



U.S. Immigration
and Customs
Enforcement

DEC 01 2014

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

Dear Senator Grassley:

Thank you for your recent letter regarding certain criminal aliens released by U.S. Immigration and Customs Enforcement (ICE) in fiscal year (FY) 2013. We have endeavored to answer your questions with the information contained below, as well as the accompanying enclosure to this correspondence.

1. Of the 36,007 criminal aliens released from ICE custody in FY 2013:

- a. How many had been convicted of sexual assault? For *each* such convict, please provide the zip code of the convict's last known address and the name and location of the detention facility from which the convict was released.**

According to ICE records, 618 aliens had sex-related convictions. See the enclosure for individual zip codes and detention facilities associated with these aliens.

- b. How many of the convicts referenced above in Question 1(a) have registered as sex offenders? For every convict who has registered, please provide the name of the sex offender registry – by state, territory, or tribe – where he or she has registered. For every convict who has not so registered, please provide the zip code of his or her last known address and an explanation of how ICE will ensure public safety and notification with respect to each sex offender.**

ICE does not oversee the state and local registration process for sex offenders and is unable to statistically track and report on this data.

2. Of the 36,007 criminal aliens released from ICE custody in FY 2013:

- a. How many have since been rearrested or detained?**

According to ICE records, following their release from ICE custody in FY 2013, 5,708 aliens have been rearrested by other law enforcement agencies, and 1,589 aliens have been re-booked into ICE custody. Of note, not all aliens who are rearrested by state and local law enforcement are charged with or convicted of subsequent crimes. In addition, of those who are rearrested and booked into state and local custody, not all are ICE priorities for enforcement action.

b. How many have since been convicted of another offense?

According to ICE records, 1,000 aliens have been convicted of additional crimes following their release from ICE custody in FY 2013.

c. How many have violated a condition of his or her supervised release?

According to ICE records, of those criminal aliens released from ICE custody in FY 2013 who participated in the Alternatives to Detention (ATD) program, 630 aliens violated a condition of their supervised release that resulted in termination from the program.

3. In your August 15, 2014 letter, you indicated that “154 of the 169 [ICE detainees with a homicide-related conviction who were released from ICE custody in FY 2013] were released pursuant to a court order or due to *Zadvydas*.”

a. How many of the 154 were released pursuant to a court order?

According to ICE records, 26 of these aliens were released from ICE custody following a court order.

b. How many of the 154 were released due to *Zadvydas*?

According to ICE records, 128 of these aliens were released from ICE custody pursuant to *Zadvydas* or ICE’s inability to obtain a travel document.

c. For each homicide convict released due to *Zadvydas*, please provide (i) the name of that alien’s home country; (ii) the number of days that a travel document request for the purpose of repatriation had been pending with that country prior to the alien’s release; and (iii) if such travel documents were not requested, an explanation as to how the release could be justified on grounds that “there is no significant likelihood of [removing that individual from the U.S.] in the reasonably foreseeable future.”

Aliens released pursuant to *Zadvydas* originated from the following countries: Afghanistan, Azerbaijan, Bahamas, Cambodia, China, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Eritrea, France, Gambia, Guatemala, Guyana, Haiti, Honduras, Hong Kong, India, Iran, Ivory Coast, Jamaica, Laos,

Liberia, Mexico, Montenegro, Portugal, Trinidad and Tobago, Venezuela, Vietnam, and the former Yugoslavia.

ICE is unable to statistically report on the number of days that a travel document request for the purpose of repatriation had been pending with that country prior to an alien's release. ICE's ability to report accurately on pending travel document applications and on issuance times is severely limited. One key limitation is that participation in ICE's Electronic Travel Documents (eTD) system, its Internet-based system that allows foreign consular officials to electronically view travel document requests and issue travel documents, is low. Currently, only four participating governments—the Dominican Republic, El Salvador, Guatemala, and Honduras—have written agreements to use and issue travel documents within the eTD system. The other countries receive applications and issue travel documents via mail.

- d. For each homicide convict released due to *Zadvydas*, please provide an explanation as to why release was preferable to detaining and arguing in court, if necessary, that the individual posed a threat to public safety and that such a threat justifies detention beyond six months while continuing attempts to repatriate the individual?**

ICE exercises its detention and release authorities in accordance with applicable law, including U.S. Supreme Court precedent. With regard to the cases at issue in your inquiry, ICE's release determinations were made pursuant to the requirements of *Zadvydas*, and applicable regulations, at 8 C.F.R. §§ 241.4 and .13, implementing the decision. In light of *Zadvydas*, ICE has very limited authority to detain an alien who is subject to a final order of removal for more than 180 days in the absence of a significant likelihood of removal in the reasonably foreseeable future. Where there is no significant likelihood of removal in the reasonably foreseeable future and the alien does not fit within ICE's narrow authority to continue detention on account of special circumstances, flight risk and danger to the community are not lawful bases to continue detention beyond 180 days.

- e. For each of the remaining 15 convicted criminal aliens whose releases were not mandatory, please explain why the individual was released.**

ICE has identified 15 criminal aliens with homicide-related convictions who appear to have been released from custody based on ICE's custodial discretion either due to their eligibility for bond under section 236 of the Immigration and Nationality Act (INA), or for reasons such as deteriorated health or advanced age. Custody decisions were made after an assessment of the nature and circumstances of their crimes and the risk to public safety. Additional information regarding the 15 individuals can be found below. Following review of the information available on the cases, it appears:

- Six aliens were released on bond under section 236(a) of the INA.
- Seven additional aliens were released on Orders of Release on Recognizance, subject to appropriate conditions of release/reporting requirements. At least three of these aliens were released in consideration of the humanitarian factors implicated by their cases, including but not limited to being 91 years of age and being the primary caretaker of five children.
- One alien was released due to a grant of deferred action for law enforcement purposes; his case was subsequently administratively closed by an immigration judge.
- One alien was released on an Order of Supervision because he was unable to obtain medical clearance for removal due to a deteriorating medical condition.

f. For what homicide-related crime was each of the 15 convicted?

The convictions affiliated with these 15 individuals vary significantly but can be broken down as follows:

- Seven aliens were convicted of crimes similar to Homicide/Manslaughter by vehicle, in several instances having driven while intoxicated;
- One alien was convicted of Voluntary Manslaughter more than 20 years ago;
- Two aliens were convicted of Involuntary Manslaughter, one of whom used a firearm. Both of those convictions were in or before 1994, making them now 20 year old convictions, and one of these individuals was also the primary caretaker for five children;
- One alien was convicted of Murder in the Second Degree more than 25 years ago, but had a deteriorating medical condition warranting his release;
- One alien was convicted of Manslaughter more than 30 years ago, but was the sole caretaker of a sick spouse and elderly parents; an immigration judge administratively closed removal proceedings;
- One alien was convicted of Negligent Homicide;
- The alien who was granted deferred action for law enforcement purposes was convicted of Murder almost 10 years ago; and
- One alien was convicted of Involuntary Manslaughter in 2012 and was granted voluntary departure; our records indicate that this individual has since departed the United States.

- 4. In your August 15, 2014 letter, ICE indicated that “Of the 169 ICE detainees with a homicide-related conviction who were released from ICE custody in FY 2013, 131 have been issued a final order of removal. Of the remaining 38 aliens who have not been issued a final order of removal, one was granted voluntary departure . . . and subsequently departed within the permitted timeframe.”**

- a. Why was one of the 169 homicide convicts granted voluntary departure? Is granting voluntary departure a standard procedure for all criminal aliens? If so, what safeguards are in place? In this instance, did ICE contest the voluntary departure ordered by the judge?**

The referenced alien was granted pre-conclusionary voluntary departure by an immigration judge from the Department of Justice's Executive Office for Immigration Review, which required the alien to waive his right to appeal. The INA sets forth the requirements for pre-hearing voluntary departure, and excludes aliens convicted of an aggravated felony from the relief. ICE determined not to oppose the alien's application for voluntary departure after review of the facts of the case, including the nature of his criminal conviction, which was for involuntary manslaughter, and the short amount of time served for the conviction (approximately 8.5 months). During a voluntary departure period, an alien remains subject to reporting requirements as established by his/her local Field Office, including but not limited to enrollment in the ATD Program and/or requirements to telephonically report to ICE.

- b. What is the status of each case in which a final order of removal has not been issued?**

Of the referenced cases, ICE records indicate that 36 cases are active and 1 case has been terminated.

- c. Is ICE keeping track of the remaining 37 aliens who have not been issued a final order of removal? If so, please list and explain the specific monitoring mechanism that ICE is using to keep track of each alien. If not, please explain why not.**

According to ICE records, the aliens were either released on bond (28), ATD (3), an Order of Recognizance (3), or an Order of Supervision (2). Additionally, as previously noted, one alien was released due to a grant of deferred action for law enforcement purposes; his case was subsequently administratively closed by an immigration judge.

- d. What is the zip code of the last known addresses of these 37 aliens?**

See the enclosure for individual zip codes associated with these 37 aliens.

- e. For what homicide-related crime was each of the 37 convicted?**

These aliens were convicted of Homicide (17), Homicide-Negligent Manslaughter-Vehicle (11), Homicide-Negligent Manslaughter-Weapon (2), Homicide-Willful Kill-Family-Gun (1), Homicide-Willful Kill-Non-family-

Weapon (2), Voluntary Manslaughter (3), and Homicide-Vehicle Manslaughter with Gross Negligence (1).

5. For each of the 169 ICE detainees with a homicide-related conviction who were released from ICE custody in FY 2013:

a. Please specify by NCIC Offense Code the particular homicide-related offense(s) for which the detainee was convicted.

These aliens were convicted of Homicide (93), Homicide-Negligent Manslaughter-Vehicle (22), Homicide-Negligent Manslaughter-Weapon (15), Homicide-Willful Kill-Family-Gun (2), Willful Kill-Family-Weapon (1), Homicide-Willful Kill-Gun (8), Willful Kill-Non-family-Gun (5), Homicide-Willful Kill-Non-family-Weapon (6), Homicide-Willful Kill-Weapon (8), Homicide-Negligent Manslaughter-Weapon (1), Homicide-Malice Murder (1), Voluntary Manslaughter (6), and Homicide-Vehicle Manslaughter with Gross Negligence (1).

b. Please specify the form of supervision that the agency is using to track the detainee following his or her release from ICE custody.

According to ICE records, the 169 criminal aliens were either released on an Order of Supervision (127), bond (30), an Order of Recognizance (7), or ATD (4). Additionally, as previously noted, one alien was released due to a grant of deferred action for law enforcement purposes.

c. Please specify the immigration status of the detainee at the time he or she was encountered by ICE.

According to ICE records, the 169 criminal aliens were in the following immigration statuses when encountered by ICE: Lawful Permanent Resident (47), Refugee (26), Parolee (46), Nonimmigrant (5), Visitor (7), Conditional Resident (1), Entry Without Inspection (34), or Present Without Admission (3).

d. Please share the number of released detainees who have been granted an employment authorization document.

This issue falls within the purview of U.S. Citizenship and Immigration Services (USCIS), whom we reached out to for this information on your behalf. According to USCIS records, as of September 15, 2014, applications for employment authorization had been approved for 9 of the 169 aliens. These employment authorizations are authorized under applicable law.

6. What procedure or policy is followed if an alien is released due to *Zadvydas* but arrested again for another crime? Does ICE restart the clock for the purpose of

calculating the six-month period under *Zadvydas* even if the new charge is for a minor offense?

Aliens released from ICE custody because removal is not significantly likely in the reasonably foreseeable future are released on an Order of Supervision, and may be returned to ICE custody for violations of the Order of Supervision, including criminal activity. Upon return to ICE custody, the alien would generally be subject to the 90-day and 180-day post-order custody review process to determine whether the alien should be released or remain in detention.

7. In its August 15 letter, ICE indicated that it is “instituting new procedures requiring that an appropriate senior-level supervisor must approve before ICE releases potentially dangerous individuals.”

a. What are these procedures and what criteria will be used to make this determination?

ICE is still assessing its options to enhance the agency’s oversight of decisions related to such discretionary releases. Once new procedures have been finalized, ICE will provide greater detail.

b. Under prior procedure, who made the final decision to release detainees whose release was not required by a court order or by *Zadvydas*? Who will make the final decision under the new procedures? Please cite the name and position of the agency official(s).

Custody determinations, including decisions to release, are made by the ICE Enforcement and Removal Operations (ERO) field office. Although the regulations allow immigration enforcement agents to make these determinations, *see* 8 C.F.R. § 236.1(c)(8), generally final decisions on discretionary detainee releases are made by supervisory immigration officers.

c. Under prior procedure, who was notified when potentially dangerous detainees were released? When ICE released detainees who committed a violent crime, did ICE notify the victim or that victim’s family members? What will be the new procedure regarding notice?

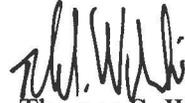
ICE Homeland Security Investigations (HSI) currently manages the ICE Victim Notification Program (VNP), which coordinates and provides services to victims of federal crimes investigated by ICE HSI and victims (and/or victim-witnesses of state or local crimes), when the offender is an alien who is in ICE immigration detention. Eligible victims and witnesses must register to be notified of the criminal alien’s release from ICE custody or removal from the United States. When ICE removes the alien or releases the detainee from custody, ICE ERO is notified by the detained docket that the alien is being released or removed. ICE ERO makes every effort to notify the registered victim or witness by telephone,

The Honorable Charles E. Grassley
Page 8

letter, or email. Information regarding the ICE VNP may be found at:
<https://www.ice.gov/victim-notification/>.

Thank you again for your letter. I look forward to working with you further. Should you have any additional questions, please do not hesitate to contact Kathryn C. Mills, ICE Assistant Director for Congressional Relations, at (202) 732-4200 or me at (202) 732-3000.

Sincerely,



Thomas S. Winkowski
Acting Director

Enclosure

Breakdown of the Zip Codes Associated with Criminal Aliens with Sex-Related Convictions Placed in a Non-Custodial Setting in Fiscal Year 2013

U.S. Immigration and Customs Enforcement (ICE) system records indicate the following zip codes as those associated with the aliens with sex-related convictions who were released from ICE custody in fiscal year 2013.

00851	00915	01105	01851	02122	02148
02322	02360	02828	02860	03246	06511
06605	07036	07039	07055	07087	07093
07102	07104	07105	07106	07107	07111
07201	07208	07302	07304	07503	07505
07513	07601	07728	07869	08094	08107
08205	08260	08611	08620	08628	08629
08820	10009	10013	10014	10029	10032
10036	10278	10455	10460	10466	10467
10468	10591	10601	10704	10705	11203
11206	11207	11208	11210	11215	11219
11234	11235	11236	11351	11355	11366
11368	11373	11377	11416	11417	11433
11510	11550	11691	11717	11722	11726
12401	12601	12754	12866	13021	13203
13905	14011	14020	14607	15068	15946
17082	17401	17403	17404	17602	18042
19007	19082	19142	19148	19151	19425
19604	19804	20002	20016	20110	20112
20155	20170	20176	20534	20706	20708
20722	20783	20794	20866	20877	20879
20905	21213	21220	21703	22192	22303
22309	23116	23229	24551	27455	27604
27609	27616	28210	28270	28792	29585
30019	30044	30083	30141	30165	30273
30303	30318	30504	30705	31020	31815
32207	32246	32618	32805	32825	32907
33004	33025	33056	33125	33142	33150
33177	33178	33194	33314	33428	33435
33463	33604	33607	33614	33616	34120
34266	34748	37086	37211	38119	38150
40204	40214	41018	46226	46806	47933
48083	48127	48207	48210	48213	48314

48326	48328	49419	49424	49505	49506
50311	50501	52402	53144	53147	53511
53593	53711	53718	53963	54217	54302
54311	54481	54664	54729	54922	55016
55021	55033	55057	55071	55106	55107
55116	55117	55125	55130	55337	55405
55408	55411	55420	55423	55425	55430
55987	56007	56440	60099	60455	60504
60605	60632	60639	60645	62568	63074
64000	64101	66103	66439	67042	67401
67554	68131	68504	68601	68801	70001
70002	70814	75040	75042	75061	75089
75150	75207	75231	75232	75766	76115
76116	76120	76209	77000	77015	77016
77026	77032	77036	77045	77053	77064
77072	77078	77373	77449	78043	78233
78239	78723	78753	79521	79701	80017
80461	80524	80601	80631	81067	81623
83113	84047	84101	84104	84115	84123
85008	85009	85019	85225	85231	85239
85281	85301	85363	85392	87106	87401
88240	89032	89101	89109	89706	90001
90003	90004	90005	90006	90007	90011
90012	90014	90016	90018	90019	90022
90023	90029	90036	90037	90038	90044
90047	90057	90059	90063	90065	90201
90222	90248	90250	90255	90270	90280
90303	90305	90601	90604	90631	90638
90660	90706	90712	90744	90745	90805
90813	91103	91320	91331	91340	91342
91343	91360	91402	91406	91441	91501
91601	91605	91607	91706	91710	91732
91733	91766	91768	91770	91776	91790
91950	92028	92054	92078	92101	92105
92130	92220	92225	92234	92301	92307
92335	92345	92346	92358	92376	92407
92410	92504	92544	92553	92592	92596
92606	92626	92683	92701	92703	92704
92705	92707	92780	92802	92805	92831

92844	93021	93023	93036	93235	93257
93295	93305	93341	93445	93451	93454
93458	93535	93550	93618	93638	93657
93662	93706	93727	93905	93927	93960
94015	94038	94063	94124	94134	94401
94402	94533	94541	94558	94559	94601
94606	94611	94931	95076	95125	95127
95240	95301	95307	95341	95380	95472
95501	95814	95815	95820	95823	95824
95901	96130	96701	96913	96929	97005
97026	97071	97086	97124	97203	97206
97209	97214	97233	97321	97322	98000
98003	98011	98023	98032	98036	98092
98104	98108	98203	98226	98421	98661
98837	98930	98944	99201	99301	99336
99701					

Locations of Final Book-Out for Criminal Aliens with Sex-Related Convictions Placed in a Non-Custodial Setting in Fiscal Year 2013

The following list includes ICE facilities that served as the location of final book-out for criminal aliens with sex-related convictions who were placed in a non-custodial setting in fiscal year 2013, according to data generated from ICE system records. Thus, while aliens may have been in multiple facilities while in ICE custody, this list comprises the final locations of the aliens immediately prior to release. As such, this list is inclusive of locations that are not utilized for the long-term housing of aliens (e.g., hold rooms).

- Alaska
 - Anchorage Correctional Complex

- Alabama
 - Etowah County Jail

- Arizona
 - Eloy Federal Contract Facility
 - Florence Service Processing Center
 - Florence Staging Facility
 - Phoenix District Office

- California
 - Adelanto Correctional Facility
 - California City Correctional Center
 - Contra Costa County Jail West
 - El Centro Service Processing Center
 - Fresno Hold Room
 - Los Angeles Custody Case
 - Sacramento County Jail
 - Sacramento Hold Room
 - San Bernardino Hold Room
 - San Diego Contract Detention Facility – CCA
 - San Diego District Staging
 - Santa Ana DRO Hold Room
 - SFR Hold Room
 - Stockton Staging Facility
 - Ventura Custody Case
 - Yuba County Jail

- Colorado
 - Denver Contract Detention Facility
 - Denver Hold Room

- Connecticut
 - Hartford Office

- Florida
 - Baker County Sheriff's Office
 - Glades County Detention Center
 - Krome North Service Processing Center
 - Miami Staging Facility
 - Wakulla County Jail

- Georgia
 - Atlanta City Detention Center
 - Atlanta District Hold Room
 - Irwin County Detention Center
 - North Georgia Detention Center
 - Stewart Detention Center

- Guam
 - Agana Hold

- Hawaii
 - Honolulu Federal Detention Center

- Illinois
 - INS Airport Hold
 - McHenry County Correctional Facility
 - Tri-County Jail

- Kansas
 - Butler County Jail
 - Rice County Detention Center

- Kentucky
 - Boone County Jail

- Louisiana
 - Jena/LaSalle Detention Facility
 - Oakdale Federal Detention Center

- Maryland
 - Baltimore DD&P
 - Frederick County Detention Center
 - Howard County Detention Center
 - Worcester County Jail

- Massachusetts
 - Bristol County Detention Center
 - Plymouth County Correctional Facility
 - Suffolk County House of Corrections

- Michigan
 - Calhoun County Correctional Center
 - Chippewa County SSM
 - Dearborn Police Department
 - Saint Clair County Jail

- Minnesota
 - Carver County Jail
 - Freeborn County Adult Detention Center
 - Ramsey County Adult Detention Center
 - Sherburne County Jail
 - U.S. INS/Detention and Deportation

- Missouri
 - Lincoln County Detention Center
 - Morgan County Adult Detention Center

- Nebraska
 - Douglas County Department of Corrections
 - Hall County Department of Corrections

- Nevada
 - Henderson Detention Center

- New Hampshire
 - Manchester Hold Room

- New Jersey
 - Bergen County Jail
 - Elizabeth Contract Detention Facility
 - Essex County Jail
 - Hudson County Jail
 - Monmouth County Correctional Institution
 - NEW/INS OS Hold Room

- New Mexico
 - Otero County Processing Center

- New York
 - Buffalo (Batavia) Service Processing Center
 - NYC Field Office
 - Orange County Jail
 - Varick Street Detention Center

- North Carolina
 - Henderson County Detention Facility

- Oregon
 - Eugene Hold Room
 - Portland District Office

- Pennsylvania
 - Pike County Correctional Facility
 - York County Prison

- Puerto Rico
 - Guaynabo MDC (San Juan)

- Tennessee
 - Davidson County Sheriff

- Texas
 - Austin DRO Hold Room
 - Dallas Field Office Hold Room
 - El Paso Service Processing Center
 - Houston Contract Detention Facility
 - Houston Field Office Hold Room
 - Joe Corley Detention Facility
 - LaSalle County Regional Detention Center
 - Laredo Processing Center
 - Polk County Adult Detention Center
 - Port Isabel
 - Rolling Plains Detention Center
 - South Texas Detention Complex

- Utah
 - Utah County Jail

- Virginia
 - Hampton Roads Regional Jail
 - Immigration Centers of America Farmville
 - Washington Field Office

- Washington
 - Northwest Detention Center
 - Seattle Field Office Hold Room

- Wisconsin
 - Dodge County Jail
 - Kenosha County Detention Center

Breakdown of the Zip Codes Associated with Criminal Aliens with Homicide-Related Convictions without a Final Order who were not Removed and who were Placed in a Non-Custodial Setting in Fiscal Year 2013

ICE system records indicate the following zip codes as those associated with the aliens with homicide-related convictions without a final order who were not removed and who were released from ICE custody in fiscal year 2013.

08033	10027	10463	10474	11214	11236
11385	11429	18103	21117	30126	30263
31815	32305	32765	33351	33467	55408
73844	77450	87121	90003	90019	91020
91335	91506	91709	91792	92057	92084
92301	92562	92880	93030	94544	95205
96145					