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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

May 25, 2017

The Honorable John Kelly
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Kelly:

I write to request information on Constantino Banda-Acosta, a 38-year-old criminal undocumented immigrant residing in California, who has been deported back to Mexico a shocking 15 times for various offenses. According to reports, Banda-Acosta almost killed a 6-year-old child in San Diego in a drunk-driving, hit-and-run car accident on May 9, 2017. The child was found unconscious, bleeding from several head wounds, and not breathing. Banda-Acosta has an alleged history of criminal activity, including a 2006 arrest for driving under the influence¹ and a case for perpetrating domestic violence against his wife in 2007.² He now faces felony charges for drunk driving resulting in injury as well as driving without a valid license and fleeing the scene of the accident.

According to reports from U.S. Immigration and Customs Enforcement (ICE), Banda-Acosta was first deported back to Mexico in November 2002, but re-entered and was deported at least 14 additional times over the past 12 years—most recently in January 2017.³ His wife reported that he was back at their California home 10 days after his January 10, 2017 deportation. At this time, it is unclear whether Banda-Acosta will be prosecuted for repeated unlawful reentry into the United States. ICE has lodged a detainer against him, and released a statement referencing their plan to “pursue additional immigration enforcement action and/or criminal prosecution” if and when local authorities release him.⁴

¹ *Illegal Immigrant Deported 15 Times Arrested in Hit-Run Crash That Hurt 6-Year-Old Boy*, FOX NEWS, May 10, 2017, <http://www.foxnews.com/us/2017/05/10/illegal-immigrant-deported-15-times-arrested-in-hit-run-crash-that-hurt-6-year-old-boy.html>.

² Mark Saunders & Adam Racusin, *Timeline: Criminal History of DUI Suspect who Crashed Into South Bay Family*, ABC NEWS, May 9, 2017, <http://www.10news.com/news/records-crash-suspect-cited-for-dui-in-past>.

³ *Id.*

⁴ *Id.*

To better understand Banda-Acosta's immigration and criminal history, please provide my Committee staff with the following information as soon as possible, but not later than June 8, 2017.

1. The alien registration number for Banda-Acosta, his complete alien file (A-file), including temporary files or working files, and all documents and items contained in them that were generated by the Department of Homeland Security (DHS) or in their possession about him, the Enforcement and Removal Operations (ERO) Executive Summary, criminal history and immigration summaries, detainers or requests for notification, I-213(s), and Notice(s) to Appear or other charging documents created to seek his removal from the United States.
2. Please identify each date on which Banda-Acosta was arrested by a law enforcement agency in the United States, including criminal and civil arrests, the nature of the charges, the jurisdictions where the arrests occurred, the dispositions of the charges, the dates on which he was released from the custody of the law enforcement agencies, and the reasons for the release.
3. Please identify and explain each encounter that DHS or any of its agencies has had with Banda-Acosta, including the date of the encounter, whether the encounter resulted in detention or the issuance of a detainer or request for notification, whether the encounter resulted in the initiation of removal proceedings or reinstatement of a prior removal order against him, and the current status of those removal proceedings or reinstatement.
4. Apparently, Banda-Acosta's wife reported that he had returned to their California home just 10 days after his January 2017 deportation. Did ICE have knowledge of his return? Please detail any actions ICE took in response to this report.
5. Did Banda-Acosta ever apply for any immigration benefit? If so, was any application approved? Please provide copies of any applications that he may have submitted, whether or not adjudicated.
6. Will Banda-Acosta be a priority for deportation under President Trump's executive order entitled Enhancing Public Safety in the Interior of the United States now that he has been charged with a second DUI and found to have illegally entered the United States multiple times?
7. The new Attorney General's Office guidelines for immigration offenses requires repeat illegal reentry offenders be referred for felony prosecution. Has Constantino Banda-Acosta been referred for felony illegal reentry prosecution? Please explain.
8. On January 25, 2017, President Trump called on DHS to establish the Victims of Immigration Crime Engagement Office (VOICE) to provide assistance to victims of

crimes committed by undocumented immigrants. Have any victims associated with the crimes committed by Banda-Acosta been contacted by officials at DHS? Please explain.

Should you have any questions, please contact Katherine Nikas of my staff at (202) 224-5225. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style and is centered on the page.

Charles E. Grassley
Chairman
Senate Committee on the Judiciary

cc:

The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Jeff Sessions
Attorney General
Department of Justice