

A Review of the Department of Homeland Security Policies and Procedures for the Apprehension, Detention and Release of Non-Citizens Unlawfully Present in the United States
U.S. House Committee on Oversight and Government Reform
Subcommittees on National Security and Health Care, Benefits and Administrative Rules
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Statement of Jessica M. Vaughan
Center for Immigration Studies

Thank you, Chairmen DeSantis and Jordan and Ranking Members Lynch and Cartwright, for the opportunity to testify. There can be no doubt that immigration enforcement is in a state of collapse. Border apprehensions, which are considered an indicator of illegal crossing attempts, are rising and many of the illegal crossers are being released into the country instead of repatriated. Hundreds of thousands of temporary visitors are overstaying their visas each year. Department of Homeland Security (DHS) statistics show clearly that over the last several years the number of deportations has plummeted and the number of illegal aliens allowed to stay and work in the United States has increased. The vast majority of illegal aliens residing in the interior face no threat of deportation, regardless of when or how they arrived, or if they have been deported before. Many deportable aliens who are encountered and apprehended by Immigration and Customs Enforcement (ICE) officers are released soon after, even if they have come to ICE's attention after being arrested by local authorities.

This state of affairs can be traced directly to policy changes put in place by the Obama administration. While administration officials claim that these policies are "smarter and more effective" and allow the agencies to better focus on aliens who represent a threat to the public, in reality the intent, and certainly the result, has been the dismantlement of effective enforcement. It is no exaggeration to say that DHS is running a massive catch and release program.

These downward trends are due to two types of policy changes: first, a so-called "prioritization" scheme that shields from enforcement all but the most egregious criminals and immigration violators, and second, the abandonment of important tools that enable ICE officers, agents and attorneys to do their job in an efficient and cost-effective manner. Among the tools that have been abandoned by the agencies: 1) detainers, which enable ICE officers to take custody of aliens who have been arrested by local law enforcement agencies; 2) accelerated forms of due process that avoid the need for long, drawn out proceedings in the clogged immigration courts; and 3) partnerships with local law enforcement agencies to identify and remove criminal aliens in jurisdictions where ICE cannot cover its workload.

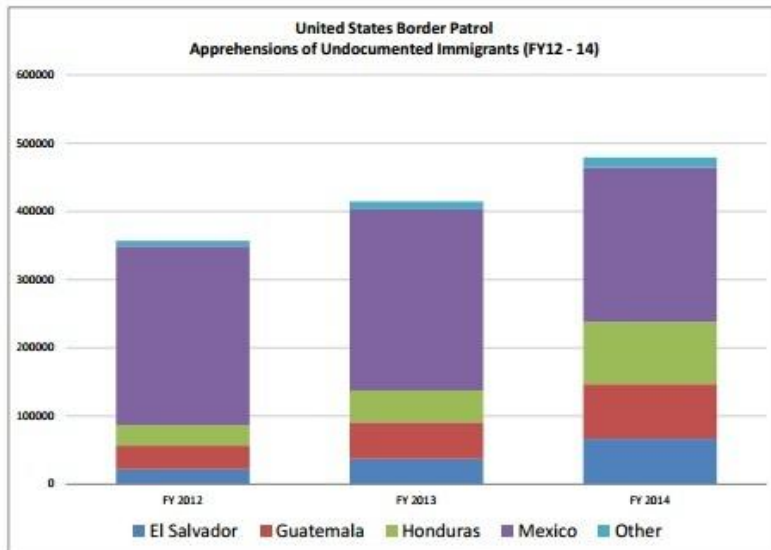
The drop in enforcement activity has become particularly acute since President Obama's controversial executive actions were announced on November 20, 2014. These included two new policy memoranda spelling out new restrictions on immigration enforcement, with the effect that only narrow classes of illegal aliens – primarily those convicted of the most serious crimes and new arrivals who lack family or community ties in the United States – would be subject to arrest, questioning, detention, or immigration charges, and that any immigration infractions in prior years, such as apprehensions, deportations, or skipping a court date, would be ignored.

These policies impose enormous costs on American communities -- not just the distorted labor markets and higher tax bills for social welfare benefits that result from uncontrolled illegal immigration, but more specifically, a real and present threat to public safety from criminal aliens that ICE officers are told to release instead of detain and remove. ICE's mandated over-focus on processing only the "worst of the worst" criminal aliens means that too many of "the worst" deportable criminal aliens are still at large in our communities. One of

the most urgent tasks now before Congress is to restore integrity to our immigration laws by ending this massive catch and release scheme that wastes government resources and endangers the public.

Enforcement at the Border. Since 2011, the number of illegal crossers apprehended by the Border Patrol has increased by 43 percent, from 340,000 to 487,000.¹ It is generally believed that border apprehensions are an indicator of the number of attempted illegal border crossings, and that approximately half of those who attempt illegal entry are successful. U.S. Customs and Border Protection (CBP) states that “The uptick is largely due to the increase in unaccompanied children and family units who turned themselves in to Border Patrol agents in South Texas this summer.” These cases totaled 137,000 in 2014 alone.

Although DHS Secretary Jeh Johnson recently stated that illegal border crossings are at their “lowest level in years,”² the agency’s own statistics plainly contradict his claims:



The apprehensions statistics are concerning enough, but they do not tell the whole story. DHS has yet to fully disclose how all these cases have been handled – that is, how many of those apprehended were removed or returned, and how many were released into the United States? Of those released, how many have concluded their immigration proceedings or absconded from those proceedings?

Other government statistics show that a large number of the new illegal arrivals were allowed to stay in the United States indefinitely. Only a few hundred of the Central American families and unaccompanied juveniles who arrived in recent years have been repatriated.³

Given this powerful incentive of a strong likelihood of being allowed to stay, it is not surprising that the surge of juveniles continues. According to ICE records, since the start of the fiscal year in October 2014,

¹ John F. Simanski, *Immigration Enforcement Actions: 2013*, Department of Homeland Security, http://www.dhs.gov/sites/default/files/publications/ois_enforcement_ar_2013.pdf and the “CBP Border Security Report, Fiscal Year 2014,” published by U.S. Customs and Border Protection.

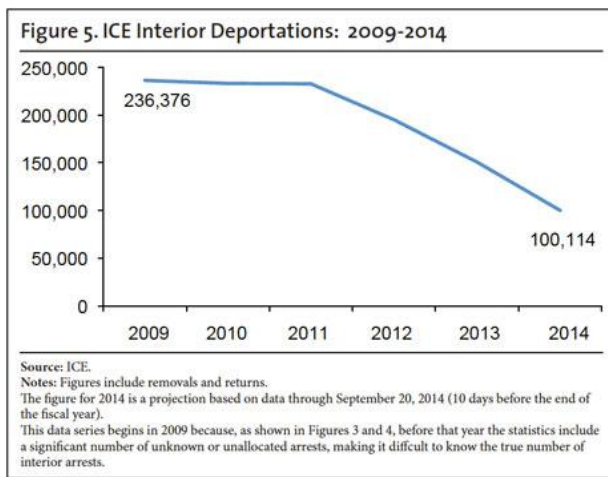
² DHS Secretary Jeh Johnson, quoted in the *Washington Post*, February 17, 2014, <http://www.washingtonpost.com/blogs/federal-eye/wp/2015/02/17/dhs-chief-we-fully-expect-to-prevail-in-the-courts-with-immigration/>.

³ Testimony of Jessica M. Vaughan, House Immigration subcommittee, December 10, 2014, <http://cis.org/node/5796>.

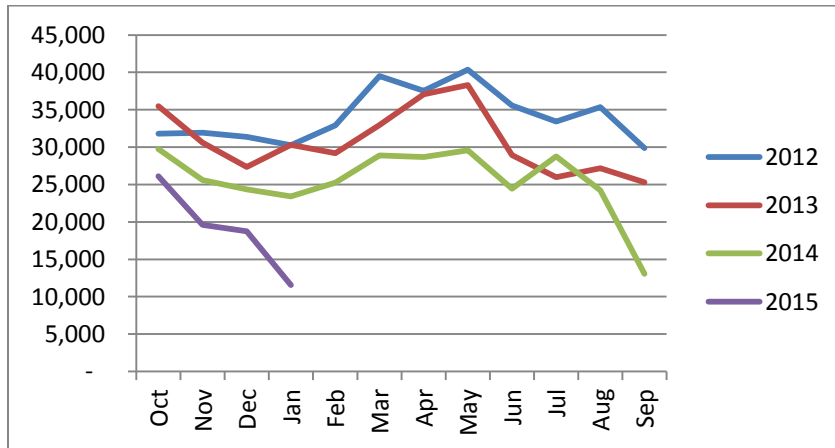
apprehensions of unaccompanied juveniles at the border have continued at the pace of about 2,000 per month. This pace is below 2014, but still nearly double the level of 2013 and triple the level of earlier years. Meanwhile, ICE removes fewer than 200 aliens classified as juveniles per month, and a large share of these are actually adults who were apprehended as minors years ago.⁴

Notwithstanding claims by Obama administration allies of “record” deportations under this administration, in fact, according to DHS statistics, the total number deportations (removals and returns) by all three DHS immigration enforcement agencies (Border Patrol, ICE and CBP-OFO) have declined by 37 percent since 2009, from 978,000 to 616,000. This has occurred despite an increasing number of apprehensions and continuing high overstay arrivals.⁵

Interior Enforcement Trends. The number of ICE deportations from the interior has dropped 58 percent since the peak in 2009, from 236,000 to 102,000 in 2014.⁶



Monthly Deportations by ICE Through Mid-January, 2015

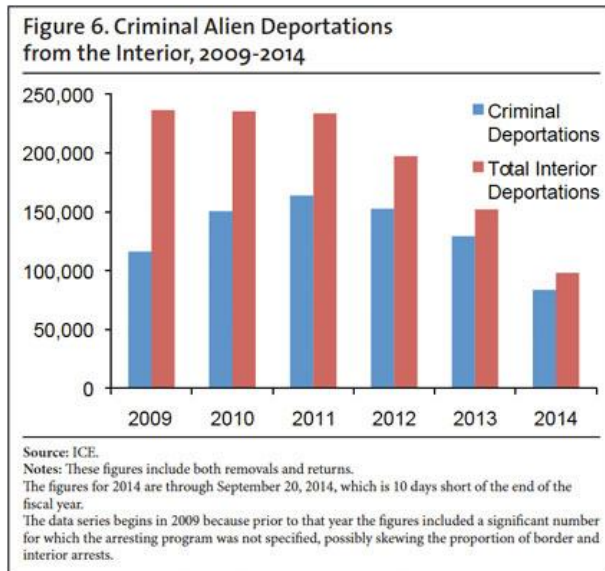


⁴ ICE statistics on Unaccompanied Alien Children booked into ICE custody, obtained by the author.

⁵ DHS Office of Immigration Statistics, http://www.dhs.gov/immigration-statistics?utm_source=frequent_page&utm_medium=web&utm_campaign=dhs_frp.

⁶ Jessica M. Vaughan, “ICE Enforcement Collapses Further in 2014,” Center for Immigration Studies, <http://cis.org/ICE-Enforcement-Collapses-Further-2014>.

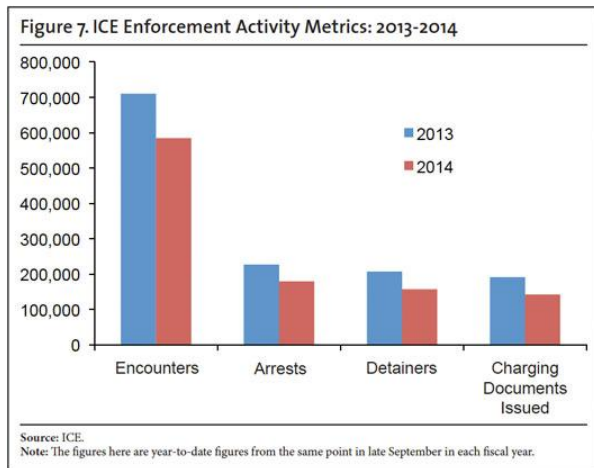
Criminal Deportations. While Obama administration officials claim that their policy changes have improved public safety by allowing ICE to focus its limited resources on the removal of criminal aliens, in fact the number of criminal aliens deported from the interior has declined by 43 percent since 2012, from 153,000 to 87,000. This has occurred despite increases in the number of criminal aliens identified by ICE, largely due to the nationwide implementation of the Secure Communities program, which screens the fingerprints of aliens arrested by local law enforcement agencies. (This hugely successful program, which was tremendously popular with local law enforcement agencies, was dismantled by the President’s November 20 executive actions.)



ICE Metrics. An examination of internal ICE enforcement metrics illustrates in more detail how interior enforcement activity has declined, and clearly reflects the appropriateness of the “catch and release” description. All of the significant metrics of enforcement activity tracked by ICE – encounters, arrests, detainers and charging documents issued -- show declines in recent years. The key indicator here is the gap between the number of encounters reported by ICE officers and the number of enforcement actions they initiate. While there are some duplicate individuals in these figures, there can be no question that ICE is taking a pass on hundreds of thousands of deportable aliens that are brought to their attention, and most of these are referred to ICE after a local arrest. In 2014, deportation processing was initiated for approximately 143,000 aliens out of the 585,000 aliens encountered by ICE agents. This gap between encounters and enforcement actions initiated can only be interpreted one way: ICE officers walked away from more than two out of every three illegal aliens they came across—presumably because these aliens didn’t meet the administration’s priorities for “keepers” even though they were already at the cusp of arrest. Tens of thousands of those let go had been labeled a criminal threat.⁷

ICE officers have told me that since the administration’s policies of prosecutorial discretion were expanded, they are allowed to process only a small fraction of the number of aliens that they used to handle. One recently told me that his office used to process as many as 100 aliens per day but, since the president’s executive actions went into effect, now they are processing fewer than five to 10 aliens per day, with the same staff and budget – meaning the government is spending perhaps 20 times more in resources to deport each alien than was the case before. This reality suggests that the president’s executive actions were less about prioritizing cases to make best use of scarce resources and more about protecting illegal aliens.

⁷ Ibid.



Criminal Releases. When ICE declines to take action against criminal aliens, that means they are released back into American communities. This is not a small problem. In 2013, ICE released 36,007 convicted criminal aliens from its custody.⁸ Of these, 193 had homicide convictions, 426 had sexual assault convictions, and 303 had kidnapping convictions. As of September, 2014, 5,700 of them (16 percent) had been arrested for subsequent offenses, and 1,000 have been again convicted. ICE has taken only 1,600 back into custody.⁹

In 2014, ICE released another 30,000 convicted criminal aliens.¹⁰

As of mid-January 2015, there were 167,527 convicted criminal aliens on ICE's docket who had received final orders of removal, but who had not departed and were at large in the United States after release by ICE.

In addition, there were 177,852 convicted criminals with pending deportation proceedings who were at large in the United States, released by ICE.¹¹

Many convicted criminal aliens are allowed to walk out of ICE custody without being enrolled in a program of supervision. For example, ICE officer report that fewer criminal aliens are being enrolled in the Intensive Supervision Appearance Program (ISAP), in which the offender wears an electronic monitoring bracelet and checks in frequently with monitors. I am told that while once this program was used frequently for lower level offenders, now it is rarely used, in favor of allowing the criminal alien to bond out without supervision. A recent report by the DHS Office of the Inspector General found that this program of supervision is not effective at preventing aliens from re-offending, nor can ICE determine if it helps accomplish the goal of improving compliance with proceedings. Nor is it cost-effective in the larger sense. From 2010 to 2012 about 2,000 aliens

⁸ Jessica M. Vaughan, "ICE Document Details 36,007 Criminal Alien Releases in 2013," Center for Immigration Studies: <http://cis.org/ICE-Document-Details-36000-Criminal-Aliens-Release-in-2013>.

⁹ DHS records provided to Sen. Chuck Grassley, released on January 30, 2015, <http://www.grassley.senate.gov/sites/default/files/news/upload/Immigration%2C%2001-30-15%2C%20Breakdown%20of%20Subsequent%20Crimes%20List.pdf>.

¹⁰ Testimony of DHS Secretary Jeh Johnson before the House Homeland Security Committee on December 2, 2014.

¹¹ ICE Weekly Departures and Detention Report, January 26, 2015.

released under supervision were (again) arrested by local authorities, and about 4,000 others violated the conditions of the program.¹²

Gang Arrests. Although gang members are said to be a high priority for enforcement, in fact the number of gang member arrests by Homeland Security Investigations (HSI) agents has declined considerably. According to ICE records, the number of gang arrests declined from 5,080 arrests to 3,917 arrests from 2012 to 2013, a drop of 23 percent. The 2013 total is the lowest number of gang arrests since 2008.¹³

Further, ICE gang investigators have expressed concerns to me that gang members they arrest (usually after conviction on state charges) and turn over to Enforcement and Removal Operations (ERO) for detention and removal processing are sometimes de-prioritized and released – and even allowed to apply for work permits -- which can unravel their prosecution and removal case, not to mention threaten public safety.

ICE officers also report that informants who once agreed to work for ICE to help dismantle major gang conspiracies in exchange for the ability to stay here now are telling ICE that they have no incentive to do so, because they qualify for the president’s amnesty or know that they can take advantage of “prosecutorial discretion” policies. One gang investigator told me that some illegal alien gang members actually taunt ICE agents, knowing they are now virtually untouchable for deportation.

Detention Space. The administration maintains that it cannot possibly detain and remove all of the estimated one million deportable aliens who are arrested each year, due to a lack of personnel and resources. Congress provides ICE with funding (and a mandate to fill) 34,000 detention beds.

But, according to ICE records, the agency has not complied with this mandate since FY2012. The average daily population (ADP) has declined every year since then. ICE reports an ADP of 33,788 for FY2013, an ADP of 33,227 for FY2014, and an ADP of 27,119 so far in FY2015. As of one month ago, ICE reported that the ADP was 25,480. This is the lowest level since FY2006, when the bed mandate was 20,800 per year.

Clearly the criminal alien releases and decline in deportations cannot be blamed on a lack of detention capacity. On the contrary, one significant problem appears to be unwillingness to use the detention capacity that Congress has provided.

A number of ICE’s local law enforcement partners have reported noticeable drops in the number of illegal aliens that ICE will take into custody after arrest and incarceration in their jails. Several sheriffs have told me that the number of beds that ICE has contracted with them to fill has shrunk considerably, and the number of illegal aliens they have to release back into the community has grown. For example, Sheriff Tom Hodgson of Bristol County, Massachusetts says that just a couple of years ago his jail held an ADP of more than 200 aliens for ICE, but it has now shrunk to about 80 ADP.

Just a few weeks ago, Sheriff Paul Babeu of Pinal County, Arizona testified to the House Judiciary Committee that ICE is releasing 30-50 illegal aliens *every day* from ICE detention facilities in his area, and that these aliens would have been deported but for the new policy changes outlined in the President’s November 20 executive actions. On one day in February 2013, ICE released 207 illegal aliens from the Eloy detention facility in Arizona into his county. Of these, 48 had been charged or convicted of manslaughter, child molestation, aggravated assault, weapons and drug crimes. To this day DHS has refused to provide him with the names, criminal histories, or security threats of these criminals.

¹² Office of the Inspector General, “U.S. Immigration and Customs Enforcement’s Alternatives to Detention (Revised),” February 4, 2015, OIG-15-22.

¹³ Source is ICE records obtained by the author through a FOIA request.

The Non-Departed. Allowing so many deportable aliens, especially criminal aliens, to remain at large in our communities means that what little effort the government makes to deport them ultimately is not successful or enforced. This leads to the absurd situation we have today, where the number of aliens who have received a final order of removal, but who are still in the United States, has risen to nearly 900,000 as of September, 2014.¹⁴ This number grew by 40,000 in the last two years. Part of the reason is that, even with the administration's mass dismissals of "non-priority" cases in lieu of immigration hearings, many of the aliens whose cases are completed and who are ordered removed simply do not comply if they are not detained. They were never a priority for enforcement under this administration, but the president's recent executive action specifically nullified all removal orders and enforcement actions involving "non-criminals" taken before January 1, 2014.

Career Personnel Blow the Whistle on Policy Changes . Numerous career immigration officers working in different parts of the agency, at all ranks and in various parts of the country have expressed to me their dismay and frustration with the Obama administration's calculated unraveling of enforcement, which they consider to be an abdication of their agencies' mission and responsibilities to the public.

"It was almost a perfect system," one ICE officer told me recently, in describing the combination of Secure Communities, 287(g), and fugitive operations teams that had been in place in his area of responsibility from about 2009 to 2011. "Almost no illegal aliens went through the jails here without us knowing about them. It was a rare case when we did not issue a detainer, such as a LPR [lawful permanent resident] or someone we could not identify. And when they were caught, they asked to go home. The word was out in the community, ICE is out there, and they'll find you. Now, people are laughing at us [ICE]; the illegal aliens know all they have to say is, 'I have kids,' or 'You can't arrest me because Obama changed the law'....And now local police keep us at arm's length, because they either don't understand what we do, or are afraid of being sued, and our own agency contributes to it."

The catch and release mentality governs the work of ICE trial attorneys too, with the result that even criminal alien felons escape consequences. In a lawsuit filed in late 2014, a widely respected senior career ICE attorney described how she and other ICE lawyers were told to ignore the law and routinely release and dismiss charges on entire categories of criminal aliens, including certain convicted felons, drunk drivers, DACA applicants, and illegal juveniles from the border surge. The lawyer was instructed by a superior to implement a program known as the Arizona Identity Theft Initiative, whose purpose was to drop and release hundreds of cases of illegal aliens convicted of felony identity theft in Arizona, even those whose crimes were so serious that they served several years in state prison and who under the law are subject to mandatory ICE detention before removal. The justification from ICE headquarters was that such aliens "had simply been using a fake ID to get and keep employment." In September 2014 ICE attorneys were ordered to begin exercising "prosecutorial discretion" in cases of aliens convicted of DUI if they were "old" cases and if the alien had U.S. family members. When a number of attorneys objected on the grounds of public safety, they were told by a top ICE official from headquarters: "We [ICE leadership] don't give a s*** about that. Let it go."¹⁵

Abandonment of Critical Enforcement Tools. In addition to declaring significant categories of illegal aliens who once would have been classified as an enforcement priority to be off-limits, the Obama administration has abandoned certain critical tools that gave immigration enforcement officers the ability to carry out their mission efficiently.

Detainers. Most significant of these with respect to criminal aliens is the use of detainers. Detainers are a perfectly legitimate, lawful tool to help ICE take custody of aliens from local authorities. They help protect the public and ICE officers by enabling enforcement to take place in a secure setting rather than on the street, in

¹⁴ ICE WRD, op. cit.

¹⁵ See complaint of Patricia Vroom: <http://cis.org/sites/cis.org/files/Vroom%20complaint.pdf>.

homes or at work places. The administration is pretending that it abandoned this tool because of unfavorable court rulings, but after years of whittling away at their use, in fact top agency leaders helped instigate these rulings by changing certain long-held positions (over the objections of career personnel and without legal foundation). The new policies were then simply accepted by certain judges – leaving ICE’s local law enforcement partners who had cooperated in good faith (and in compliance with federal regulations) twisting in the wind and subject to significant legal and financial liability.¹⁶ The final nail in the coffin came in the November 20 executive actions, which included a provision prohibiting ICE officers from issuing detainers in all but rare cases.

Legal Action. One factor behind the erosion of enforcement has been a steady stream of predatory law suits aimed at obstructing ICE from doing its job. The administration has contributed to the success of these lawsuits by declining to challenge them; conceding in settlements; withholding assistance from local enforcement partners; and issuing controversial policy statements, sometimes without sound legal foundation, that can be used by plaintiffs hostile to the government’s mission. If one were to think of immigration litigation against the government and its enforcement partners as a game, then the Obama administration is throwing it.

One recent example is the *Lopez-Venegas v Johnson* lawsuit brought by the Southern California chapters of the ACLU, targeting the ICE and Border Patrol practice of offering the option of voluntary return in lieu of lengthy deportation hearings. DHS agreed to a settlement of the case, with the result that now officers in the San Diego Border Patrol Sector and Los Angeles ICE Field Office (both areas with huge caseloads) must operate under cumbersome procedures that encourage Mexican illegal aliens to opt for immigration court hearings that can take up to seven years, instead of allowing them to encourage illegal aliens to agree to swift deportation with minimal consequences. This settlement will further bog down ICE and Border Patrol officers and the already dysfunctional immigration courts while giving illegal aliens permission to live and work here in de facto lawful status for many years.

Encouraging Asylum Claims and Other Deportation Delay Tactics. Obama administration policy changes have significantly increased incentives for aliens to claim fear of return to their homeland, political asylum, or pay human smugglers to bring family members into the United States illegally. Instead of keeping new illegal arrivals in custody near the border and promptly repatriating the vast majority who are unqualified, the administration has changed policies to allow them to live and work in the United States indefinitely, under the guise of what it calls “deportation proceedings.” Officers assigned to ICE detention centers say they now spend a large share of their time handling complaints and grievances (often frivolous) from detainees, and inquiries from ICE headquarters generated by advocacy groups instigating complaints on behalf of the illegal aliens. ICE officers assigned to the non-detained docket cases now have to spend their days handling motions and requests from illegal alien low-level offenders applying for stays of removal, deferred action, motions to dismiss, and other ways to prolong their proceedings. Two weeks ago, the Department of Justice rewarded many of these aliens by announcing that potentially tens of thousands of so-called “non-priority” deportation cases would be granted postponements to November, 2019 – giving these illegal aliens nearly five more years to live and work in this country.¹⁷

287(g) Programs. The administration has reduced the number of local law enforcement agencies that can volunteer to assist with immigration enforcement by canceling dozens of these effective delegation of authority programs, refusing to approve new ones, and assisting in lawsuits against some of its former partners. The result

¹⁶ See Dan Cadman and Mark H. Metcalf, *Disabling Detainers: How the Obama Administration Has Trashed a Key Immigration Enforcement Tool*, Center for Immigration Studies, January, 2015: <http://cis.org/disabling-detainers>.

¹⁷ Devlin Barrett, “U.S. Delays Thousands of Immigration Hearings By Nearly Five Years,” *Wall St. Journal*, January 28, 2015, http://www.wsj.com/article_email/justice-department-delays-some-immigration-hearings-by-5-years-1422461407-1MvQjAxMTE1NTIxOTUyODk5Wj.

is that more criminal aliens fall between the cracks and are able to evade deportation, and ICE field offices lose out on the opportunity to have local officers do ICE work at almost no cost to the federal government.

Issuance of Work Permits. Besides suspending enforcement against all but the most egregious criminal alien offenders, the Obama administration has gone beyond the concept of “prosecutorial discretion” to allow huge numbers of illegal aliens to receive a work authorization document, and by extension, access to driver’s licenses and other privileges commonly reserved for legal immigrants. According to USCIS records, from 2009 to 2014, the agency issued 7.4 million work permits to aliens. Of these, well over two million were issued to illegal aliens – including many who do not qualify for any legal status and are in deportation proceedings. This includes: aliens who were arrested by ICE but released on an order of supervision; aliens seeking suspension of deportation or a stay of removal; criminal and non-criminal aliens ordered removed but whose countries will not take them back; asylum applicants; and illegal aliens granted parole into the country after arriving from Central America in the border surge of 2012-14.¹⁸

Public Safety Consequences. There is a human cost to the policies that prevent ICE officers from arresting, detaining and removing illegal aliens who have committed crimes and engaged in reckless behavior such as drunk and/or reckless driving. Some recent lives lost for which administration policies share some responsibility:

Dominic Durden, a 30-year old Riverside County California sheriff’s dispatcher, was killed on July 12, 2012 by illegal alien Juan Z. Tzun, who crashed into him while making an illegal left turn hurrying to a day labor site. Tzun was driving without a license and had two prior drunk driving convictions, which had not triggered ICE action. On April 3, 2013, Tzun was sentenced and served 30 days in jail before he was set free on a work release program. Eventually ICE took him into custody and Tzun was deported to his native Guatemala on March 20, 2014.

Katerin Gomez, age 35 and mother of three children under age 13, was killed in Chelsea, Massachusetts on October 18, 2014 by a stray bullet through her window. The gun was fired during a street brawl allegedly by Hector Ramires, a 21-year old illegal alien member of the notoriously violent MS-13 gang, who was at large awaiting trial for two prior arrests for armed robbery (one with a gun, one with a knife), in which his illegal status and gang membership were noted. The police report also includes mention of prior criminal involvement in his home country of Honduras. ICE did not issue a detainer nor initiate deportation proceedings after either prior arrest, nor did it make an effort to charge Ramires as an illegal alien in possession of a firearm, which is a felony punishable by up to 10 years in prison.

Magno Sosa, age 32, was shot twice in the head and killed on January 17, 2015 in Everett, Massachusetts. The accused is Rigoberto Escobar, an illegal alien who was out on pretrial probation for assault and battery with a dangerous weapon and assault and battery on a police officer. Again, ICE had declined to issue a detainer or pursue immigration charges after the assault and battery arrests, most likely because of policies forbidding officers from initiating charges on illegal aliens who have not yet been convicted.

Ismael Mejia, age 26, and **Luariano M. Ramirez**, age 19, were killed on June 20, 2013 in Muscoy, California, after being struck by illegal alien drunk driver Felix Roman Nava. About one year prior to this fatal incident, Nava had been in ICE custody after a prior DUI conviction, but was released on bond to await proceedings. In August, 2013 he was convicted of two counts of Gross Vehicular Manslaughter While Intoxicated and sentenced to six years in prison.

¹⁸ Jessica M. Vaughan, “Government Data Reveal 7.4 Million Work Permits Issued Since 2009,” Center for Immigration Studies, February, 2015: <http://cis.org/sites/cis.org/files/vaughan-work-permits-2-16.pdf>.

Numerous reports show that criminal illegal aliens who are released back into the community instead of detained for prompt removal have a high likelihood of re-offending. A 2012 study by the Congressional Research Service using data subpoenaed by the House Judiciary Committee found that over a two and one-half year time period, more than 26,000 deportable aliens who were flagged by ICE's Secure Communities program, but whom ICE chose to take no enforcement action against, were charged with 58,000 new crimes. These crimes committed after identification by ICE included 59 murders, 21 attempted murders, and more than 5,000 major or violent criminal offenses. In addition, they were charged with more than 6,000 drug violations and more than 8,000 DUI violations.¹⁹

Senior ICE officials have told me that they estimate that about 50 percent of arrested aliens freed from ICE custody or freed by local law enforcement agencies in defiance of detainers have re-offended after release.

Short Term Action Congress Can Take to Address Enforcement Needs

- A. Restrict DHS appropriations so that no funds may be used to implement any executive actions or policy directives that prevent enforcement officers from performing their jobs and/or allow large classes of illegal aliens to avoid deportation and receive work permits.
- B. Authorize and direct the Border Patrol to keep illegal border crossers in custody in the immediate border region, and that the only form of due process available shall be Expedited Removal.
- C. Clarify the authority and imperative for the transfer of aliens from local to federal custody for enforcement. Impose sanctions on local governments that obstruct the process.
- D. Provide funding for an increase in detention capacity for immigration enforcement agencies, and require that DHS use it for that purpose.
- E. Clarify ICE's authority to use accelerated forms of due process, especially for recent border crossers and criminal aliens, in order to relieve pressure on the immigration courts.
- F. Restore funding and flexibility to programs such as 287(g) that enhance ICE deportation capacity and address local public safety needs.
- G. Mandate the next step toward implementation of a biometric entry-exit tracking system, whether implementation of biometric exit and air and sea, or implementation of biometric entry data collection from all non-citizen land arrivals.
- H. Withhold approval for any relaxation in visa issuance procedures, interview requirements or visa waiver program expansion until anti-fraud programs are enhanced and the annual number of new overstays is reduced by 50 percent.
- I. Clarify the categories of aliens who may be issued work permits, and examine the merits of a bar on issuing work permits to aliens in deportation proceedings.

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¹⁹ Congressional Research Service, "Analysis of Data Regarding Certain Individuals Identified Through Secure Communities," July 27, 2012, http://cis.org/sites/cis.org/files/smith.crs_.sc%20catch%20and%20release%20results.pdf.

Jessica M. Vaughan

Director of Policy Studies



Jessica M. Vaughan serves as Director of Policy Studies for the Center for Immigration Studies, a Washington, DC-based research institute that examines the impact of immigration on American society and educates policymakers and opinion leaders on immigration issues. She has been with the Center since 1992, and her area of expertise is immigration policy and operations, covering topics such as visa programs, immigration benefits and immigration law enforcement. Ms. Vaughan recently completed several major projects on immigration and crime, including a Department of Justice-funded project studying the use of immigration law enforcement in transnational gang suppression efforts. In addition, she is an instructor for senior law enforcement officer training seminars at Northwestern University's Center for Public Safety in Illinois.

Prior to joining the Center, Mrs. Vaughan was a Foreign Service Officer with the State Department, where she served in Belgium and Trinidad & Tobago. Her articles have appeared in the Washington Post, Boston Globe, The Economist, In the National Interest, Providence Journal, Hartford Courant, Arizona Republic and other publications, and can be found at www.cis.org. She has testified before Congress several times and advises state lawmakers and agencies on immigration issues. She is frequently cited in news media reports on immigration, and has appeared on NPR, CNN, MSNBC, Fox News, and PBS's NewsHour with Jim Lehrer.

Mrs. Vaughan has a Master's degree from Georgetown University and earned her Bachelor's degree in International Studies at Washington College in Maryland.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name: Jessica Vaughan

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None.

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Center for Immigration Studies

I am the Director of Policy Studies.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None.

I certify that the above information is true and correct.

Signature:

Jessica M. Vaughan

Date:

2/23/15