesses. ICE has established a global network through over 50 ICE offices in 39 countries, which has allowed us to foster strong international relationships. ICE partners with U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), the Department of Justice (DOJ) and its various components, including the Domestic Security Section, Office of Special Investigations, U.S. Attorney's Offices and Office of International Affairs, as well as with the Department of State, Intelligence Community, and Interpol.

ICE has established relationships with the United Nations sponsored International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone (SCSL). As I speak before the committee, one member of my staff, Richard Butler, is at the ICTY in The Hague, where he is preparing to testify as a Subject Matter Expert (SME) on the role of military forces and the responsibilities of their commanders for war crimes that occurred in Srebrenica. Mr. Butler spent six years as a military expert at the ICTY and ICE is fortunate to have hired him upon the completion of his U.S. military career.

ICE SUCCESSES

The following case examples are a testament to ICE's commitment to pursuing human rights violators. ? In October 2006, ICE agents in Los Angeles, California arrested Gonzalo Guevara-Cerritos, a Salvadoran military officer involved in the cold-blooded assassination of six Jesuit priests, their housekeeper and her teenage daughter in November 1989. Guevara-Cerritos was present at a meeting at which it was announced that the six priests were to be killed, accompanied other soldiers on the killing mission, and guarded the perimeter of the priests' residence while other troops carried out the assassinations. Guevara-Cerritos acknowledged his role in the killings, and was

subsequently removed from the United States on April 30, 2007.

? On April 1, 2007, based on an investigative lead provided by USCIS and in cooperation with Argentinean authorities, ICE arrested Ernesto Barreiro for visa fraud charges. Barreiro, a former Argentine Army Officer, was wanted by Argentinean authorities for commanding a clandestine torture facility operated by the military in the late 1970's. As the Chief of the La Perla detention camp, Barreiro is alleged to have been involved in at least a dozen cases of torture, kidnapping, or extrajudicial killings. Barreiro was successfully prosecuted by the U.S. Attorney's Office for the Eastern District of Virginia and on October 30, 2007, after completion of his sentence, the ICE Office of Detention and Removal (DRO) removed Barreiro from the United States and turned him over to Argentinean authorities.

WHAT MAKES HUMAN RIGHTS VIOLATOR CASES DIFFERENT

The results that ICE has obtained in human rights violators cases often do not reflect the significant commitment of both time and resources to these types of investigations and removals. Human rights violator cases present some unique challenges. For instance:

? In most cases, the atrocities committed by the targets of our investigations happened years or even decades earlier.

? Many of the atrocities have often occurred in remote and hostile locations, and the nature of the crimes has caused displacement of the victim population, resulting in many victims and witnesses scattered around the world.

? Many cases rely heavily on documentary evidence that is used to show where military or security units were located when atrocities were committed and may be needed to corroborate witness accounts. Due to the horrific nature of these crimes and some foreign government's desires to suppress public disclosure of the crimes, foreign military or other government records are often not available or, worse yet, have been destroyed. In some lesser-developed parts of the world, government records may not exist at all and law enforcement must attempt to identify and locate victims or witnesses wherever they may be.

ICE vigorously investigates and submits for criminal prosecution any foreign national who misrepresents their role in human rights abuses. Such misrepresentation may initially allow these offenders into the United States. However, this misrepresentation may not come to light before the expiration of the 5-year statute of limitations for criminal violations like visa fraud or false statements. This is in contrast to misrepresentations that may carry a 10-year statute of limitations, such as the unlawful procurement of United States citizenship. As a result, when statutes of limitation bar ICE from pursuing criminal charges, ICE utilizes its administrative authorities that are vested under the INA to remove human rights violators from the United States.

CONCLUSION

Human rights violators represent the worst of humanity. ICE is committed to dedicating the resources necessary to investigate, present for prosecution, and remove from the U.S. those individuals who have participated in these atrocities in order to ensure that the United States does not become a safe haven for human rights violators. Thank you and I will be glad to answer any questions you may have.