



# U.S. Immigration and Customs Enforcement

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STATEMENT

OF

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BEFORE THE

U.S. SENATE  
COMMITTEE ON THE JUDICIARY

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## INTRODUCTION

Chairman Grassley, Ranking Member Leahy, and distinguished members of the Committee, thank you for the opportunity to appear before you today to discuss the policies and activities related to our work at U.S. Immigration and Customs Enforcement (ICE), a component agency of the Department of Homeland Security (DHS).

The men and women of ICE, me included, have families and children of our own and cannot help but empathize with those in search of a better life. But we also know the critical homeland security and public safety roles we play in preventing terrorism, removing individuals who are identified as enforcement priorities, including those who are recent border crossers or threats to national security and public safety, and combatting the illegal movement of people and goods through the smart and humane enforcement of more than 400 federal statutes.

Secretary Johnson has made it clear that our borders are not open to illegal migration, that individuals apprehended crossing the border illegally are an enforcement priority, and that ICE should allocate enforcement resources accordingly, consistent with our laws. Day in and day out, ICE employees exercise prosecutorial discretion and focus our limited resources, to the greatest degree possible, to ensure the removal of individuals who have been convicted of felonies, those who have been convicted of significant or multiple misdemeanors, those actively and intentionally engaged in gang activity, and recent border entrants. With offices in all 50 states, U.S. territories, and 46 foreign countries, ICE is dedicated to accomplishing our mission with integrity and professionalism, and I am very proud to lead this organization. Today, I am pleased to outline the role the dedicated men and women of ICE play in the apprehension, detention, and removal of individuals meeting the Department's enforcement priorities, the

critical work ICE investigators perform to disrupt and dismantle criminal organizations operating in and affecting our communities, and to highlight some of ICE's recent initiatives.

### **EXECUTIVE ACTION AND PROSECUTORIAL DISCRETION**

On November 20, 2014, Secretary Johnson issued a memorandum entitled *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants* outlining clear enforcement priorities and guidance on the exercise of prosecutorial discretion. These priorities inform our decisions to arrest, detain, prosecute, and remove individuals from the United States. Based on my personal experience and many years as a federal prosecutor, culminating in service as a U.S. Attorney, I believe this guidance is smart and effective. Prosecutorial discretion is a long-established, widely-used practice in every area of law enforcement today. The ability to use good judgment on a case-by-case basis is one of our most important tools for ensuring that our laws are enforced fairly, humanely, and with the understanding that each decision will affect the lives of many individuals. ICE will continue to do the best job we can within the bounds of existing law and policy to accomplish our mission and make strategic use of our resources, and improve efficiency and reporting.

### **ENFORCEMENT AND REMOVAL OPERATIONS**

Guided by DHS's enforcement priorities, the approximately 5,800 agents and officers of ICE Enforcement and Removal Operations (ERO) identify removable aliens and make arrest, detention, prosecutorial, and removal determinations in a manner designed to best promote national security, public safety, and border security and consistent with the following priorities:

Priority 1 comprises those who pose a threat to national security, border security, and public safety. Priority 2 includes those who have committed significant or multiple misdemeanors, those who have significantly abused the visa or visa waiver programs, and those apprehended who unlawfully entered the United States after January 1, 2014. Priority 3 encompasses those individuals who have been issued a final order of removal on or after January 1, 2014.

ERO works closely with ICE's Office of the Principal Legal Advisor as it represents the government in removal proceedings through the immigration court system, which is administered by the Department of Justice's Executive Office for Immigration Review. ERO also coordinates the removal of individuals with final removal orders, including obtaining necessary travel documents from the countries to which they are being returned.

Between Fiscal Year (FY) 2013 and FY 2014, ICE experienced a key demographic shift in the total population it detained and removed. Most notably, consistent with changes in apprehension demographics at the border, removals to Mexico decreased from 66 percent to 56 percent while removals to Central America increased by 15 percent of total ICE removals. Removals of nationals from noncontiguous countries, such as those from Central American countries, require more ICE resources and take significantly more time than removals of Mexican nationals, who generally can be quickly returned after apprehension. ICE must take custody of Central Americans and other individuals from noncontiguous countries, detain them in certain circumstances, obtain travel documents to their country of origin, and transport them to that country.

Since arriving at ICE in January of this year, I have met with government officials from Honduras, Guatemala and El Salvador. We each pledged to do our part to reduce the number of

foreign nationals attempting to unlawfully circumvent our immigration laws. The result of all these efforts has been a significant reduction in apprehensions of those attempting to unlawfully enter the U.S. along the southwest border, which is a strong indicator that there are fewer attempts to cross the border illegally.

### *Removals and Returns*

In FY 2014, ICE conducted 315,943 removals and returns, 213,719 of which were individuals apprehended while, or shortly after, illegally entering the United States and 102,224 of which were individuals apprehended in the interior of the United States. Eighty-five percent of individuals removed or returned from the interior had been convicted of a criminal offense, reflecting a significant increase in the removal of individuals with criminal convictions as a percentage of overall removals, up 67 percent in FY 2011 from 38 percent in FY 2008. This is no accident. The increasing number of convicted criminals removed from our country is the result of a change in ICE's strategic focus, consistent with the revised enforcement priorities and the focus on individuals who pose a threat to public safety.

Ninety-eight percent of ICE's FY 2014 removals and returns fell into one or more of the enforcement priorities in place at the time. These numbers illustrate the agency's continued commitment to focusing on identifying, arresting, and removing individuals who present the most significant public safety concerns and quickly removing individuals apprehended while attempting to unlawfully enter the United States.

## **HOMELAND SECURITY INVESTIGATIONS**

While ERO enforces civil immigration laws, ICE's Office of Homeland Security Investigations (HSI), the investigative arm of ICE, is also a critical part of our interior enforcement activities. HSI principally conducts criminal investigations to protect U.S. communities and citizens against terrorism and other criminal activity that threatens public safety, and brings to justice those seeking to violate our customs and immigration laws. HSI is responsible for a wide range of domestic and international criminal investigations arising from the illegal movement of people and merchandise into, within, and out of the United States, often in coordination with other federal agencies. Notably, in FY 2014, HSI made more than 32,000 criminal arrests and seized more than 1.3 million pounds of narcotics, 35,000 weapons, and \$772 million in currency and monetary instruments.

HSI investigates customs and immigration crimes, including Transnational Criminal Organizations (TCOs) engaged in illicit activity related to export enforcement, human rights violations, narcotics, weapons and contraband smuggling, financial crimes, cybercrimes and child exploitation, human trafficking and smuggling, intellectual property theft and commercial fraud, transnational gangs, and immigration document and benefit fraud.

### *Gang Enforcement Program*

To combat the growth and proliferation of transnational criminal street gangs, prison gangs, and outlaw motorcycle gangs operating in communities across the United States, and in cooperation with our federal, state, local, and foreign law enforcement partners, HSI established Operation Community Shield (OCS). HSI has established eleven OCS task forces, nine domestic and two international, which allow HSI special agents to work to enhance intelligence

gathering and information sharing, exploit modern law enforcement technology, and capitalize on HSI's international footprint to combat gangs' global criminal networks and mitigate the threats they pose to national security and public safety. In the last ten years, OCS has yielded the arrest of over 38,000 gang members and associates, including more than 24,000 criminal arrests, and the seizure of more than 7,000 firearms and more than \$85 million in real estate, currency, vehicles and other property. In FY 2015 year-to-date, OCS teams have executed 2,766 criminal arrests and seized more than 3,400 pounds of narcotics and \$7 million in property.

HSI's National Gang Unit led Project Wildfire, a six-week operation designed to mitigate the public safety threats posed by the most notorious street gangs in communities all across the United States. HSI worked with over 200 federal, state, and local law enforcement partners to apprehend 976 gang members and associates from 103 different gangs. Of the 976 gang members or associates arrested, 913 were charged with criminal offenses; 63 were arrested administratively for immigration violations; 650 had violent criminal histories, including 19 individuals wanted on active warrants for murder and 15 for rape or sexual assault; and 199 were foreign nationals.

### *Transnational Criminal Organizations*

In keeping with a risk-informed strategy, HSI focuses on complex investigations that target the disruption and dismantlement of TCOs. HSI financial investigations focus on identifying the means and methods by which TCOs move, launder, and store their illicit proceeds through money laundering, bulk currency smuggling, and other financial and trade-related crimes. Through these complex financial investigations, numerous individuals and organizations operating within the interior of the United States are identified, apprehended, and prosecuted for

their involvement in narcotics trafficking and distribution, money laundering and contraband smuggling. Often times, these individuals and organizations pose a direct risk to the general public because they produce or store narcotics and proceeds in various suburban neighborhoods throughout the United States, subjecting these areas to various violent criminal activities.

Last fall, our investigations in the Los Angeles Garment District resulted in seizures of more than \$140 million in assets related to a black market peso exchange scheme to launder narcotics proceeds for international drug cartels. In addition, ICE's response to the surge of unaccompanied children along the southwest border included a financial component targeting funnel accounts used by Human Smuggling Organizations (HSOs) and the illicit proceeds they generated in order to disrupt the smuggling networks.

HSI stays ahead of developing trends such as interstate funnel accounts, which transnational criminal and human smuggling organizations use to move illicit proceeds within the interior of the United States; trade-based money laundering, which is becoming a preferred method of TCOs to move money for the purpose of disguising its origins and integrating it into the legitimate economy; and virtual currencies, which are used by TCOs to conduct illegal activities such as drug and weapons trafficking, illegal gambling, human trafficking, fraud, and the distribution of child sexual abuse images via the Internet.

### *Human Smuggling and Trafficking*

Two additional priority investigative areas for HSI are human smuggling and human trafficking, for which ICE possesses a full range of investigative and border-related authorities. Human trafficking is a heinous crime where individuals profit from the exploitation of their victims. This form of modern day slavery affects victims of every nationality and walk of life.

Moreover, the smuggling of human beings is a gateway crime that paves the way for additional criminal offenses, including illegal immigration, identity theft, document and benefit fraud, gang activity, financial fraud, terrorism, and other national security threats. At times, human smuggling ventures lead to extremely dangerous circumstances that pose a threat to public safety and create humanitarian concerns.

HSI has developed a comprehensive, victim-centered approach to aggressively target human traffickers. By targeting trafficking organizations while simultaneously providing support to victims, HSI is working to dismantle the criminal infrastructure behind human trafficking. In FY 2014, HSI conducted or coordinated law enforcement and human trafficking awareness training for 22 international anti-human trafficking training events that reached 1,450 foreign law enforcement personnel in 10 countries. These training events focused on HSI's victim-centered investigative approach to combating human trafficking. Additionally, in FY 2014, HSI initiated 987 investigations with a nexus to human trafficking, recorded 1,770 arrests, obtained 1,028 indictments, and 828 convictions in federal, state and locals courts, and identified more than 440 identified victims. In addition to law enforcement investigators, HSI has victim assistance personnel across the country who provide victims with a wide range of local resources from early in the investigative stage through prosecution. HSI also works closely with the DHS Blue Campaign, which is the Department's unified effort to combat human trafficking.

Momentum in ICE's anti-human smuggling efforts continues to build, particularly with the increased emphasis on activities along our border with Mexico. In response to last summer's surge in numbers of Central American unaccompanied children attempting to illegally cross the southwest border, HSI initiated Operation Coyote, designed to target and dismantle human smuggling organizations and interdict the flow of money to these organizations. During this

period, HSI deployed additional personnel to its southwest border field offices to enhance human smuggling investigations and enforcement actions. HSI also expanded the initiative across the country and worldwide.

Operation Coyote has resulted in 613 cases initiated, 1,289 criminal arrests and the seizure of over \$1.2 million in currency from funnel accounts utilized by human smuggling organizations to move illicit funds. ICE International Operations' efforts (Operation Coyote International) have resulted in the identification of 15 human smuggling organizations operating in Central America and Mexico. Of these 15 organizations, six have been prosecuted and dismantled, while the remaining nine organizations have been disrupted and the investigative and prosecutorial efforts against them continue.

On March 23, 2015, HSI commenced Operation Coyote 2.0 to enhance HSI's overall human smuggling strategy. Operation Coyote 2.0 focuses on mitigating the most significant risks posed by human smuggling by increased targeting of the financial vulnerabilities exploited by HSOs; increased targeting of fraudulent document vendors employed by smuggled individuals and the HSOs to obtain identity documents; exploitation of the communication methods used by the HSOs with analysis of communications data to enhance targeting efforts; leveraging of the newly created Human Smuggling Cell and the Joint Task Force-Investigations to coordinate and integrate human smuggling intelligence and operations; and finally, enhanced leveraging of our international offices, Transnational Criminal Investigative Units (TCIUs), U.S. Customs and Border Protection (CBP) and international partners, to disrupt the pathways of illegal migrations.

In December 2013, HSI and CBP established the National Targeting Center-Investigations Division (NTC-I) at the CBP National Targeting Center (NTC) to provide HSI

with an increased presence to work alongside CBP subject matter experts in support of the entire U.S. border security continuum, from CBP interdictions and HSI investigations, to the joint exploitation of intelligence and cross-cutting border enforcement efforts.

### *Human Rights Violators*

Began as a pilot project in April 2008, HSI's Human Rights Violators and War Crimes Center (HRVWCC) brings together various DHS components and other departmental agencies to work collaboratively on human rights violators and war crimes investigations. The HRVWCC, comprised of HSI and Federal Bureau of Investigation (FBI) agents, analysts, attorneys and historians, as well as representatives from U. S. Citizenship and Immigration Services (USCIS) and the Department of State, works collectively to enforce the No Safe Haven Initiative and to ensure that the United States does not become a place of refuge for those who have engaged in human rights violations overseas. For example, in May 2014, an Ethiopian-born, naturalized United States citizen, Kefelegn Alemu Worku, was sentenced to 22 years in Colorado for fraudulent procurement of naturalization under 18 U.S.C. §1425, based on his role in torturing and murdering civilians in Ethiopia during the 1970s era known as the "Red Terror." The HSI investigation also revealed that he had committed aggravated identity theft, fraud and misuse of visas, permits and other documents, and fraudulent procurement of naturalization. Several witnesses who were tortured while in Ethiopia provided chilling testimony of their abuse, while their torturer sat with his back turned to them until ordered by the Court to turn around so that his victims could identify him.

## ICE INITIATIVES

### *Enhanced Oversight and Release Procedures*

Earlier this year, I announced enhanced oversight and release procedures for ICE custody determinations involving detainees with criminal convictions on their records. These procedures are designed to enhance public safety in ICE's enforcement and administration of immigration laws. ICE is committed to making certain that both mandatory and discretionary releases, including those required under the U.S. Supreme Court decision in *Zadvydas v. Davis*, are executed in a way that promotes public safety and protects our communities. These procedures include: supervisory approval for discretionary releases of certain categories of convicted criminals; senior headquarters manager review of discretionary release decisions for individuals convicted of crimes of violence; ensuring that detention capacity is not a determinative factor in the release of an individual with a serious criminal conviction; and developing a capability to provide appropriate release information concerning individuals convicted of crimes to state law enforcement authorities in relevant jurisdictions. Thus far, the Law Enforcement Notification System has been deployed to 11 states and full implementation is expected by the end of this year.

### *Priority Enforcement Program*

A critical part of our interior enforcement efforts is the Priority Enforcement Program (PEP), which replaces the Secure Communities program. Our objective with PEP is to implement a new interior enforcement approach in a way that supports community policing by focusing on convicted criminals and individuals who threaten public safety and working with state and local law enforcement to take custody of dangerous individuals and convicted

criminals—including felons, significant/repeat misdemeanants, and criminal gang participants—before they are released into the community. ICE is committed to working with all jurisdictions that are interested in partnering with us; PEP was tailored to bring back on board those state and local jurisdictions that had concerns with, or legal obstacles to assisting us in implementing, Secure Communities.

PEP is designed to be flexible and is not a “one size fits all” solution, but rather an approach that allows us to tailor the program and develop processes to fit the needs of each jurisdiction, ensuring that law enforcement is able to remove convicted criminals without damaging trust with local communities—trust that is critical so victims and witnesses feel secure reporting crimes and thereby, make all communities safer.<sup>1</sup> PEP will continue to rely on biometric information sharing between the FBI and DHS (IDENT/IAFIS Interoperability) to identify individuals arrested by state and local law enforcement agencies (LEAs) who have been convicted of specifically enumerated crimes, who have intentionally participated in criminal gang activity, or who pose a demonstrable risk to national security. PEP will focus on individuals who fall into specific enforcement priority categories, as these individuals pose the greatest threat to our nation’s safety.

State and local law enforcement cooperation is critical to making PEP a success, so we have been reaching out to state and local governments to gain their cooperation in ensuring that dangerous convicted criminals are transferred to ICE custody instead of released to the streets. In his testimony before the House Judiciary Committee on July 14, Secretary Johnson repeatedly stated that the most effective way to work with state and local jurisdictions is through cooperative efforts. State and local law enforcement officials believe this as well. PEP provides

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<sup>1</sup> See Op Ed by Dayton, Ohio Chief of Police Richard S. Biehl, entitled “Communities are safer when law enforcement roles are clear.” The Hill, July 15, 2015.

the opportunity to enter into these cooperative efforts and removes the legal and political controversies generated by Secure Communities. During that hearing, Secretary Johnson also made clear that we should not mandate the conduct of state and local law enforcement through federal legislation as such legislation would be counterproductive and raise constitutional concerns. I hope this Committee and all of Congress will also support our efforts in this regard.

To facilitate state and local cooperation, Secretary Johnson, Deputy Secretary Mayorkas, and I have all personally met with elected and law enforcement officials in some of our largest jurisdictions, including Los Angeles, New York City, Florida and Texas. Additionally, DHS and ICE officials, including myself, regularly engage with senior law enforcement officials from across the nation through the Law Enforcement Immigration Task Force. ICE and DHS will continue to engage local law enforcement agencies as we implement PEP.

The shooting death of Kathryn Steinle, a young San Francisco woman, allegedly at the hands of an undocumented immigrant with multiple criminal convictions earlier this month is heartbreaking. This is a tragedy. We at ICE are highly focused on the apprehension and removal of convicted criminals who pose a threat to public safety and national security. The ICE workforce has been fully trained on PEP priorities, procedures, and new forms, the necessary management tools are in place, key LEA stakeholders and unions have been engaged, and PEP is being implemented across the nation. Cooperating with us on implementing PEP will help ensure dangerous convicted criminals, gang members, and national security threats are transferred into ICE custody for deportation before they are released into communities. That is why we are working diligently to bring jurisdictions that had concerns or legal obstacles with Secure Communities back on board and into PEP.

I remain firmly committed to enforcing our immigration laws effectively and sensibly, in line with our Nation's values, and in a way that makes national security and public safety our top priorities.

### *Operation Crosscheck*

Earlier this year, ICE conducted a five-day nationwide operation targeting convicted criminals subject to removal from the United States, which yielded the arrest of 2,106 individuals. The operation, "Cross Check VI," began Sunday, March 1, and ended Thursday, March 5, 2015. Hundreds of ERO officers participated in the operation that focused on the arrests of public safety threats. Those arrested are from 94 countries and had a wide array of criminal convictions. The 2,059 individuals with prior criminal convictions who were arrested included more than 1,000 individuals who had multiple criminal convictions. More than 1,000 of those arrested had felony convictions, including convictions for voluntary manslaughter, child pornography, robbery, kidnapping and rape. Of the total 2,059 convicted criminals arrested, 58 were known gang members or affiliates, and 89 were convicted sex offenders. Also, 476 were illegal re-entrants who had been previously removed from the country. Because of their serious criminal histories and prior immigration arrest records, 163 of those arrested during the enforcement action were presented to U.S. Attorneys for prosecution on a variety of criminal charges.

### *Reorienting Family Residential Centers*

Following last summer's unprecedented spike in illegal migration of unaccompanied minors and adults with children in the Rio Grande Valley, we responded with decisive action on

a number of fronts. One element of this comprehensive approach was opening additional facilities to house adults with children as they wait for a resolution to their immigration proceedings or removal to their home countries. The Secretary and I understand the sensitive and unique nature of detaining families and are committed to continually evaluating it. Last month, we concluded it is not an efficient use of our resources to detain families who have established their eligibility to apply for asylum or other forms of relief under our laws. We are therefore making substantial changes in our detention practices with respect to families with children.

As the Director of ICE, I am committed to enforcing the laws within ICE's jurisdiction not only safely and efficiently, but as humanely as possible. The care and well-being of any person – man, woman, or child – in our custody is an exceptionally important responsibility that we bear. We are committed to continually evaluating the facilities to ensure we are meeting the needs of this population in a safe and humane manner. However, we also should not and cannot have an immigration system that encourages criminals to take advantage of people – to abuse women and children – while they attempt to smuggle them into the United States.

ICE is working to enhance oversight, increase access and transparency, and ensure our Family Residential Centers (FRCs) continue to provide a safe, secure, and humane environment for families while they are in these facilities. We are in the process of creating a new Advisory Committee comprised of experts in key fields. This Committee will provide advice and recommendations to the Secretary and me on matters concerning ICE's family residential centers as they relate to primary education, immigration law, physical and mental health, trauma-informed services, family and youth services, detention management, and detention reform.

In addition, we have also started a series of engagements with stakeholders to listen and discuss ways to make additional improvements, and to look for additional ways to better ensure access to counsel and address language access issues for speakers of indigenous languages. ICE has also implemented a review process for any families detained beyond 90 days, and every 60 days thereafter, to assess whether detention or the designated bond amount continue to be appropriate while families await the conclusion of their immigration proceedings.

In June, the Secretary announced a number of additional improvements to our family detention practices. While FRCs will continue to allow for the prompt removal of individuals who have not been determined to be eligible for relief under our laws, those who can establish a credible fear or a reasonable fear of persecution or torture in their home countries will be released with a reasonable bond or other conditions taking into account flight risk and public safety. ICE has been rapidly ramping up its use of Alternatives to Detention (ATD), expanding program capacity from approximately 29,000 individuals in 2014 to a planned 53,000 in 2016. ICE has enrolled thousands of family members apprehended since last year's surge in the ATD program, and plans to expand the use of ATD to facilitate release of eligible individuals from FRCs.

Secretary Johnson has also directed USCIS to conduct credible fear and reasonable fear interviews within a reasonable timeframe, so the length of detention in most cases will be shortened. During that time, we will work together to confirm accurate address and sponsor information so that ICE can effectively monitor and ensure compliance with legal obligations.

## **CONCLUSION**

I believe that ICE will be successful in the deliberate implementation of our mission objectives. I commit to implement ICE's priorities in a smart and strategic manner to maximize success, improve data collection and reporting, protect against fraud, and engage with state and local governments and local communities to enhance cooperation and build enduring partnerships. Thank you again for the opportunity to appear before you today and for your continued support of ICE and its law enforcement mission. You have my commitment to work with each Member of your Committee and its staff to forge a strong and productive relationship going forward. I look forward to answering any questions.