

Office of the Director

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

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U.S. Immigration  
and Customs  
Enforcement

The Honorable Charles E. Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman Grassley:

Thank you for the opportunity to testify before the Senate Judiciary Committee on December 2, 2015. I appreciate your courtesy and candor as we continue to openly address the challenges faced by U.S. Immigration and Customs Enforcement (ICE). I also appreciated the opportunity to share with the Committee some of the good work being done by the men and women of ICE.

I am committed to providing timely and accurate responses to the questions raised by the Members of the Committee. In the spirit of that commitment, please find enclosed my responses to those items.

As I stated at the hearing, I am committed to implementing ICE's priorities in a smart and strategic manner to maximize success and enhance cooperation with state and local stakeholders. I look forward to working with each member of this committee and its staff to forge a strong and productive relationship moving forward as we work toward more comprehensive immigration reform.

Thank you again for your courtesy and consideration as we continue our dialogue. Ranking Member Leahy, and Senators Blumenthal, Cruz, and Franken will receive an identical letter. If you have additional questions or wish to discuss this matter further, please do not hesitate to contact me at (202) 732-3000.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Saldaña".

Sarah R. Saldaña  
Director

Enclosure

## **U.S. Immigration and Customs Enforcement's Responses to the Senate Committee on the Judiciary Following the December 2, 2015 Hearing**

### **1. Senator Blumenthal requested a current list of recalcitrant countries.**

As of January 2016, countries identified by U.S. Immigration and Customs Enforcement (ICE) as uncooperative include the following: Afghanistan, Algeria, Burundi, Cape Verde, China, Cuba, Eritrea, Gambia, Ghana, Guinea, India, Iran, Iraq, Ivory Coast, Liberia, Libya, Mali, Mauritania, Morocco, Sierra Leone, Somalia, South Sudan, and Zimbabwe.

Although many countries adhere to their international obligation to accept the timely return of their citizens, ICE has confronted unique challenges in some circumstances, and as a result of the *Zadvydas* decision, has had to release individuals ordered removed from the United States from its custody. This is usually due to a case-specific reason, such as unavailability of identity documents in the alien's home country, inability of the consular officer to establish citizenship, or record keeping issues in the alien's country of citizenship.

### **2. Senator Blumenthal asked what efforts have been made by ICE or other government agencies to address recalcitrant countries.**

To address the operational, public safety, and national security issues presented by these recalcitrant countries and the *Zadvydas* decision, the Department of Homeland Security (DHS) works closely with the Department of State's (DOS) Bureau of Consular Affairs (CA) to improve cooperation with such countries on repatriation matters.

In March 2015, ICE collaborated with DOS to draft a cable for distribution to all Chiefs of Mission that reiterates the importance of ICE's mission, reminds the recipients of foreign governments' obligations to accept their citizens for repatriation, educates the Chiefs of Mission regarding potential consequences for foreign governments if they do not comply in a timely manner, and encourages closer interagency cooperation.

The U.S. Government has seen some movement in its efforts to work with foreign governments to facilitate repatriation. For example, on March 27, 2015, Director General Zheng and I signed the repatriation memorandum of understanding in Beijing, China, which was implemented in July 2015 with Chinese experts traveling to the United States and verifying identities of thirty Chinese nationals. The issuance of the 30 travel documents remains pending and ICE and DHS continue to work to improve the Government of China's cooperation with repatriation efforts.

Also in March 2015, demarches were delivered to both the Governments of Algeria and Iraq concerning repatriation of nationals subject to final orders.

### **3. Senator Cruz asked how many murderers ICE released in fiscal year 2015.**

To date, the FY 2015 metrics have been confirmed and released by ICE, but we are still analyzing the fiscal-year data for certain subsets and trends. In the meantime, I would like to clarify my response to Senator Cruz's question about the number of individuals released by ICE who might be characterized as "murderers."

First, I believe it is important to note that ICE generally does not release criminal aliens who can be removed. However, ICE's ability to remove someone is contingent upon having a final order of removal and the necessary travel documents. I believe ICE's metrics reflect a focus on criminal alien removals: 91 percent of all *interior removals* were of individuals with prior criminal convictions, and 59 percent of *all* removals were criminals.

ICE pays particular attention to those aliens who are convicted of homicide-related offenses. While some are released at the behest of immigration courts, on bond or at the conclusion of proceedings, and others are released to avoid legal limits on detention where there is no significant likelihood of removal (according to the *Zadvydas* Supreme Court decision), some detainee releases are a result of their permissibility in section 236(a) of the *Immigration and Nationality Act* (INA). It would not be permissible for DHS to categorically prohibit the release of certain aliens who are not subject to detention under INA § 236(c), and who do not pose a risk to public safety or a flight risk. Even in instances where ICE determines to continue detention in its discretion, such decisions are subject to review by the Executive Office for Immigration Review, which may reduce the bond amount imposed, ameliorate conditions of release, or order release without bond,

ICE implemented a screening process in March 2015 that has increased the oversight and accountability of discretionary releases made pursuant to immigration law. Senior Enforcement and Removal Operations (ERO) officials at ICE headquarters have reviewed over 150 cases since these panels began. During the hearing, in response to Senator Cruz's question, I said ICE had released 197 aliens convicted of homicide-related crimes. I was thinking of ICE's metrics for FY 2014. In 2014, there were 137 such releases.

Not all aliens convicted of homicide-related offenses will be subject to the INA's mandatory detention provisions, so ICE reviews the totality of the circumstances on a case-by-case basis in making decisions regarding release and appropriate conditions for release where the alien's removal is not significantly likely in the reasonably foreseeable future or is otherwise not practicable.

### **4. Senator Cruz requested the breakdown of other crimes committed by immigrants released by ICE in fiscal year 2015.**

To date, the FY 2015 metrics have been confirmed and released by ICE, but we are still analyzing the fiscal-year data for certain subsets and trends. ICE will provide this information to the Committee and Senator Cruz as soon as it becomes available. In the meantime, ICE has full year data for FY 2014, including a breakdown of crimes committed by criminal aliens released from ICE custody. Please find the conviction breakdown for FY

2014 releases below. Please note that these releases were conducted in accordance with controlling law, regulations, and precedential decisions.

**Breakdown of the Types of Specific Criminal Convictions Associated with Criminal Aliens Placed in a Non-Custodial Setting in FY 2014**

<b>Conviction Category</b>	<b>Number of Convictions</b>
Traffic Offenses—Traffic Offense	17,831
Traffic Offenses—Driving Under Influence Liquor	14,938
Dangerous Drugs	10,403
Larceny	5,501
Immigration <sup>1</sup>	4,545
Obstructing Judiciary, Congress, Legislature, etc.	3,692
General Crimes <sup>2</sup>	3,008
Burglary	2,892
Public Peace	2,709
Assault	2,689
Fraudulent Activities	2,575
Obstructing the Police	2,077
Weapon Offenses	1,874
Assault—Domestic Violence	1,496
Invasion of Privacy	1,415
Stolen Vehicle	1,362
Assault—Battery	1,335
Forgery	1,243
Stolen Property	1,235
Assault—Aggravated Assault	1,160
Family Offenses	1,105
Robbery	895
Sex Offenses (Not Involving Assault or Commercialized Sex)	800
Damage Property	758
Traffic Offenses—Hit and Run	717
Commercialized Sexual Offenses	506
Liquor	488
Sexual Assault	473
Health/Safety	440
Traffic Offenses—Driving Under Influence Drugs	418
Assault—Simple Assault	315
Flight/Escape	275

<sup>1</sup> Immigration crimes include “illegal entry,” “illegal reentry,” “false claim to U.S. citizenship,” and “alien smuggling.”

<sup>2</sup> “General Crimes” is a National Crime Information Center charge category. Within the category of “General Crimes” are the following offense codes: crimes against person (7099), property crimes (7199), morals-decency crimes (7299), and public order crimes (7399).

<b>Conviction Category</b>	<b>Number of Convictions</b>
Kidnapping	215
+Threat	165
Assault—Intimidation	160
Homicide	101
Arson	70
Conservation	56
Juvenile Offenders	48
Tax Revenue	48
Extortion	46
Gambling	41
Homicide—Negligent Manslaughter—Vehicle	40
Smuggling	39
Embezzlement	27
Obscenity	22
Bribery	19
Homicide—Negligent Manslaughter—Weapon	18
Homicide—Willful Kill—Gun	16
Voluntary—Manslaughter	15
Homicide—Willful Kill—Weapon	10
Homicide—Willful Kill—Non-family—Gun	9
Traffic Offenses—Transporting Dangerous Material	4
Homicide—Willful Kill—Family—Gun	3
Homicide—Willful Kill—Family—Weapon	2
Homicide—Willful Kill—Non-Family—Weapon	2
Sovereignty	1
<b>Grand Total</b>	<b>92,347</b>

**5. Senator Cruz asked how many of the 1,000 criminal alien recidivists in fiscal year 2013, how many have been removed.**

According to ICE records, as of December 26, 2015, 191 of the 1,000 criminal alien recidivists released in FY 2013 have been removed.

**6. Senator Franken requested statistics regarding the number of immigrants deported during the Clinton Administration.**

According to the 2013 Yearbook of Immigration Statistics<sup>3</sup>, Office of Immigration Statistics, August 2014 (Table 39), the following numbers of individuals were removed and returned between 1993 and 2000:

<sup>3</sup> [http://www.dhs.gov/sites/default/files/publications/ois\\_yb\\_2013\\_0.pdf](http://www.dhs.gov/sites/default/files/publications/ois_yb_2013_0.pdf)

<b>Year</b>	<b>Removals</b>	<b>Returns</b>	<b>Total</b>
1993	42,542	1,243,410	1,285,952
1994	45,674	1,029,107	1,074,781
1995	50,924	1,313,764	1,364,688
1996	69,680	1,573,428	1,643,108
1997	114,432	1,440,684	1,555,116
1998	174,813	1,570,127	1,744,940
1999	183,114	1,574,863	1,757,977
2000	188,467	1,675,876	1,864,343
Total	869,646	11,421,259	12,290,905