

Senator Grassley's Questions for Chris Crane, ICE Union

1. **Resources Needed By ICE:** *Some outside groups have suggested that more than enough resources are devoted to immigration enforcement. What specific and additional resources does ICE and its agents need to better enforce our immigration laws?*

Only approximately 5,000 officers and agents within ICE perform the lion's share of ICE's immigration mission. A matter that ICE Director John Morton has referenced himself in testimony. Compare that to the Los Angeles Police Department at approximately 10,000 officers.

Approximately 5,000 officers in ICE cover 50 states, Puerto Rico and Guam, and are attempting to enforce immigration law against 11 million illegal aliens already in the interior of the United States. Since 9-11, the U.S. Border Patrol has tripled in size, while ICE's immigration enforcement arm, Enforcement and Removal Operations (ERO), has remained at relatively the same size.

Exasperating the situation, of the 5,000 immigration officers nationwide, hundreds don't perform enforcement duties at all due to the elimination of detention facility guard positions during the creation of DHS; hundreds of detention guard positions are now filled by ERO's handful of immigration agents. Also, unlike other law enforcement agencies, ICE has no additional resources for juvenile services, court duties or supervised release (supervised release duties at ICE are similar to probation and parole duties at the city and state level). So 5,000 ICE officers and agents also perform all of these duties as well. Important also to remember, ICE agents and officers do something that no other law enforcement organization in the United States does; they deport approximately 400,000 foreign nationals to every corner of the globe every year. A staggering statistic and a staggering amount of work. Any group that suggests ICE has enough immigration enforcement resources is incorrect. The ICE Office of Enforcement and Removal Operations, ICE's immigration enforcement arm, is the most understaffed and under resourced law enforcement organization in the nation, in my opinion – bar none.

And one final point related to officer resources, while all ERO agents and officers have the same training requirements, its 5,000 officers are broken into two different positions, each with differing arrest authorities, which serves to the detriment of the agency's mission as some officers are limited in their law enforcement authorities without reason. In the field, this regularly results in officers with one arrest authority requiring officers with another arrest authority be present before an arrest can be made. With our limited resources, this approach to law enforcement has proven highly ineffective not only regarding ICE's immigration mission, but also in terms of manning and supporting local

police task forces, such as gang task forces; simply because all of our officers, who have the same training requirements, do not have the same authorities and therefore cannot be utilized for many law enforcement functions.

We believe ICE ERO needs approximately 5,000 more immigration officers putting its total number at approximately 10,000. As a force multiplier, a single officer position for immigration agents within ERO should be established providing all officers with full immigration arrest authorities. This will require no additional training. All immigration officers with full arrest authority should be removed from non-law enforcement functions that they currently serve in, such as those who now serve as detention facility guards. We would suggest that the old INS Detention Enforcement Officer position be reinstated with approximately 2,500 officers to replace detention guard positions that would be vacated. We also suggest that support staff positions, which are almost non-existent within ERO, also be increased at minimum in a similar officer-to-support-staff ratio as currently in use. ICE also needs to streamline its time consuming alien processing systems and procedures to expedite cases and create more time for officers to perform enforcement duties.

2. **Morale:** *You mentioned that morale at Immigration and Customs Enforcement is low and has been falling in recent years. You also stated that agents are regularly prohibited from enforcing the law. Do you have any examples in which ICE agents have been prevented from doing their jobs and from enforcing the law?*

Most Americans don't know this but ICE agents and officers tasked with immigration enforcement, unlike any other law enforcement organization in the country, are prohibited from making street arrests. If they see an immigration violation in their presence while on duty they are prohibited from making an arrest. The exceptions to this rule are very limited. The street arrests that are made must be approved in writing by a supervisor for a specific individual who officers plan to arrest before an arrest can be made. This type of enforcement is not effective in immigration enforcement where a high volume of arrests are needed. ICE agents and officers working immigration enforcement are for the most part restricted to arresting individuals in jails and prisons who have already been arrested by local police.

As just a few specific examples, I would mention the Delaware ICE Officer who was forced to release an alien without immigration charges and was then himself charged with a proposed three day suspension for arresting the illegal alien. Also, the three ICE agents in Utah who were forced to release an illegal alien without immigration charges who they witnessed claim to a federal judge in open court that he is an illegal alien. Similar to the Delaware incident, all three ICE officers were placed under investigation by ICE for arresting the illegal alien. Finally, in El Paso, Texas, ICE agents were forced to release

an illegal without immigration charges who was recently arrested by local police for assaulting family members. This alien also attempted escape from ICE agents and allegedly assaulted officers during the attempt resulting in officer injuries. During previous testimony before the house Judiciary Committee I provided internal ICE email correspondences describing orders from ICE headquarters for officers not to arrest illegal aliens that they encounter in the field.

ICE agents are never allowed to simply enforce the law. Every officer and agent is restricted every day from enforcing immigration violations they witness. Enforcement of certain portions of statute are almost completely prohibited from enforcement, such as enforcement of laws regarding public charges and simple illegal entry and visa overstay.

3. **Cooperation Between Federal & Local Law Enforcement:** *I have been vocal about the lack of attention on states and localities that turn a blind eye to people here illegally. There are sanctuary cities that refuse to help the federal government. But, on the other hand, there are local jurisdictions that are eager about helping to protect the homeland and enforcing our immigration laws. What suggestions do you have to improve the level of cooperation between local and federal officers so that we can work better together to enforce our immigration laws?*

You are correct in saying that many local agencies are eager to help. This stems in large part from their first hand knowledge of the impact of large criminal alien populations in their communities that often control the local drug trade or serve as a primary source of gang activity, etc. In my one experience with a “sanctuary type area,” the local police officers desperately wanted to work with ICE, but were restrained by the mayor and police chief.

In my opinion, it’s ICE’s responsibility to initiate measures to improve the level of cooperation, not the other way around. In each area, ICE officers from the field, not just managers, should be permitted to speak with local police officers during their musters or during scheduled meetings to educate local officers regarding ICE ERO’s enforcement resources in that area and how and when ICE can assist local officers in their enforcement efforts. This type of outreach and education simply doesn’t happen enough and is key to building relationships and cooperation.

Secondly, ICE needs to offer its resources and follow through on a regular basis. ICE ERO must have a stronger presence on local task forces such as gang and drug task forces, and ERO officers must be empowered to exercise their immigration arrest authority. Under current guidance that prohibits making immigration arrests, ICE agents and officers will be greatly restricted in their ability to assist locals in attempting to break up gang and drug activity, etc. Additionally, relationships between local police and ICE

tend to break down in circumstance when ICE officers are prohibited from enforcing the law as locals police perceive contacting ICE as a waste of time and difficult to deal with.

“Comprehensive Immigration Reform”

February 13, 2013

Questions for Chris Crane, President, National Immigration and Customs Enforcement Council 118 of the American Federation of Government Employees from Senator Lee

Prosecutorial Discretion

In your written statement, you recounted several stories that I found troubling regarding the disciplinary action some ICE agents have endured for attempting to perform the duties Congress has requested. In particular, I was disturbed by the experience you described of the three agents in Salt Lake City who were investigated for arresting a man who openly declared his illegal status in court.

- *Has it been your experience that the prosecutorial discretion laid out in the Morton memoranda has been implemented on a case-by-case basis, or as a categorical prohibition of enforcement?*

It is a categorical prohibition of enforcement. The new ICE detainer policy, which I submitted as evidence at the hearing, is a well documented example of how ICE policy removes discretion from officers and prohibits the arrest of certain individuals and groups. According to the new detainer policy, ICE agents encountering illegal aliens in jails can no longer make arrests based on the most fundamental and important sections of immigration law – illegal entry and visa overstay. ICE officers can only make arrests if these inmates have already been convicted of 3 or more misdemeanor offenses, or arrested or convicted for a felony offense, etc. So a categorical prohibition has been placed on arresting individuals for illegal entry and visa overstay. These practices equate to a form of amnesty for millions of immigration violators in the U.S. They are essentially protected from arrest. Officers who attempt to enforce these sections of law will face disciplinary action.

- *How do the agents you interact with regard the restraints they face while attempting to do their jobs?*

It's no secret that morale in the agency continues to plummet and the restraints you mention play a large role in that problem. Officers are literally afraid to enforce our nation's laws. They believe that if they attempt to enforce immigration law as it was enacted by Congress, they will be fired and lose the ability to support their families. Most officers in the field speak in terms of “keeping their heads down” until the nation's economic situation recovers so that they can seek employment elsewhere. In large part

the reaction is one of fear, leading officers to look for jobs that do not involve immigration enforcement both within and outside of ICE.