

United States Senate

WASHINGTON, DC 20510

March 24, 2016

The Honorable Sarah Saldaña
Assistant Secretary
U.S. Immigration and Customs Enforcement
Department of Homeland Security
Washington, D.C. 20528

Dear Assistant Secretary Saldaña:

We write to express concern and follow up on your March 15, 2016 testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs. At that hearing, you responded to questions from Senators Sasse and Ernst about the death of Iowan Sarah Root, who was recently killed by a drunk driver in Omaha, Nebraska. While the facts of the case remain elusive following your testimony, we are frustrated by (1) your agency's determination that Eswin Mejia – an illegal immigrant and the drunk driver who killed Sarah Root – did not meet ICE's enforcement priorities, and (2) your attempt to explain that determination.

In response to a question by Senator Sasse during the course of the hearing, you asserted a number of reasons for why ICE officials neglected to lodge a detainer on Mejia. First, you suggested that ICE officials simply did not have time, stating that ICE only had a matter of hours – specifically, four hours – between the time the agency was contacted and the time Mejia was to be released. Second, after acknowledging that ICE officials have discretion on a case-by-case basis to issue detainers for illegal immigrants believed to be a threat to public safety, you suggested that perhaps the ICE official making the decision made an unfortunate error in judgment. Finally – and most egregiously – you suggested that ICE neglected to issue a detainer because at the time they were contacted, Sarah Root was seriously injured but had not yet died.

We're especially troubled that you told the committee Mejia was not considered to be an enforcement priority because Sarah Root had not yet died. Not only was this not true – media reports at the time indicated that Sarah Root died before ICE was ever contacted – we cannot understand how Sarah Root's condition should have had any impact on ICE's evaluation of Eswin Mejia's threat to public safety. Mejia crashed into Sarah Root's car while drag racing drunk at 19-years-old with no valid driver's license and two prior driving offenses – something you told the committee made him a clear threat to public safety. He was also a flight risk with a history of skipping court dates relating to his driving offenses. We are baffled by your testimony that when drunk driving results in serious injury it may not be an enforcement priority, but when it results in death it is. What is more, we remain concerned that drunk driving – regardless of whether it results in a serious injury or death – would not appear to be an enforcement priority at all if charged as a misdemeanor rather than a felony, especially given Mejia's legal history.

In response to questions from Senator Ernst, you then said Mejia would “absolutely” be an enforcement priority if apprehended today. As addressed in our questions below, we would

appreciate a full explanation as to why he would be an enforcement priority today, but was not an enforcement priority on February 5, 2016, when – as we understand it – ICE had all of the same information then that it does now.

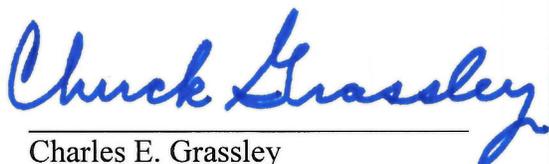
Finally, we are concerned that, according to Sarah Root’s family, there had been no attempt by ICE to contact them until after Chairman Grassley delivered a speech on this case on March 14, 2016, and Senators Sasse and Ernst raised the issue to you directly during the March 15, 2016 hearing of the U.S. Senate Committee on Homeland Security and Governmental Affairs. As you know, Sarah Root died on January 31, 2016, and Mejia posted bail and was released on February 5, 2016. The Omaha Police Department then contacted ICE on February 10, 2016, after Mejia failed to make himself available for a blood alcohol test. It is unclear why ICE took more than one month to reach out to the Root family about the circumstances and whereabouts of Eswin Mejia.

Accordingly, we request that you respond to us no later than April 6, 2016, concerning the following:

1. Any document providing a timeline of your agency’s involvement with this case, including the dates and times of the agency’s communications with the Omaha Police or the Douglas County Jail, and the content of those communications.
2. Any document, including emails, voice mail messages, reports, memoranda, or alerts, related to Eswin Mejia or Edwin Mejia.
3. A clear explanation of the reason ICE officials determined that Mejia was not an enforcement priority.
4. A clear explanation of why Mejia, if apprehended today, would “absolutely” be an enforcement priority.
5. Whether you retract any statements you made during the March 15, 2016 hearing before the U.S. Senate Homeland Security and Governmental Affairs Committee.
6. An explanation of ICE’s policy with respect to communicating with the victims or the families of the victims of crimes committed by illegal immigrants who ICE refuses to take into custody, and any information regarding the agency’s attempt to contact the Root family.

We appreciate your cooperation in this matter and look forward to your response.

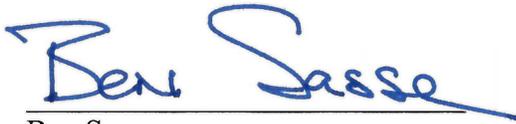
Sincerely,



Charles E. Grassley
United States Senator



Joni K. Ernst
United States Senator

A handwritten signature in blue ink that reads "Ben Sasse". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Ben Sasse
United States Senator

A handwritten signature in blue ink that reads "Deb Fischer". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Deb Fischer
United States Senator