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June 16, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Sarah Saldaña  
Assistant Secretary  
U.S. Immigration and Customs Enforcement (ICE)  
500 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20536

Dear Assistant Secretary Saldaña:

According to information provided by your agency, U.S. Immigration and Customs Enforcement (ICE), 121 criminals who this administration failed to remove from the country despite their priority for deportation due to a prior conviction have been charged with homicides *following* their release from ICE custody between Fiscal Year 2010 and FY 2014.<sup>1</sup> This disturbing fact follows ICE's admission that, of the 36,007 criminals it released from custody in FY 2013, 1,000 have been re-convicted of *additional crimes* in the short time since their release, including felonies and gang-related offenses.<sup>2</sup> Incredibly, as though releasing these criminal aliens one time is not bad enough, ICE *once again released* from its custody at least 156 of these repeat offenders back into our neighborhoods, instead of deporting them.<sup>3</sup> This practice is completely contrary to the President's promise to deport "[f]elons, not families . . . [c]riminals, not children . . . [g]ang members, not a mom who's working hard to provide for her kids."<sup>4</sup>

Please provide written responses to the following questions by July 10, 2015:

1. For each of the 121 criminal aliens who were charged with homicide following their release from ICE custody between FY 2010 and FY 2014, please provide (i) the name of the individual charged; (ii) the jurisdiction in which they were charged; (iii) the last

<sup>1</sup> Letter from the Hon. Sarah Saldaña, Assistant Secretary, U.S. Immigration and Customs Enforcement, to Sen. Jeff Flake, and Sen. Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary (May 28, 2015), at 3. Specifically, according to ICE: "Between FY 2010 and FY 2014, there were 121 unique criminal aliens who had an active case at the time of release and were subsequently charged with homicide-related offenses. Of these 121 individuals who were bonded out, 33 were released on a bond set by DOJ EOIR and 24 were released pursuant to the Supreme Court decision in *Zadvydas v. Davis*."

<sup>2</sup> Letter from Thomas S. Winkowski, U.S. Immigration and Customs Enforcement, to Sen. Charles E. Grassley, Ranking Member, Sen. Comm. on the Judiciary (Dec. 1, 2014), at 2 [hereinafter "Winkowski Letter"].

<sup>3</sup> Letter from the Hon. Sarah Saldaña, Assistant Secretary, U.S. Immigration and Customs Enforcement, to Sen. Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary (June 12, 2015) [hereinafter "June 2015 Letter"].

<sup>4</sup> Jim Acosta and Stephen Collinson, "Obama: 'You can come out of the shadows,'" *CNN*, Nov. 21, 2014, <http://www.cnn.com/2014/11/20/politics/obama-immigration-speech/>.

- known address for each alien; and (iv) a complete list of all specific offenses of which each criminal alien was convicted prior to his or her release from ICE custody.
2. How many total homicides have these 121 criminal aliens been charged with committing following their release from ICE custody? How many convictions have resulted from these charges? Were any of these 121 criminal aliens convicted of a homicide-related offense *prior* to release from ICE custody? If so, how many?
  3. As of the date of this letter, and beginning in FY 2010, how many criminal aliens who have been released from ICE custody have been charged with homicide? Please provide a breakdown by each fiscal year beginning with FY 2010 through FY 2015.
  4. For each of the 156 repeat offenders who have been released from ICE custody at least *twice* since FY 2013, please provide
    - a. the name of the criminal alien;
    - b. the specific offense(s) committed prior to the criminal alien's FY 2013 release;
    - c. a detailed description of why the criminal alien was released in FY 2013, including any recommendation as to the release of the alien by the Office of the Principal Legal Advisor (OPLA);
    - d. the jurisdiction into which the criminal alien was released in FY 2013;
    - e. the specific offense(s) committed following the criminal alien's FY 2013 release;
    - f. a detailed description of why the criminal alien was released a second time since FY 2013, including any recommendation as to the release of the alien by OPLA; and
    - g. the jurisdiction into which the criminal alien was released following his post-FY 2013 release-conviction.
  5. How many of these 156 repeat releases were due to *Zadvydas*? How many were released pursuant to a bond set by an Immigration Judge in the Justice Department's Executive Office of Immigration Review (EOIR)? Of those released pursuant to a bond by EOIR, in how many cases did OPLA appeal the bond decision? How many were released pursuant to ICE's discretion?
  6. Have any of the 156 repeat offenders who have been released from ICE custody at least twice since FY 2013 been *charged* with another offense following the criminal alien's most recent release from ICE custody? If so, which crimes and how many?
  7. Have any of the 156 repeat offenders who have been released from ICE custody at least twice since FY 2013 been *convicted* of another offense following the criminal alien's most recent release from ICE custody? If so, which crimes and how many?

8. According to ICE, 40,684 criminal aliens participated in the electronic monitoring portion of the Alternatives to Detention (ATD) program in FY 2013.<sup>5</sup> Of these, 630 of them committed a sufficiently serious violation of a condition of their release to warrant termination from the program by ICE.<sup>6</sup>
  - a. Please provide clarity on how the 40,684 figure is consistent with ICE's prior statements that only 36,007 criminal aliens were released from ICE custody in FY 2013.
  - b. Please provide a breakdown of the violations of release conditions that were committed by the 630 ATD participants who were terminated from the ATD program in FY 2013.
  - c. Following their removal from the ATD program, how many of these 630 criminal aliens were removed from the country?
  - d. Following their removal from the ATD program, how many of these 630 criminal aliens were rebooked into custody?
  - e. Following their removal from the ATD program, how many of these 630 criminal aliens were released under a different mechanism that ICE uses to book aliens out of custody?
  - f. Following their removal from the ATD program, how many of these 630 criminal aliens were convicted of another offense? Please specify each offense and the jurisdiction in which the criminal was convicted.
  - g. Following their removal from the ATD program, were any of these 630 criminal aliens charged or convicted of homicide? If so, how many?
9. According to ICE, "ICE is only able to report on those aliens who were enrolled in ATD because compliance information about individuals released on other forms of supervision is contained within a non-searchable, free-text field."<sup>7</sup> What steps have you taken to make searchable compliance information of criminals who are released from ICE custody and back into society under forms of supervision other than ATD?
10. In FY 2014, ICE released from its custody 30,558 criminal aliens with a total of 79,059 convictions instead of deporting them.<sup>8</sup>
  - a. How many of these criminal aliens have been *charged* with a crime following their release in FY 2014?
  - b. How many of these criminal aliens have been *convicted* of a crime following their release in FY 2014?
  - c. How many crimes have these 30,558 criminal aliens been convicted of following their release in FY 2014? Please identify each specific offense by NCIC code and the jurisdiction in which the conviction occurred.
  - d. How many of these criminal aliens have been removed from the United States subsequent to their release in FY 2014?
  - e. How many of these 30,558 criminal aliens remain in the United States today?

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<sup>5</sup> June 2015 Letter.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Letter from the Hon. Sarah Saldaña, Assistant Secretary, U.S. Immigration and Customs Enforcement, to Sen. Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary (Mar. 18, 2015).

Please number your responses according to their corresponding questions. If you have any questions, please contact Jay Lim at (202) 224-5225, Chandler Morse at (202) 224-4521, or Gene Hamilton at (202) 224-7572. Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Committee on the Judiciary



Jeff Flake  
U.S. Senator



Jeff Sessions  
Chairman  
Subcommittee on Immigration & the National Interest  
Senate Committee on the Judiciary