

**CRIMINAL ALIENS RELEASED BY THE
DEPARTMENT OF HOMELAND SECURITY**

HEARING

BEFORE THE

**COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS**

SECOND SESSION

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CRIMINAL ALIENS RELEASED BY THE DEPARTMENT OF HOMELAND SECURITY

Thursday, April 28, 2016

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
WASHINGTON, D.C.

The committee met, pursuant to call, at 9:30 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Duncan, Jordan, Walberg, Amash, Gosar, DesJarlais, Gowdy, Farenthold, Massie, Meadows, DeSantis, Mulvaney, Buck, Walker, Blum, Hice, Carter, Grothman, Palmer, Cummings, Maloney, Norton, Lynch, Connolly, Cartwright, Kelly, Lieu, and Welch.

Also Present: Representatives Young and Courtney.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order.

And without objection, the chair is authorized to declare a recess at any time.

Preparing for this hearing has been—I am telling you, it is hard to keep your cool in preparing for this meeting. And let me tell you the heart of why we are here today. Immigration and Customs Enforcement, I have met with the men and women who work there, wonderful, hardworking, dedicated people who do a hard and difficult job. But I have got to tell you, what is going on at Homeland Security, what is going on with Immigration and Customs Enforcement is one of the most infuriating things I think I have seen in this government yet.

In a 3-year period, Immigration and Customs Enforcement has released more than 86,000 criminal aliens into the American public. These are people that were here illegally, got caught committing a crime, were convicted of that crime, and then instead of deporting them, they were just released back out into the United States of America. All told, they had more than 231,000 crimes that they were convicted of, 86,000 of these people.

In 2015, 196 of these people were convicted of homicide, and ICE released them back into the public rather than deporting them. One hundred and twenty-four of those that were released between fiscal year 2010 and 2015, went on to commit homicide.

Let me give you some other stats. In 2013, ICE released 36,007 criminal aliens, criminal aliens who were here unlawfully and present in the United States. As of September 2014, 5,700 of those individuals went on to commit additional crimes. In March of 2015, ICE Director Sarah Saldana testified before this committee that

during fiscal year 2014 ICE released another 30,000 individuals with criminal convictions.

In fact, ICE released 30,558 criminal aliens in 2014 who had a combined 79,059 convictions instead of deporting them. Of those 30,558 criminal aliens, 1,895 were charged with another crime following their release. Their convictions include sex offenses, assault, burglary, robbery, driving under the influence. And ICE told us that in 2015 the agency released 19,723 criminal aliens with a combined 64,197 convictions, including 934 sex offenses, 804 robberies, 216 kidnappings, and 196 homicide-related convictions.

And that is on your watch. They were here illegally, they got caught committing a crime, they were convicted of the crime, and instead of following the law and deporting them, you release them back out into the public and they commit more crimes. How do you look those people in the eye? How do you go back to a family and say, you know, they were in our detention and we just thought it would be better to let them out into the United States of America? That is so wholly unacceptable.

I want to show you this football stadium. This is Notre Dame football stadium. You have released more people that were convicted of crimes and should have been deported than you can fit into that stadium. You would still have people waiting outside the line. Those are the criminals that you released instead of deporting.

And one of the people that is very passionate about this issue and has spent a lot of time on that is our colleague, Mr. DeSantis Florida. I would like to yield time to him.

Mr. DESANTIS. Thank you, Mr. Chairman.

You know, we in this country, the government at all levels has a responsibility to protect the safety of the American people. For the Federal Government, most of the crimes that are committed, particularly violent crimes are handled at the State level. And I wish we could prevent every crime from happening. I wish we could. But the fact of the matter is we rely on deterrents, we rely on penalties to prevent people from even trying to commit crimes in certain instances.

But in this case, this is an example of where government could have prevented all of these crimes. You have somebody—and the story that came out, I thought, was just shocking where between fiscal year 2010 and February of 2015 there were 124 individuals who were in the country illegally, had been previously detained by ICE, and were released that were charged with homicide. You look at the number of convictions that we have seen for people who have been released by ICE even after being convicted of rape, of homicide, of domestic violence, violence against women, other sex offenses, this is putting the American people at risk.

Something is wrong. Something needs to change. We have tried to highlight this over and over again. We get the numbers of convictions finally given to us for '15, and it is startling because we are told that, oh, we are going to focus on really getting these criminals, but yet you have criminals in your possession, don't have a right to be here, they should be returned to their home country, and yet they are released into American society and then they re-offend.

So, Mr. Chairman, I thank you for having this hearing. This is an immensely, immensely frustrating issue to see this because some of these crime victims, the families, you can say to them had the Federal Government simply done its job, maybe your loved one would be here today.

And I yield back.

Chairman CHAFFETZ. I thank the gentleman.

Director Saldana, who is about to testify before us, has testified before. She said, "We welcome any amount of money that we have. We can always do more with more resources. We are just doing the best we can with the resources we have right now." Except in June of 2015, Department of Homeland Security leadership took \$113 million from ICE's enforcement budget and asked Congress to reprogram it to other DHS components with no role in immigration enforcement. Further, in the latest budget justification, Homeland Security seeks \$185 million less, less for deportation and transportation. Despite a mandate in the law requiring ICE to maintain 34,000 detention beds, ICE only wants funding for 30,913.

This administration's failure to secure our border, enforce immigration laws, and hold criminal aliens accountable creates an ongoing threat to our public safety and sometimes delays consequences for innocent Americans. And many of those losses are preventable. The numbers became real in February of 2015 in a National Security Subcommittee hearing. During the hearing, we heard testimony from Jamiel Shaw, whose 17-year-old son was murdered by Pedro Espinoza, an alien living in the United States illegally. Mr. Espinoza had been released from jail on a conviction for brandishing a weapon before the Shaw slaying. This is a weapons conviction.

We also heard from Mike Ronnebeck, the uncle of Grant Ronnebeck. Grant was 21 years old when he was killed in Mesa, Arizona, while working an overnight shift at a local convenience store. The guy is just working at the convenience store late at night trying to do the right thing. The alleged killer was in removal proceedings due to a burglary conviction but released by ICE on a 10,000 bond, and Grant was killed.

The Ronnebeck and Shaw families are not the only victims of crimes committed by aliens unlawfully present in the United States. Today, we continue to put names and faces with individuals whose lives were changed forever by the death of a family member killed by a convicted, convicted criminal alien. The common thread among these stories you are about to hear today is that each of them were preventable. If ICE had only followed the law, it is highly likely that these witnesses would not be sitting here today grieving the loss of another loved one.

And I thank the family members that will be joining us on the second panel. They are heart-wrenching stories, and it was preventable. It didn't have to happen. You could have deported them and you chose not to, and it is just infuriating.

Chairman CHAFFETZ. My time is expired. Let me recognize the ranking member, Mr. Cummings, for his opening statement.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

And let me first of all start off by expressing how very sorry I am for the families of Casey Chadwick, Sarah Root, and Marilyn

Pharis. The crimes that were committed against them were brutal and barbaric, and their lives were stolen away from them all too soon.

But not only were their lives stolen away from them, their lives were stolen away from their parents and their friends and relatives. And so to Mr. Root and Charlie, I want to thank you for being with us today.

I thank you for something else, though. I thank you for taking your grief and turning it into a passion to make sure that it does not happen to anybody else. I really appreciate that. Thank you.

I know how painful it must be to relive these nightmares, especially before a congressional committee, and when I read your testimony, Mr. Root, I got to tell you, you said over and over again a parent should never have to do this, identifying a child who has been harmed and murdered. So only you can truly know what losses mean to your families.

I also lost a loved one 5 years ago almost to the day, a nephew at Old Dominion College. Folks busted into his room, blew his brains out, 20 years old. And then to go there a few days later and just see his brains splattered on the wall, I tell you, when I read your testimony, I could not help but think about all of that.

And a lot of people don't understand when you have somebody who was murdered. I tell people it is hard to mourn properly because you are always wondering why it happened, how it happened, sometimes, in my case, who did it. But at the same time, you mourn for what could have been.

Every time a friend of folks get married, you think about your own, you know, what her marriage would have been like or you hear about a child being born, and so it is just constant. When the birthdays come, when Christmas comes, everything, it just replays in your mind, mourning over and over and over what could have been.

And so I know you want answers, and you deserve those answers. And so I want to thank you also, Mr. Burbank and Chief Martin, for being here, for dedicating your careers to combating all types of horrible crimes in your communities. And it should be the business of this Congress to help you be able to do your jobs effectively and efficiently. After all, you go out there, you put your life on the line over and over and over again. And so often, you run into crimes that you can't even solve. You try, you do the best you can, you don't get the cooperation. So I am committed to making sure we get to the bottom line.

And, Director Saldana, I want to thank you for your testimony and for your work as a public servant. It is crucial that we hear what Immigration and Customs Enforcement has learned from these cases and about your ongoing efforts to improve the agency's procedures.

You can understand why people are upset. Everyone on this committee wants to help improve public safety and enhance the security of all of our communities. Our committee is not just about oversight. And I emphasize this over and over again. It is not just about oversight. It is also about reform. If we identify a problem, our goal is to address it.

For example, in one of the cases we will discuss today, ICE repeatedly attempted to deport the perpetrator to Haiti before his release in 2012, but the Haitian Government refused to accept him, not once, not twice, but three times. Even after Haitian officials agreed to allow him to board a plane bound for Haiti, they reversed themselves and refused to accept him.

I am sure these facts offer little solace to Ms. Chadwick's family. So we need to ask what ICE could have done differently and what ICE can do in the future to improve these procedures.

We also need to—and I think the chairman made a good point. We realize that there are issues that go to resources, but the question is, are we using the resources that we have effectively and efficiently. We also need to ask what more we as a government can do to force recalcitrant countries like Haiti, in this case, to honor their treaty agreements and to accept their own citizens.

This process is already underway thanks to Senator Richard Blumenthal and Senator Christopher Murphy, and Representative Joe Courtney of Connecticut. On November 24, 2015, they sent a letter to the inspector general of the Department of Homeland Security requesting an investigation to determine what more ICE could have done “to overcome the objections of the Haitian Government to the removal of this individual.” So I ask unanimous consent to enter their letter into our official hearing record today, Mr. Chairman.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. The inspector general has agreed to their request, and this investigation is now underway. I absolutely support these goals. What I absolutely do not support, however, is the hateful rhetoric we hear and have heard coming from some my members of the Republican Party who disparage all immigrants with false condemnation.

Donald Trump has labeled Mexican immigrants as rapists. He has also called for a shutdown of Muslims entering the United States. These were not accidental lapses of off-the-cuff remarks. They are genuine statements from the leading Republican candidate for President of the United States of America in 2016.

If you think his rhetoric is just words and does not cause actual harm, consider the brutal assault of a 58-year-old homeless Latino man in Boston. Last August, two brothers Scott and Steve Leader, who have extensive criminal records, hit him in the face, urinated on him, punched him, hit him with a metal pole, and then walked away laughing. When questioned by the police, one of the brothers said, “Donald Trump was right. All these illegals need to be deported.”

And when Donald Trump heard about this brutal attack, he said that it was a shame but that his supporters are very passionate and “want this country to be great again.”

And so, as I close, if we remain silent, if we remain silent in the face of these actions, hate will become our new normal. What we are hearing is racism, pure and simple. I do not like to use the word because it can sometimes be difficult for people to hear anything else. It can become a distraction. We are trying to work towards real solutions like tackling criminal justice reform, immigration reform, and gun violence.

Unfortunately, in this case, it is warranted. So I have lived too long and fought too hard. I will not sit by silently as some have tried to plunge our nation into a hateful division where we turn against each other.

And so I hope our committee ultimately will do more than just hold a series of hearings on immigrants who commit crimes. I hope we all will take heart and that we will examine all of the legitimate questions. And there are a lot of legitimate questions here we are facing as a nation and that we will act to develop the bipartisan solutions needed to address them. We must come together to reject racist rhetoric and work to make our community safer in a comprehensive and constructive way.

And again, I want to thank our witnesses for turning your pain into a passion to do your purpose. Thank you very much, and I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I would like to ask unanimous consent to enter into the record the Criminal Alien Report released by Homeland Security in 2015 and also enter into the record a letter from Senator Grassley and Senator Ernst regarding the case of Sarah Root.

Without objection, so ordered.

Chairman CHAFFETZ. And we will hold the record open for 5 legislative days for any member who would like to submit a written statement.

And I will now recognize the distinguished witness on the first panel. We have two panels today. We are pleased to welcome the Honorable Sarah R. Saldana, Director of United States Immigration and Customs Enforcement at the Department of Homeland Security.

Thank you for being here.

Pursuant to committee rules, all witnesses are to be sworn before they testify. If you will please rise and raise your right hand.

[Witness sworn.]

Chairman CHAFFETZ. Thank you. Let the record reflect the witness answered in the affirmative. We would appreciate it if you would limit your oral testimony to 5 minutes. Your entire written statement will obviously be made part of the record.

Ms. Saldana, you are now recognized, Director, for 5 minutes.

WITNESS STATEMENTS

STATEMENT OF SARAH R. SALDANA

Ms. SALDANA. Thank you, Mr. Chairman, Ranking Member Cummings, and other distinguished members of this committee.

I cannot tell you how disheartening it is to sit here and hear an issue—and very important issues—related to the topic of immigration reform be bandied about as a political football.

I'm a former United States attorney. I was a prosecutor for 10 years. I am about the law and law enforcement. I'm about identifying problems and correcting them. I am here to get—to tell the public what the situation is with some of the issues we face, inform the public, and I would really appreciate we focus on solutions, solutions as opposed to political banter.

Along with our sister agencies at the Department of Homeland Security, ICE has no smaller mission, no smaller mission than the national security, border security, and public safety of our citizens. Like any law enforcement agency, we deal with serious and difficult matters every day. In the area of immigration, recent estimates are that there are about 11.2 million illegal immigrants in the country. There are approximately 2 million, 2 million undocumented immigrants who are involved in some form or fashion in ICE's administrative process. There are about half-a-million, 500,000 of those who are part of active cases in the immigration courts.

ICE detention program booked in approximately 300,000 individuals last fiscal year. And as you know, we've been funded at the 34,000 bed level for the last couple years. You, the Congress, had not only provided the funds to carry out our responsibilities for which we're very grateful, but you've also set forth the framework to execute those responsibilities. And it's all right here in the Immigration and Nationalization Act. You tell us who we are required as a mandatory matter to detain, and you tell us who we exercise our ability to release someone and not detain, make a decision about not detaining, or bond for that matter.

Given the numbers I've just cited, obviously a very small percentage of individuals are detained while an immigration judge under the system that you the Congress has provided—are detained while that judge makes a decision in their removal proceedings. I am deeply mindful that this is not simply a discussion of statistics, capacity, policies, or procedures. There are families whose lives are personally affected by these decisions.

As a human being and a mother, never mind my prosecutorial experience, I feel very strongly any time someone is injured or murdered or killed—otherwise killed by any person, and certainly those within the immigration system.

I know that the women and men of ICE work tirelessly to enforce the law and protect the public, and they steadfastly bear the enormous responsibility that they are charged with. When the chairman, respectfully, sir, says we just decided—that being ICE—to let them out on the streets and “we chose not to detain people,” that is misleading the public and particularly these victims about the immigration situation and the entire picture.

I think this committee well knows that this year over two-thirds, over two-thirds of the criminal releases, something I wish you had pointed out—over two-thirds of the criminal releases were as a result of the Supreme Court telling us we had to release someone, it wasn't ICE choosing to do so, and another portion of the courts otherwise telling us that we had to release, the immigration courts, who have overall supervisory responsibility over this system.

So to sit there and say that the proud women and men of law enforcement in ICE are choosing to release criminals is absolutely unforgivable. I am very proud of representing those men and women. Many of them are former police officers, sheriff's department members, and they do not go around trying to put criminals on the streets. So I want the record to be clear, and I want these victims' families to know exactly what ICE is facing. And I want them to have an accurate picture of that.

So when ICE makes a custody determination upon an alien with a criminal conviction, we act in accordance with the law, a law that you have given us. We are committed to carefully reviewing the circumstances of each case to ensure we make prudent decisions and to use the tools at our disposal, including supervision and conditions of release.

Further, we include in our data set things over which we have no control when somebody's claiming to be a citizen or an LPR. There are additional requirements on us. This is a very complex law, and every time or virtually every time I have been before a committee, I have begged, I have asked, work with ICE, work with me, work with the Secretary for comprehensive immigration reform. We can't kick this down the road or after an election. We need to fix this, and I am—I implore you to help us.

So this issue has been a very—of great importance to me since I started at the agency about a year-and-a-half ago. In March of last year, I set up a system that I think I've testified about to this agency to look—review every criminal release that there is. We have a panel that I've actually visited with. I'm in the process right now, like I do with any policy, of revisiting the policy to see how effective it's been over the last year, because we started in March, and to see what we can do better with—in that regard. I am willing to learn, and I do listen.

So as you're aware, we're proud of the fact—and I think it's as a result in part of this panel—of going from 36,000 releases in 2013 to, in 2015, a little over 19,700. So you know—I want to be sure it's clear that while two-thirds of the criminal releases in 2013 and 2014 were characterized even here as resulting from ICE determinations, that ratio actually is reversed in 2015. And as I said earlier, we have about two-thirds of our criminal releases being required of us by courts.

And with respect to what Congressman Cummings pointed out, and that is the recalcitrant countries in getting people to take back their criminals, this world is a chaotic world. We have countries with great instability, countries that have suffered tremendous even natural disasters like Haiti and are in turmoil, and trying to deal with them is very hard. But I am working with the Department of State. Quite frankly, this afternoon I meeting with Assistant Secretary Michele Bond to talk some more about what more we can do with respect to recalcitrant countries. And I'm glad to do that.

Let me conclude by saying that, having heard directly from families over the last 11 years of victims of crime who've suffered tremendous loss, I personally remain committed—Mr. Chairman, I personally remain committed to implementing ICE's priorities in a smart and strategic manner and to safeguard our communities and maximize the agency's success.

I thank you for the opportunity to address the group, and I await your questions.

[Prepared statement of Ms. Saldana follows:]



U.S. Immigration and Customs Enforcement

STATEMENT

OF

SARAH R. SALDAÑA

DIRECTOR

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON
CRIMINAL RELEASES

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

APRIL 28, 2016

INTRODUCTION

Chairman Chaffetz, Ranking Member Cummings, and distinguished Members of the Committee, thank you for the opportunity to appear before you today to discuss the detention and removal of criminal aliens by U.S. Immigration and Customs Enforcement (ICE), an agency within the U.S. Department of Homeland Security (DHS).

As Secretary Johnson has mentioned in previous congressional hearings, the Department is focused on the smart and effective enforcement of our immigration laws. Individuals who pose a threat to national security or public safety, or who are arrested crossing the border illegally, are enforcement priorities, and ICE is allocating enforcement resources accordingly, consistent with our laws. Day-in and day-out, Deportation Officers, Special Agents, and attorneys focus their efforts and resources on the removal of individuals who have been convicted of felonies, those who have been convicted of significant or multiple misdemeanors, those actively and intentionally engaged in gang activity, and recent border entrants. Today, I highlight the role the dedicated men and women of ICE play in the arrest, detention, and removal of individuals meeting the Department's enforcement priorities, and I am pleased to share some of ICE's recent initiatives and successes.

Over a year ago, on November 20, 2014, Secretary Johnson issued several memoranda, including *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants* and *Secure Communities*, outlining the Department's civil immigration enforcement priorities and strategies for the removal of criminal aliens. These priorities continue to inform our decisions to arrest, detain, prosecute, and remove aliens from the United States. Apprehending and removing individuals who pose a threat to national security, border security, or public safety is DHS's highest immigration enforcement priority. ICE also depends on the ability of its cadre

of trained, professional law enforcement personnel to use good judgment in their enforcement actions, which they do very well. Our personnel are one of the most important tools the agency has to ensure our laws are enforced fairly, humanely, and with the understanding that each decision will affect the lives of many people.

Immigration enforcement is the largest single area of responsibility for ICE. We execute those responsibilities in concert with many partners, including the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), which is responsible for adjudicating most immigration cases in the United States. When the DOJ's immigration courts' case volume is coupled with federal court decisions impacting our detention authority, we face a number of challenges to our removal efforts. Notably, ICE's detention authority exists to support its mission of removing individuals from the United States, not for punitive purposes. However, ICE will continue to do the best job possible, within the bounds of existing law, to accomplish our mission, make strategic use of our resources, and improve efficiency and reporting.

ICE's ENFORCEMENT AND REMOVAL OPERATIONS

Guided by DHS's enforcement priorities, the approximately 6,000 Deportation Officers of ICE Enforcement and Removal Operations (ERO) identify removable individuals and make arrest, detention, prosecution, and removal determinations in a manner designed to best promote national security, public safety, and border security.

ERO works to identify individuals who are subject to removal in jails and prisons through the Criminal Alien Program and the 287(g) Program; it further effectuates interior enforcement through Fugitive Operations teams, task force participation, and other initiatives. ERO works hand-in-hand with ICE's Office of the Principal Legal Advisor (OPLA) as its attorneys represent

the United States in removal proceedings administered by EOIR. ERO also coordinates the removal of individuals with administratively final orders of removal, including by obtaining necessary travel documents from the countries to which they are being returned.

ICE's recent criminal release statistics illustrate our commitment to ensuring that individuals who pose a threat to public safety are not released from ICE custody, and demonstrate that our review processes embody and support ICE's commitment to public safety. As you are aware, in fiscal year (FY) 2013, ICE had 36,007 criminal releases, while in FY 2014, that number had fallen to 30,558 criminal releases—that is, a 15 percent reduction from the previous year in the number of criminal aliens released from custody pending removal proceedings. In FY 2015, the number of criminal releases fell even further to 19,723, a 30 percent decrease from FY 2014. Notably, while almost two-thirds of the criminal releases in FY 2013 and FY 2014 were due to ICE discretionary determinations authorized by the Immigration and Nationality Act (INA) and its implementing regulations, in FY 2015, that trend had reversed such that nearly two-thirds of the criminal releases that year were legally required rather than the result of ICE's exercise of discretion.

Removals and Returns

Over the past few years, ICE has refined its priorities to focus on the most serious public safety and national security threats, recent border crossers, and other individuals who fall within our civil enforcement priorities. I believe this strategy enhances public safety and preserves the integrity of our immigration system.

In previous testimony, Committee Members have heard of the impact that limited or declined cooperation on the part of some State and local law enforcement agencies has had on

removals and returns of individuals posing a threat to public safety. As a result, ERO has had to expend more time and resources, including using more Deportation Officers, to locate and arrest “at-large” such individuals who have been released back into our communities. However, with the deployment of the Priority Enforcement Program (PEP) and ICE’s proactive efforts over the past year to reach out to those communities and encourage them to work with us, we are making important gains in this area. PEP builds collaboration between Federal, State, and local law enforcement, facilitating more effective enforcement by allowing federal immigration officials to take custody of convicted criminals or other top enforcement priorities while preserving community trust. ICE believes this collaborative approach, which prioritizes the worst offenders, is the most effective strategy for engaging local law enforcement. The vast majority of local law enforcement agencies—and more than half of previously uncooperative jurisdictions—are now cooperating via PEP.

Immigration and Federal Court Decisions

As the Committee is aware, there are situations outside of ICE’s control in which convicted criminals must be released from the agency’s custody. Though ICE retains the ability to appeal DOJ-EOIR’s immigration judge decisions related to bond to DOJ-EOIR’s Board of Immigration Appeals, ICE’s custody decisions may be subject to review by the EOIR which may re-determine ICE’s custody decisions. Additionally, federal courts have limited our detention authority, both in individual cases and for entire categories of aliens. For instance, the Supreme Court’s 2001 ruling in *Zadvydas v. Davis* limits our ability to detain removable individuals with final orders of removal. Under the *Zadvydas* decision, ICE has been required to release thousands of convicted criminals, often due to a foreign government’s refusal to accept the repatriation of its nationals. Last year the Ninth Circuit, in *Rodriguez v. Robbins*, held that

individuals in ICE detention who have been detained longer than six months must be granted bond hearings. The Department of Justice, with ICE's support, has petitioned the U.S. Supreme Court for review in *Rodriguez*.

Recalcitrant Countries

Although the majority of the countries in the world adhere to their international obligation to accept the timely return of their citizens, ICE has confronted unique challenges with those countries that systematically refuse or delay the repatriation of their nationals.

Despite ICE's continued efforts, a number of factors constrain ICE's ability to improve the level of repatriations to those nations. Such factors include limited diplomatic relations with some countries; the countries' own internal bureaucratic processes, which foreign governments at times rely upon in order to delay the repatriation process; and foreign governments that simply do not view repatriation as a priority.

ICE is working through diplomatic channels with its partners at the Department of State to increase repatriations to previously recalcitrant countries. We have made some progress, albeit slowly. In FY 2015, ICE was able to remove convicted criminals to ten additional countries via ICE Air Operations charters. For example, ICE removed an individual convicted of selling drugs, resisting arrest, DUI, and criminal trespassing to Uganda, and was able to remove another individual convicted of attempted bombing to Sudan. The U.S. Government remains firm and focused in its resolve to engage all nations that deny or unreasonably delay the acceptance of their nationals.

At-Large Efforts

Each day, our objective is to conduct interior enforcement in a way that maximizes public safety. We do this by focusing on those individuals who threaten public safety, including convicted felons, significant/repeat misdemeanants, criminal gang participants, and others who pose such a threat. Deportation Officers continue to accomplish their mission with accuracy, consistency, and professionalism. With Secretary Johnson's 2014 enforcement priorities as a guide, we are succeeding in our efforts to remove dangerous convicted criminals from the country.

Recently, in accordance with a congressional appropriation, ERO established ten Mobile Criminal Alien Teams (MCATs) in field offices where personnel resources have lagged behind the pace and volume of the criminal alien workload. The MCATs will conduct at-large field enforcement activities designed to investigate, locate, and arrest priority individuals for removal from the United States. One key responsibility of these teams is the location and apprehension of convicted criminals who were released to the streets because detainers or requests for notification were not honored.

In FY 2015, 98 percent of all removals fell within one of our three enforcement priorities. Of the roughly 235,000 removals we conducted in FY 2015, 59 percent were convicted criminals, reflecting a three percent increase over FY 2014, a record high percentage for ICE. When we drill down even further and look at interior removals only – those not apprehended at or near the border – the percentage of convicted criminals jumps to 91 percent.

Criminal Alien Release Procedures

ICE remains committed to implementing safeguards to ensure that releases (either mandated by case law or authorized by the INA) are executed in a way that promotes public safety and protects our communities. Thus, in March of 2015, ICE instituted additional safeguards, including enhanced supervisory approval for discretionary releases, based on humanitarian or similar grounds, of certain categories of individuals with criminal convictions, and the creation of a panel of senior managers to review such discretionary release decisions for individuals convicted of crimes of violence, to ensure compliance with supervisory approval requirements and identify any inconsistencies in release determinations. ICE is also committed to ensuring detention capacity is not used as a determinative factor in the release of an individual with a serious criminal record. ICE will continue to manage its nationwide detention system to ensure that field offices have access to sufficient adult detention space to detain individuals posing a public safety threat until removal, including reprioritizing resources, if necessary, to ensure the promotion of public safety.

Law Enforcement Notification System

I remain firmly committed to enforcing our immigration laws effectively and sensibly, in a way that prioritizes national security, public safety, and border security. Beyond PEP, another example of ICE's commitment to this principle is the Law Enforcement Notification System (LENS). LENS promotes transparency and maximizes public safety through electronic message transmission to State law enforcement partners, for appropriate distribution to local law enforcement agencies, regarding subjects being released from ICE custody into their jurisdictions who have been convicted of sex offenses or violent crimes. ICE completed nationwide

deployment of LENS in September 2015. ICE is also working on deploying a second generation LENS system that will allow State and local law enforcement agencies to directly subscribe to the system without interfacing with a State-level criminal justice agency. ICE plans to deploy this system by the end of this fiscal year.

Prioritization of ICE Detainers

Another recent success is the agreement between ICE and the Federal Bureau of Prisons to prioritize ICE detainers over those of States and localities. In instances where ICE and another law enforcement agency have both issued a detainer on a subject, the Bureau of Prisons will provide ICE the opportunity to take custody of the subject before honoring a detainer issued by the other law enforcement agency. Factors ICE may consider in determining whether to take custody would include whether the law enforcement agency will honor an ICE detainer or request for notification prior to relinquishing custody of the individual.

CONCLUSION

I believe ICE will be successful in the deliberate and strategic implementation of our mission objectives. I remain committed to implementing ICE's priorities in a smart and strategic manner to safeguard our communities, maximize the agency's success, improve data collection and reporting, protect against fraud, and engage with State and local governments and local communities to enhance cooperation and build enduring partnerships. Thank you again for the opportunity to appear before you today and for your continued support of ICE and its law enforcement mission. You have my commitment to work with each Member of your Committee and its staff to forge a strong and productive relationship going forward. I look forward to answering any questions.

Chairman CHAFFETZ. Thank you. I will now recognize myself for 5 minutes. The numbers you gave us said just in the last 2 days discretionary releases by ICE were 54 percent. The total is 46,422. These Zadvydas rulings, you said, were two-thirds of the reason, and yet the numbers you gave us show that it's less than 10 percent.

Your microphone, please.

Ms. SALDANA. I don't know which numbers you're looking at, sir, but —

Chairman CHAFFETZ. You are the one that said that two-thirds of the reason that you release people is based on the Supreme Court decision. The numbers you gave us just 2 days ago show that that number is actually less than 10 percent.

Ms. SALDANA. The numbers we gave you, sir, were for 2015.

Chairman CHAFFETZ. We have 2015, 2014, and 2013.

Ms. SALDANA. Okay. Let's just focus right now on 2015 as an example, although we can do each year if you would like. Nineteen thousand seven hundred and twenty-three—there was 19,723 criminal releases —

Chairman CHAFFETZ. Let me ask you another way —

Ms. SALDANA. Now, let me —

Chairman CHAFFETZ.—because —

Ms. SALDANA. Let me —

Chairman CHAFFETZ.—the media —

Ms. SALDANA. If I may finish because —

Chairman CHAFFETZ. No, no, no, no —

Ms. SALDANA.—you just said in the question that more than that has happened.

Chairman CHAFFETZ. No. I want —

Ms. SALDANA. Eleven percent were Zadvydas releases. And IJ orders, the immigration courts that oversee the entire immigration system, were 52 percent.

Chairman CHAFFETZ. Okay. We will —

Ms. SALDANA. Only 37 percent —

Chairman CHAFFETZ. We will hash out the numbers with your own numbers, but what is unacceptable is even one discretionary. Why do you even release one? Why do you even release one person?

Ms. SALDANA. Because of the statute the Congress has given us —

Chairman CHAFFETZ. No, it is not. It is discretionary on your part, and you are not doing—you took more than \$100 million and let it go to other purposes outside of the Immigration and Customs Enforcement. You are not maximizing the amount of money that you want in order to get to the beds that is mandated under the law. And you have asked for \$185 million less for detention and transportation. You are not going to be convincing us that you are dedicated to removing these criminal aliens.

Ms. SALDANA. If I may answer your question?

Chairman CHAFFETZ. Well, yes, go.

Ms. SALDANA. You have said here only a certain number of convictions even—they're primarily convictions, offenses with convictions—are subject to mandatory detention —

Chairman CHAFFETZ. And this is where —

Ms. SALDANA.—the rest are —

Chairman CHAFFETZ.—you are totally wrong.

Ms. SALDANA. If I may finish.

Chairman CHAFFETZ. You have somebody who commits homicide, yes, we want them deported. That is the law.

Ms. SALDANA. Then put it in the statute, sir, because in the statute say if they do not commit one of those offenses that are specifically enumerated, including aggravated felonies, then these people are not subject to mandatory detention, which you've specifically outlined here. And when I say you, I mean the Congress. The rest you say, okay, ICE, you will then make a determination based on what the judges—Federal judges of this country make every day, and that is based on flight risk and harm to public safety or potential harm to public safety, you will decide which ones can be released on bond.

Chairman CHAFFETZ. And there is a whole list of categories there that are harm to public safety, including those that commit homicide, that you went ahead and released anyway. And so the law is crystal clear. You are making these discretionary choices in releasing these people out into the public and they are committing more crimes. And I don't understand why you don't deport them. You used as an excuse these countries that won't accept them.

Here is my question for you. Based on section 243(d) of the Immigration and Nationality Act, how many times have you recommended to the State Department in writing that these countries are—according to the law, “on being notified by the attorney general that the government of the foreign country denies or unreasonably delays accepting an alien,” and then it goes on that the “Secretary shall order the consular officers in that foreign country to discontinue granting visas or nonimmigrant visas.” How many times have you made that recommendation to the attorney general or to the State Department?

Ms. SALDANA. I don't have the precise number, but we have.

Chairman CHAFFETZ. Have you ever?

Ms. SALDANA. Yes, we have, sir. We are—we have a memorandum —

Chairman CHAFFETZ. Which countries? Right off the top of your head, which countries have you recommended that we —

Ms. SALDANA. I can't tell you off the top of my head. I —

Chairman CHAFFETZ. When will you get me that information?

Ms. SALDANA. I can get it to you within a week, sir.

Chairman CHAFFETZ. Okay. So you will give me, just to make sure we are on the same page, the letters that you have given either to the attorney general's office or the State Department regarding the problems that you are having and the recommendations that you are making about the countries that will not accept these aliens?

Ms. SALDANA. And—yes. And you understand that I have to talk to Department of State about that because some of these are sensitive areas that I believe we can talk about this further in chambers, sir, that I believe you would not want me to —

Chairman CHAFFETZ. No, we are going to talk —

Ms. SALDANA.—expose.

Chairman CHAFFETZ.—it in the public. I want to know which countries are not taking—because, you know what, they shouldn't

be getting Federal aid and we shouldn't be giving them visas so that more people from those countries can come to the United States. I don't know what you think is so sensitive about that, but I want you to prioritize Americans rather than those other countries. That is what I want to hear. I want to know that the citizens of our States are your number-one priority and put it out there in the public. Let's know and understand which countries are not taking back the criminals that came here illegally and should be deported back into their country.

Ms. SALDANA. Let me remind you, sir, that the Department of State is the one that issues visas, withholds aid. We don't have money to give aid to countries. That's not what we do.

Chairman CHAFFETZ. I know but you have —

Ms. SALDANA. You have a Memorandum of Understanding with the Department of State where we say we are going to recommend to you certain steps, but we have it in a step-by-step procedure because this is a complicated world, I think you all understand, and we have to look at each country separately. Syria and Iraq, that's a pretty hopeless situation —

Chairman CHAFFETZ. You think that is your job —

Ms. SALDANA.—in trying to return those immigrants to those countries —

Chairman CHAFFETZ. Do you really think Syria and Iraq is your job and your responsibility to make that determination? Here is what the law says, and I am quoting, "On being notified via the attorney general that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of the country after the attorney general asks whether the government will accept the alien under the section, the Secretary shall." And so if you go to the first part of it —

Ms. SALDANA. Shall what, sir?

Chairman CHAFFETZ. "Shall order consular officers in that foreign country to discontinue granting immigrant visas or non-immigrant visas or both to citizens, subjects, nationals, residents of that country until the attorney general notifies the Secretary that the country has accepted the alien." What is incumbent upon you personally in your duty and your role and responsibility is to make that notification. If you are trying to take even just one alien and deport them back to a country, these are criminal aliens, remember? These are ones that committed crimes and were convicted of crimes. If you are trying to deport even one of those and the country won't take them back, you need to give that notification to the State Department.

Ms. SALDANA. And the State Department makes the decision. Let's just be clear on that.

Chairman CHAFFETZ. No, there is no decision because under the statute it says "the Secretary shall." And so it starts with you, and if you don't give them that notification, it doesn't work.

Ms. SALDANA. I agree.

Chairman CHAFFETZ. My time is expired. I want to have within a week's time all of those letters since you have been in office that you have sent to the State Department and/or attorney general telling them where there is a problem. And I don't want to hear about this excuse any further.

Chairman CHAFFETZ. I now recognize the gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Let just start where the chairman left off. When that letter goes to the State Department, what happens then? Who makes the decision at that point? What happens?

Ms. SALDANA. There's a leadership group. The Consular Affairs Assistant Secretary Michele Bond is the person I've been dealing with. She makes the recommendation to the Secretary of the Department of State, and they look at the whole picture with respect to that country and make a decision and notify us.

Mr. CUMMINGS. And then that is the decision?

Ms. SALDANA. Yes, sir.

Mr. CUMMINGS. And so you can't change that?

Ms. SALDANA. ICE is not in the business of issuing visas.

Mr. CUMMINGS. I see. I want to make sure we put all this in some kind of context because remember what I said in my opening statement about reform and trying to find solutions. You know, we have these families here who have suffered greatly, and by the way, I hope that—I know you may be leaving after your testimony, as is usual, but I —

Ms. SALDANA. I'm staying.

Mr. CUMMINGS. Oh, good, good, because I want you to hear from them. I think they want you to hear their pain. And again, they come a good distance, and I thank you very much for doing that.

Ms. SALDANA. And I offered to both families, the Roots and Ms. Hartling, to meet with them personally.

Mr. CUMMINGS. Thank you. Thank you very much.

We need to eliminate any misperception that immigrants as a group are more likely to be criminals or commit acts of violence. Let's start with the likelihood of landing in jail. Census data from 1980, 1990, 2000, 2010 found that incarceration rates for native-born, essentially U.S. citizens, were 2 to 5 times higher than that of immigrants. Were you aware of that fact —

Ms. SALDANA. Yes.

Mr. CUMMINGS.—Director? The fact contradicts the misconception that immigrants are inherently predisposed to be criminals. Would you agree with that?

Ms. SALDANA. Yes.

Mr. CUMMINGS. So studies have widely shown that the recidivism rate for immigrant criminals is lower than for the general population. Is that right?

Ms. SALDANA. Yes, sir.

Mr. CUMMINGS. And, for example, and based on the data submitted by ICE for fiscal year 2014, less than 5 percent of the immigrant criminals committed new crimes after release compared to more than 20 percent of all criminals across 30 U.S. States. Do you understand that?

Ms. SALDANA. That sounds right. I've looked at the studies by the Department of Justice and the statistics.

Mr. CUMMINGS. Given this information, do you believe it is fair to say that a person's immigration status does not indicate an increased likelihood that they will commit another crime?

Ms. SALDANA. Yes. I —

Mr. CUMMINGS. Now, I have got to tell you that if I were the family of a victim, I would say, well, Cummings, you know, I am really not interested in hearing that because I suffered a loss that will never be replaced. But I am trying to just put all of this in some kind of context because I think if we look at the total picture, then we have a better chance of coming up with a solution that truly addresses the problem.

Now, I would like to discuss the cases in which ICE has discretion. The chairman talked about discretion, and I think he was absolutely right to address that. ICE has explained in the past that some criminal immigrant detainees are released after posting bond set by career ICE law enforcement officers. Can you please tell us again why not simply deport all criminal alien detainees that you have the discretion to the report? And is it a question of resources?

Ms. SALDANA. It's not so much a question of resources, sir, as it is the statute. Congress in its wisdom gave people who were found in the country and determined initially to be in the country illegally a very complex set of rights and ability to appeal and to have their cases heard by immigration courts.

Let me just make this really clear. We cannot—we'd be violating the statute, which I think no one here wants me to do. We cannot deport somebody without a final order of removal from a court. ICE doesn't deport people on its own motion. It has to have an order from the court. And obviously, we've got to have the ability to put that person in the country of their origin.

Mr. CUMMINGS. Now, ICE has reported having the resources to support only about 4 percent of the 11 million documented immigrants. Is that right?

Ms. SALDANA. That's right. And in fact, I think you all have seen the studies that indicate that if we tried to deport 11.2 million people, it would cost anywhere from \$650 billion, \$650 billion to \$750 billion.

Mr. CUMMINGS. So ICE also explained that discretionary releases typically occur with individuals associated with less-serious offenses. Based on your experience as a prosecutor—and you were a former U.S. attorney?

Ms. SALDANA. Yes, sir.

Mr. CUMMINGS. I have tremendous respect for our U.S. attorneys. Why is it important for law enforcement agencies in general to have the discretion to release individuals? What is that about?

Ms. SALDANA. Well, again, it's important for us because we have to manage the money that this Congress has given us. But I want to repeat, the bond procedure, the decisions to detain are all—or not detain are all outlined in here. We must look at flight risk, threat to public safety when we make those decisions. But you have given us that authority, and it's important for us because we've got to manage the number of beds we have and obviously the entire fund that you have given us in order to remove people from the country.

Mr. CUMMINGS. I only have a minute left on my time. I understand that these determinations are based on risk evaluations giving consideration to factors like age, physical and mental health, risk of harm to public safety, risk of flight, and whether any mandatory detention factors apply. Director, can you please explain

why is important that these evaluations are conducted on a case-by-case basis?

And then, knowing what you know and hearing what you know you are going to hear, I want you to tell us things that we could do as Congress folk to help you do the job that you are trying to do.

Ms. SALDANA. Okay. If I may start with the last part of that question first, I would love to sit down with this committee or a group of this committee to go through this statute and talk about comprehensive immigration reform, what we can do with respect to some of the very complicated parts of this. And let's not forget, this is just the statute. We have rulings left and right from all over the country literally going left and right that we have to abide by, even though we may be appealing them.

But with respect to your overall question with—regarding discretion, we can—we have committed to deal with each immigrant on a case-by-case basis because we don't have—I don't think we have the will, nor do we have the funds to deport 11.2 million people. We have to make decisions on a case-by-case basis. Bright-line rules don't work here. If we had a bright-line rule that we're going to deport anybody who comes into our custody, we don't have time to do what we've been trying to do and very successfully done, and that is focus on criminal aliens. So this is why we need to have that discretion and ability to make the decisions that we do.

And I will tell you, sir, are we perfect? I have great faith in the judgments of our law enforcement officers in making these determinations. They're experienced, well-trained, and they care about the safety of our community. Are we perfect? I can say firsthand I am not, and neither are our officers, but we do the very best we can.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Chairman CHAFFETZ. I now recognize the gentleman from Florida, Mr. Mica, for 5 minutes.

Mr. MICA. Well, thank you. And I do want to echo the director's remarks that our Customs and Border Patrol are some of the most professional, accomplish, hardworking individuals in the Federal Government. They work day in and day out to do their job and protecting our borders. But we do hear that things have affected their ability to control our borders. First of all, the number of deportations total is down fairly dramatically in this administration. Is that correct, Director?

Ms. SALDANA. The numbers are lower —

Mr. MICA. We have a chart there. Can you guys put the chart up?

[Slide.]

Mr. MICA. So in the end of the Bush administration, we were deporting about a quarter of a million. We are down to about 100,000; 2014 may be even lower than that. That is total, total deportations, right?

Ms. SALDANA. No, sir. I think you say up there —

Mr. MICA. It is total deportations. And then if we turn to —

Ms. SALDANA. Sir, I'm—your chart says interior deportations

Mr. MICA. Yes.

Ms. SALDANA.—not total.

Mr. MICA. Yes.

Ms. SALDANA. Interior—there's also on the border—the border

Mr. MICA. Right.

Ms. SALDANA.—of removals.

Mr. MICA. Right. Well, in this case I am taking—they are in the United States in the interior, not at the border. In any event, criminal deportations were 110,000 in 2013 and now they are down to 63,000. I don't have a chart on that. Those are numbers provided by you, is that correct? Sixty-three thousand in 2014. I don't know what 2015 is. I am sorry, 2015 is 63,000. I don't have 2014. And 2013 was 110,000. In any event, it is down —

Ms. SALDANA. Those are not the numbers I have.

Mr. MICA. Well, again, all I can go by is what we got from you all. And you have said that the law prohibits some of your actions to deport, but actually, the agents tell us, well, two things. First, they say they are hamstrung by the President's Executive order that has granted some amnesty to millions of illegal aliens. That is what the agents say. Have you heard that?

Ms. SALDANA. From our agents or from border patrol?

Mr. MICA. From your agents and —

Ms. SALDANA. I've heard reports of that —

Mr. MICA. Yes.

Ms. SALDANA.—sir.

Mr. MICA. Okay.

Ms. SALDANA. Nobody —

Mr. MICA. Again, they are telling us that. They also say that some of those people even—again, that there was a court decision and ICE has admitted, however, that of the 2,457 of the 30,000 releases, that that would be the number affected by the court decision, which is *Zadvydas v. Davis* so that 57 percent were actually released at ICE's discretion, at your discretion. So we have more than half of those at your discretion. We have had hearings we have had your folks in, and this is what they are telling us.

The other thing, too, is you have the right to deport people, and again, the discretion is given to you. Again, your agents have told us. But in more than half the cases, you haven't exercised that discretion.

Then you also have when—the courts do let some folks out on appeal, these criminal aliens have committed an act. How many times have you appealed the bonds?

Ms. SALDANA. Bonds, some occasions—I don't have the precise number.

Mr. MICA. Could you provide that for the record because —

Ms. SALDANA. I —

Mr. MICA.—I think it is fairly limited.

Ms. SALDANA. I can provide it.

Mr. MICA. But you have that discretion, too. So 57 percent of the time where you have discretion, you haven't exercised it. Then, where people have committed it, they are out on bond, and you could appeal and go after those folks, you don't do it.

One of the other things that was brought to my attention is we have lost total control of the border, and this is most disturbing.

I got this yesterday. This is the Customs and Border Patrol system, the entire system that deals with passport control. This is just the last 2 months from March 4, 2016, to April 17. The system has been down almost two total days, and this is a record of the time the system has down. The system that we have to control our border and who is coming in is imploding. I don't know what it going on here, and I would ask maybe the chairman of Government Operations or whoever is in charge of this area in our subcommittee to look at this.

We have lost control of our borders, and your system that protects us and the main computer system has been down, down, and down, and I think this is something that needs to be looked at. I am going to hand you a copy of this, and I would like you to respond to these statistics.

Ms. SALDANA. Are these ICE statistics or Customs and Border Protection?

Mr. MICA. Customs and Border but —

Ms. SALDANA. That's another agency, sir.

Mr. MICA. Yes, but this is the system that controls the passports and entry into the United States. And you are also in DHS. I would like to have a response for the record.

Ms. SALDANA. We should get the witness best able to answer

Mr. MICA. Okay.

Ms. SALDANA.—the questions —

Mr. MICA. And you will help me with that, and I appreciate it.

Ms. SALDANA.—regarding CBP, yes.

Mr. MICA. Thank you.

Chairman CHAFFETZ. The gentleman's time is expired.

I will now recognize the gentlewoman from New York, Mrs. Maloney, for 5 minutes.

Mrs. MALONEY. Thank you. First of all, I would like to thank Director Saldana for your public service first as a U.S. attorney in Texas and now as director of ICE.

And I would like to understand the challenges that you and ICE face in trying to deport criminal aliens back to their countries and the countries refuse to take them. I want to understand what the challenges are, and more importantly, what can we do to force a country to take back their own citizen when we are deporting them for serious criminal crimes.

Now, as you know, the Chadwick family is here. They lost their beloved child, and they rightfully want to know why a convicted—really a convicted, threatening, terrible felon was not deported when he served his conviction in the United States, he was out on release, the law said we can deport him, we should deport him, and as I understand it his home country Haiti refused to take him. And I want to understand how this happens, and I want to understand what we can do about it. In this case, the guy's name was Jean Jacques of Haiti.

And as we reviewed the record in this particular case, it is stunning and shocking how many times the Haitian officials approved his return to Haiti and then reversed themselves and essentially pulled the rug out from under U.S. officials and would not let him come home to his own country.

To give a specific example, on October 1, 2012, U.S. officials submitted a request to Haiti to deport him. Haitian officials gave their verbal confirmation that he was approved to go back to Haiti, and are you aware that Haitian officials approved his removal to Haiti on October 1, 2012?

Ms. SALDANA. Yes. And you have cited—I don't know if you're done —

Mrs. MALONEY. Yes, yes, yes. And then they changed their minds. They told you, U.S. officials that he was denied for removal. They pointed out that he was approved 3 days earlier. And do you know why the Haitian officials decided on a whim that he would not be allowed to come back to his country of origin?

Ms. SALDANA. We have not been given a response. It is tremendously frustrating. We want to send this person back. We wanted to. And there are others, unfortunately others in that same position.

As I said, with respect to Haiti —

Mrs. MALONEY. Yes, yes. I want to go on. And this is really critical because if we had succeeded in removing him and deporting him, we would have saved an American life, we would have saved an American family, and it was the right thing to do.

So one week later, unbelievably, on October 10 Haitian officials acknowledged to U.S. officials that they had actually approved a flight to Haiti that includes Mr. Jacques. He was supposed to go. But then on the very same day they reversed themselves again. They said that he could not board the plane. What in the world was going on with these Haitian officials? Were they just playing games with us? I mean, this is the second time they denied the deportation request of the United States Government. And by treaty, they had approved that illegal aliens and certainly criminal aliens would be accepted back in their country.

Ms. SALDANA. And what's extraordinary, Congresswoman, is that actually the Haitian Government has worked with us in many instances before. So it is a very arbitrary granting and then denial and then granting and denial. It's extraordinarily frustrating. Just like the United States requires people to have travel documents when they come through the United States, all these other governments require that, too.

Mrs. MALONEY. My time is almost up. Now, this is almost unbelievable. Then again on February 2 of 2016 of this year, U.S. officials tried again to send him back to Haiti, and on this day Haitian officials informed us the U.S. that Mr. Jacques was once again approved for removal and then again on the very same day these Haitian officials withdrew their approval.

Now, what I want to know is what can we do about it? This is something I would like to work with the majority party on accomplishing. I personally support universal reform on immigration, but if we can't reach a quick approval on that, we should get a quick approval on how we can deport someone back to their country, especially when they are "allies," when we have treaties, when you are literally giving this country aid. And yet, three times they really made fun of the American Government and said, no, we are not taking him back, reversing a verbal confirmation that they would take this criminal back.

Now, I feel very strongly about this. I have my own two daughters. I can't imagine the grief that this family is facing. And this is such an injustice not only to this American family and to this young girl but also to our whole country that they will not abide by the treaty, they will not take their felon back that came here illegally.

And my question is, and it is a serious one, how can we enforce this and how can we stop this type of abuse of the American Government?

Ms. SALDANA. Well, we have a system in place and we have an understanding with the Department of State, a Memorandum of Understanding where —

Mrs. MALONEY. But if they refuse to take him, which is what they are doing —

Ms. SALDANA. Exactly.

Mrs. MALONEY.—what do we do about it?

Ms. SALDANA. Exactly. And what we need to do is have Department of State at the table, but we need to talk about how we accelerate the process because right now, it is very, very slow. We have

Mrs. MALONEY. But you accelerated it. You achieved it.

Mr. DESANTIS. [Presiding] The gentlewoman's time is expired.

Mrs. MALONEY. He was ready to be deported.

Mr. DESANTIS. Yes.

Mrs. MALONEY. And the country said no. We have got to get a system —

Mr. DESANTIS. The gentlewoman's —

Mrs. MALONEY.—where we can force these countries to be responsible.

Ms. SALDANA. I agree.

Mr. DESANTIS. The gentlewoman's time is expired.

The chair notes the presence of Mr. Courtney from Connecticut, and I ask unanimous consent that he be allowed to fully participate in today's hearing.

And without objection, so ordered.

I would also like to introduce for the record a CBP system down-times log.

Without objection, so ordered.

Mr. DESANTIS. And the chair will now recognize the gentleman from Michigan for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman.

And, Director Saldana, thank you for being here, but let me reiterate the fact that, number one, we support the proud enforcement officials that you work with and that you lead. We expect that the overwhelming majority of them are as frustrated as we are in trying to deal with the problem, but our frustration goes up to leadership aspects even above you and concerns in making sure that our citizens are safe.

We are also concerned with the fact that there are plenty of desiring immigrants who want to come to this country for all the right reasons, but it is more difficult for them to come because of what is going on with these illegals, and especially the ones perpetrating the crimes and the murders in our society.

And to get to the accomplishment of having comprehensive immigration reform take place, we have to make sure that our systems are working to keep this terrible, cruel element out of our society.

And so let me ask you a question. Information that I have, statistics say that as of August 2014, the administration indicated that over 375,000 aliens and 121,000 level-one convicted criminal aliens who the Obama administration deems “the worst of the worst” were removed as a result of the Secure Communities. Instead of continuing to utilize that successful existing system, the Obama administration ended it and implemented the Priorities Enforcement Program that we are under right now. Why did the administration end the successful program that flags criminal aliens once they are booked into jails?

Ms. SALDANA. Sir, we may have to have a discussion on what successful actually means. I think you are aware of the fact that

Mr. WALBERG. People living and not dying.

Ms. SALDANA. I think you’re aware of the fact that we, the United States, have been sued many times because of Secure Communities, and the fact that there are people that had claims that they served in Federal court, some ended up being successful even though we challenged them.

With respect to the implementation of the program, many people are concerned that, as a result of Secure Communities and the way it was implemented, something that was in place before— I was actually gone—before I got there, that there was a tremendous controversy about it. Well —

Mr. WALBERG. Let me jump on here. During the Secure Communities program that has been ended, how many detainers were issued by ICE but ignored by local law enforcement?

Ms. SALDANA. I don’t have that number in front of me.

Mr. WALBERG. Do you have a number of how many of those ignored detainers resulted in an alien being released and subsequently committing a crime?

Ms. SALDANA. No, sir.

Mr. WALBERG. Do you have —

Ms. SALDANA. For Secure Communities you’re asking?

Mr. WALBERG. Secure Communities.

Ms. SALDANA. Yes.

Mr. WALBERG. How many of those ignore detainers resulted in additional crimes being committed? Do you have that number?

Ms. SALDANA. I don’t have it.

Mr. WALBERG. Well, you have indicated you want solutions, but it seems like you would want these numbers in order to get to those solutions, wouldn’t it?

Ms. SALDANA. I just don’t have them on the top of my head, sir. They’re available. We can probably find them. It may take a manual search of our records, but—and some time, but we can. I—the fact that I can’t answer that right now shouldn’t undermine my point about wanting to do something positive in this area.

Mr. WALBERG. Well, I would like to have those numbers provided for our committee, and whether it is the week that you initiated—you said about the letters or not, we would like it as quickly as possible.

Mr. WALBERG. Why is the Federal Government satisfied with localities coming in contact with removable aliens and then not collecting sufficient information, records, fingerprints, et cetera?

Ms. SALDANA. Well, that is happening, and when you say removal of aliens, no alien is removable until we have a court order. So they go through a very—sometimes years-in-the-making process, a very long process to make that determination.

I will tell you, though, you know that Secure Communities, that program was replaced by the Priority Enforcement Program where we work with all of these State and local jurisdictions. That's what I did as a United States attorney. We relied on local law enforcement, not only police departments but Sheriff's departments, to assist us, and we do that. We —

Mr. WALBERG. And aren't there stipulations for them to provide the information to you such as fingerprints on these people?

Ms. SALDANA. There's a provision in the statute that talks about cooperation from them, not specifically fingerprints, but cooperation.

Mr. WALBERG. So cooperation would include information that is necessary for protecting our citizens, correct?

Ms. SALDANA. It could.

Mr. WALBERG. It could? Well, maybe that is why this hearing is being held today, and hopefully, information will come out so that families won't be seated in the room again because there is indication that we have not done what is necessary to protect them. And that is my concern.

And again, it is not the ICE agents. It is the administration that isn't doing what is necessary or at least pushing for the funds, the resources, the systems in place to make sure that we have that capability. And that is my concern. That is not a charge. That is a request. Help us to do the right thing. But in turn, don't give us excuses.

And I yield back.

Ms. SALDANA. Another party, though, is the Congress, sir, and you could help us by —

Mr. WALBERG. I think we have helped you with plenty of things. We have asked questions today about why you haven't used some of those resources, why there hasn't been the pushback on other countries, why there hasn't been a request for dollars to put toward the programs that keep these people off the streets as opposed to other entities.

And I yield back my time.

Mr. DESANTIS. The gentleman's time is expired.

The chair now recognizes Mr. Cartwright for 5 minutes.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

And thank you, Director Saldana, for being here, but I also want to take time to acknowledge and thank everyone for the presence of the families here today, starting with you, Mrs. Hartling. Your daughter's case has been discussed a bit and we will talk more about it, but our hearts go out to you. And I know I speak for everyone here and everyone in the United States Congress in expressing our most profound condolences.

Also, we have Chief Ralph Martin here taking up the cause of Marilyn Pharis. And I know she is not family to you, but she is

starting to seem like it, I am sure. So condolences to you as well, and thank you for taking up that cause.

But we also have Michelle and Scott Root here today, and thank you.

Mr. ROOT. My wife is not here today.

Mr. CARTWRIGHT. Oh, okay. We have Scott Root here today, and I thank you for being here. An ineffable, unspeakable tragedy. I mean, we are talking about your daughter who just graduated college the day before with a 4.0 in, of all things, criminal justice. And then the next day in a drunken-driving drag-racing incident, an undocumented illegal struck her from behind with such force that she died within about 24 hours. Unbelievable.

And this is a situation that I want to talk to you about, Director Saldana. We had this 19-year-old illegal, a young man named Mejia from Honduras, and really what happened after the crime was even more shocking because he got out on bail. There was a judge—this is in Nebraska, I think. A judge let Mejia out on \$50,000 bail. And if you know how bail works, if you post 10 percent, then you are out on bail. Well, 10 percent of \$50,000 is \$5,000. Mejia's brother came up with the money, and as soon as he got out, he was gone. And are you familiar with the case, Director Saldana?

Ms. SALDANA. Oh, yes.

Mr. CARTWRIGHT. Okay. So I want to look into that a little bit because the thing—I was a lawyer for 25 years, and I know a little bit about how bail is set. And one of the considerations is when the judge decides to set bail, is this person a flight risk? Is this person likely to be somebody who would plunk down the 10 percent and skedaddle out and never be heard from again?

In fact, Mejia had a history of brushes with the law before this horrible drunk-driving incident. He had had a history of skipping out on other charges when the judge considered bail. But what I read, and I want you guys to disabuse me of this if it is wrong, but what I read was that the trial court judge never—the one charged with setting bail never even heard that this was an illegal immigrant, never even heard of his history with the law, and most importantly, never even knew that he had skipped out on other charges before. This was the poster child for somebody that ought to have a very, very high bail set. And the judge never even knew it, and it was because the prosecution, which knew all these things, never informed the judge.

Now, that is what I got from news accounts, and if it is wrong, that is why I am asking that I want you to tell me if it is wrong. But we saw on the news accounts that the Douglas County attorney acknowledged that his office could have handled the matter better. And we will talk about it later, but if you are familiar with the case, Director Saldana, am I getting the facts right there?

Ms. SALDANA. More or less, although I can't speak to exactly what the judge had in his mind when he made the decision to release Mr. Mejia.

Mr. CARTWRIGHT. And let me interrupt you. In a case like that, does it require an ICE detainer for a local judge to set a high bail in a case of probable flight risk?

Ms. SALDANA. No, sir. He just needs to know the facts. And we obviously were not in the courtroom at that time. It was a—it's a distinct matter, as you all know, when it comes to this kind of activity. And I want to tell Mr. Root, express my sympathies as well with respect to this.

I think you said earlier that the DA had said that things could have been done better. There's a lot—unfortunately, there's a lot of different things that could have been done better, and I'm—I am going to use this as a—when I said I was revisiting our criminal review process, I am going to use this as an example of what could we have done differently in this case because I don't want this to happen again obviously, and neither does the officer or the agents involved in this case.

Mr. CARTWRIGHT. Well, thank you, Director. And I do look forward to hearing from the families later today.

I yield back.

Mr. WALBERG. [Presiding] I thank the gentleman.

I recognize the gentleman from Arizona, Mr. Gosar.

Mr. GOSAR. Thank you, Mr. Chairman.

Ms. Saldana, you have reached out to the families, but I want to make sure it is for the record that you reached out to the families around April 22 only upon finding out about this hearing and their testimony. So I want to make sure that is for the record.

Ms. SALDANA. And I want to be sure for the record —

Mr. GOSAR. You know, I understand. I made a statement —

Ms. SALDANA. You don't want me to —

Mr. GOSAR. I made a statement, ma'am, so let me—this is my time, not yours.

Ms. SALDANA. Okay. You —

Mr. GOSAR. Okay.

Ms. SALDANA.—understand that they are —

Mr. GOSAR. Once again, it is my time.

Ms. SALDANA. And you understand that I would like the record to be clear, sir. I am meeting with Ms. Hartling this afternoon. I don't want to —

Mr. GOSAR. I find it—I am going on. I don't think you ought to be picking a fight with Arizona. Of all places, you better not go there. Operation Streamline goes away, incarcerations over and over again, told them to release them. It is not the men and women in ICE and Border Patrol; it is leadership just like you, like the President, like the attorney general all the way across the board.

So let's put a face on this. Are you aware in January 2015 of a young man in my home State of Arizona who was shot and killed by an illegal alien who was facing deportation proceedings but was out on bond? Are you familiar with the murder of Grant Ronnebeck by an illegal alien in Mesa, Arizona?

Ms. SALDANA. Yes.

Mr. GOSAR. This is important because I want to make sure you and your agency know about the numbers that you cite and all these reckless, lawless policies, Director, have real consequences, murderous consequences for real people and their families. One life lost in this manner is way too many, wouldn't you agree?

Ms. SALDANA. Absolutely.

Mr. GOSAR. So the man who murdered Grant Ronnebeck was an illegal alien who, instead of being detained or deported, was out on bond. In fact, Apolinar Altamirano, a self-proclaimed drug cartel member, had deportation proceedings dragging on more than 2 years after he was released on bond following a conviction, a conviction on a burglary charge. While out on bond, this illegal alien had two harassment charges—very similar to what my colleague on the other side was talking about in the previous case—against him in which one of the victims said that she feared for her life several times in claiming to the court he pointed a gun at her and her boyfriend. Yet this man remained on the streets.

Now, here is this thing you have talked about, this discretionary issue. So then on January 19, 2015, Mr. Altamirano walked into a convenience store, demanded a pack of cigarettes in exchange for a jar of change. When the clerk, young Grant Ronnebeck hesitated, Altamirano pointed a gun at Grant and shot him, fatally shooting him, 21 years old.

Now, Director Saldana, Grant Ronnebeck's murder is a direct result of your agency's failed policies. Why do you let murderous people like this free into our communities? Once again, all the discretion, I pointed out he has got a history and a rap sheet. Tell me why.

Ms. SALDANA. I can tell you, sir, what I said earlier with respect to the fact that our officers —

Mr. GOSAR. It is not that code, and you keep pointing to that code. It is not that code. There was no reason why this man should have been on the street.

Ms. SALDANA. I'm sorry, what did you just say?

Mr. GOSAR. It is not about that code.

Ms. SALDANA. The code?

Mr. GOSAR. The code that you keep referring to —

Ms. SALDANA. Oh, statute.

Mr. GOSAR. Yes. It is not about that. This man, the whole rap sheet, this guy should have been incarcerated. Unfortunately, Grant's murder is not unique, and this murderer's situation is not an isolated case, is it, Director? It is not an isolated case, is it?

Ms. SALDANA. What is? The specific facts —

Mr. GOSAR. Yes.

Ms. SALDANA.—of that case?

Mr. GOSAR. Yes.

Ms. SALDANA. Well —

Mr. GOSAR. There are lots of them. We heard one from Mr. Cartwright.

Ms. SALDANA. Yes—we—I think the numbers are in the record.

Mr. GOSAR. So how many aliens entered the United States illegally were charged with felonies in fiscal year 2015?

Ms. SALDANA. I'll have to look up that number, sir.

Mr. GOSAR. How many in 2016?

Ms. SALDANA. How many aliens who were in the system or who are out there in the public?

Mr. GOSAR. How many aliens who entered the United States illegally were charged with felonies? If you don't have those numbers, I would like them for the record —

Ms. SALDANA. Well, sir —

Mr. GOSAR.—2015 and 2016.

Ms. SALDANA.—as I said earlier, there are 11.2 million aliens in the United States illegally —

Mr. GOSAR. I don't care about the 11 million. I am asking about those that come in with felonies, that were charged with felonies. I want —

Ms. SALDANA. Some we haven't encountered. There's no way we can have information on them.

Mr. GOSAR. How many aliens who entered the United States illegally were charged with felonies in fiscal year 2015? You have those numbers. I want them.

Ms. SALDANA. We don't have those numbers.

Mr. GOSAR. After they got here. Don't you get it? I mean, you were a U.S. attorney —

Ms. SALDANA. Many of them are not trying to be found, sir. We don't have any record that they're here in the country. The 11.2 is an estimate.

Mr. GOSAR. Yes, they are illegally here and they were charged with a felony here. You got those numbers.

Ms. SALDANA. No, sir. They wouldn't —

Mr. GOSAR. You have got to be kidding me.

Ms. SALDANA. They wouldn't be complete.

Mr. GOSAR. You have got to be kidding. These are illegals—so they come into this country, they are illegal, they have been charged with a felony. What are those numbers in this country?

Ms. SALDANA. Sir —

Mr. GOSAR. Are you kidding me?

Ms. SALDANA. No, I'm not kidding you. I ask you to listen to my answer. There are 11.2 million people in the country illegally.

Mr. GOSAR. I am not asking about the 11.2.

Ms. SALDANA. It's —

Mr. GOSAR. I am asking about those that are here illegally —

Mr. WALBERG. The gentleman's time is expired.

Mr. GOSAR. Thank you.

Mr. WALBERG. I now recognize the gentleman —

Mr. GOSAR. Unbelievable.

Mr. WALBERG.—from California, Mr. Lieu.

Mr. LIEU. Thank you, Mr. Chair.

Mr. GOSAR. Unbelievable.

Mr. LIEU. And let me first say to the families, thank you for being here, and I apologize for your loss.

I would like to follow up on Representative Maloney's line of questioning about Haiti and Mr. Jacques. No one disputes that he had a legitimate court order for deportation and that the Haitian Government three times rejected accepting him back to their country. Are you aware that the U.S. has been the largest Federal aid donor to Haiti since 1973?

Ms. SALDANA. No, sir. I —

Mr. LIEU. Okay.

Ms. SALDANA.—don't follow that.

Mr. LIEU. So we are the largest Federal aid donor in history to Haiti. And are you frustrated that countries such as Haiti don't take back their citizens after they commit crimes in the United States and have a valid order for deportation?

Ms. SALDANA. Absolutely. If we can remove somebody and we have that order we want to remove that person.

Mr. LIEU. Right. Would you support a law or an amendment that says countries like Haiti should no longer get foreign aid or get a reduction in foreign aid if they do not accept their citizens back that have committed crimes in the United States?

Ms. SALDANA. I would support looking at that question, sir, and working with the Department of State to see if that's a reasonable and logical thing to do.

Mr. LIEU. Has the Government of Haiti apologized to ICE or to the victim's family at all?

Ms. SALDANA. I don't know about the family. I don't know —

Mr. LIEU. Have they apologized to the U.S. Government or ICE for their actions?

Ms. SALDANA. Not to ICE at least that I'm aware of.

Mr. LIEU. So I hope someone from the Haitian Government watches this hearing because now they have got bipartisan outrage about the Government of Haiti. That is not a good place for the Government of Haiti to be in. They could lose Federal aid, and I would like to know if ICE, since you have already gotten a letter from U.S. Senators to look into this, if perhaps you could communicate to either the Department of State or the Government of Haiti and say that their behavior was unacceptable, and we need them to change?

Ms. SALDANA. I'll certainly raise that subject again this afternoon.

Mr. LIEU. So I would like to talk a little bit about the case of Sarah Root and how the person that killed her fled by posting bond. It is my belief that the bond system is in drastic need of reform in the United States. Only two major civilized countries have a major bail bond industry, a for-profit industry. It is the U.S., and the Philippines is the other one. Many other countries actually banned money bond, and that is because there is very little relationship between how much money someone can have posted or the cash in hand they happen to have and how dangerous they are. And in this case, it is a good example where someone posted money and then fled.

It seems to me it would make a lot more sense if we eliminated money bond and instead went to a risk-assessment system, which is what the District of Columbia has done for many years. And basically, they say, look, if you are at risk of fleeing or if you are dangerous, we are just not going to release you. But if you are not and you are poor and you can't post a bail, we are going to release you. We are going to do it based on a risk assessment.

And I think what happens often is these judges and the whole system tends to look at the money factor and say, oh, if they can post \$50,000, we are just going to release them. In real life, there is very little relationship between money and how dangerous the person is or whether they can flee. Often, it just depends can you get someone to post that 10 percent for the rest of the bond.

And so I would appreciate if you could look at how the bond system in the Federal Government may actually be helping to release people that are quite dangerous or at risk of fleeing and maybe we should reverse that and look at a risk assessment system.

I note this is not a partisan issue. The State of Kentucky is looking at moving towards a risk assessment system. And so could you look into that issue and let us know?

Ms. SALDANA. Well, actually, sir, it's supposed to be a risk assessment. I don't know the specifics —

Mr. LIEU. Well, here is the problem. When you attach for-profit money to that system, it warps it so that judges, I think, don't do their proper risk assessment. I think judges would do a much better risk assessment if they thought, hey, it is on me now. It is not really how much money this person can post. It is my decision whether to release them and it is totally on the judge and the factors. So would you at least look at that issue?

Ms. SALDANA. I certainly can.

Mr. LIEU. Great. Thank you. And with that, I yield back.

Mr. WALBERG. I now recognize Mr. Grothman for his 5 minutes.

Mr. GROTHMAN. Right. You right now are supposed to fill an average number of beds of 34,000 a day, is that correct?

Ms. SALDANA. That's what we've been authorized for, yes, sir.

Mr. GROTHMAN. Right. And of those, are they filled now about?

Ms. SALDANA. Excuse me?

Mr. GROTHMAN. Are they filled now about?

Ms. SALDANA. We're about at 32,000 I think the last time I checked average daily population, and right around that number in terms of like the last time I looked that day.

Mr. GROTHMAN. And of those 32,000, how many are people who have been found guilty of a crime and how many are people who are maybe for just whatever reason grabbed at the border?

Ms. SALDANA. There would be some that are there because of having been charged with a crime and others that are recent border entrants, some that came into the country after January 1 —

Mr. GROTHMAN. Right, right, right. About how much of each?

Ms. SALDANA. I can get you that—those percentages.

Mr. GROTHMAN. Like about half-half, 80/20, 90/10?

Ms. SALDANA. I hate to pull something out of the air, sir, but I certainly can look at that.

Mr. GROTHMAN. Okay. So you have extra bed space available now?

Ms. SALDANA. About 200 if I'm right, and of course that number varies from one day to the next because —

Mr. GROTHMAN. I thought you said you had about 32,000 in there and you're authorized for 34,000.

Ms. SALDANA. I'm sorry. You're—did I say 200?

Mr. GROTHMAN. Yes.

Ms. SALDANA. Let me add an extra zero. I'm sorry, sir.

Mr. GROTHMAN. Okay. Right now, what percentage of criminals who could be deported you think are being deported?

Ms. SALDANA. Every criminal who has a final order of removal and a travel document is in the process of being removed.

Mr. GROTHMAN. Right, but there are criminals right now who are arrested for crimes who are not removed, correct?

Ms. SALDANA. Yes.

Mr. GROTHMAN. And do you know percentagewise the number of people we could remove, what percentage are being removed?

Ms. SALDANA. Any given year, no, I don't, not right now.

Mr. GROTHMAN. Could you guess wildly, half, a third, 90 percent?

Ms. SALDANA. It's a portion of it. I would think it'd be—I don't want to guess, sir. I'll give you a proper percentage.

Mr. GROTHMAN. Okay. Could you tell us what types of crimes we don't remove people for now?

Ms. SALDANA. Oh, traffic tickets —

Mr. GROTHMAN. Drunk driving, do you —

Ms. SALDANA. I'm sorry, that's not a crime obviously, it's a civil matter.

Mr. GROTHMAN. Right, right, right, right.

Ms. SALDANA. It could be for minor offenses. Gosh, the list is long and depends on a —

Mr. GROTHMAN. Well —

Ms. SALDANA.—State by State —

Mr. GROTHMAN. Well —

Ms. SALDANA. Where the—let me put it this way. Where the offense has a sentence of—possible sentence of less than a year probably. Those are often misdemeanors.

Mr. GROTHMAN. And you wouldn't remove somebody for that?

Ms. SALDANA. It depends. Our priorities do allow us to move people with multiple misdemeanors. They are a priority. We just have to look at every case on a case-by-case basis and the facts relating to that case.

Mr. GROTHMAN. Do you have a databank of all the people who have been convicted of a crime who are here illegally?

Ms. SALDANA. We have the criminal history on anybody we've touched who's in the removal process.

Mr. GROTHMAN. Okay. Okay. This is kind of difficult. I am going to ask the chairman if we would have another follow-up hearing so you can come back with more answers.

But right now, if somebody is charged with two burglaries in the State of Wisconsin and convicted, are they going to be part of your database?

Ms. SALDANA. The offenses they're charged with?

Mr. GROTHMAN. Yes.

Ms. SALDANA. Yes, probably so because we'll be drawing the criminal history of each one of them.

Mr. GROTHMAN. Okay. So you have a databank somewhere in which you are trying to keep track of all illegal immigrants here who are convicted of crimes?

Ms. SALDANA. Those that we know about.

Mr. GROTHMAN. Okay. Okay. And do you feel that there are a lot you don't know about?

Ms. SALDANA. Pardon?

Mr. GROTHMAN. Do you feel there are a lot you don't know about?

Ms. SALDANA. Well, about—I said there are about 2 million people in the process, and the guesses are that there are about 11.2 million here who we—who may—we may or may not know about. So one could draw a conclusion from that that there's 9 million or so who we don't know about that are in the shadows.

Mr. GROTHMAN. But the question is did they commit crimes? You feel there are —

Ms. SALDANA. About people I don't know, we don't know—if we don't know who that person is here, we don't know what their criminal history is.

Mr. GROTHMAN. Okay. This is the question I am going to try to get at. If an illegal immigrant commits two burglaries in this country, will you find out about it?

Ms. SALDANA. Yes, we may. It depends on how —

Mr. GROTHMAN. Every one of your answers is not quite on point. Yes, we may? I mean, will you or won't you?

Ms. SALDANA. Sir, it depends on the local jurisdiction. I mean, if the local jurisdiction keeps records well and we're—and they input into the system that we are a part of, I can't give you an unequivocal answer. It's not a simple matter.

Mr. GROTHMAN. Can you give us any public policy reason why, say, if somebody commits a burglary why they should not be deported?

Ms. SALDANA. No. It depends on the cases and the facts relating to that case. If it's a burglary that was—if the person's been here for 25 years, they have three U.S. citizen children, and the burglary was 24 years ago, that, looking at it on a case-by-case basis, we may make a decision not to remove them but not to detain them.

Mr. GROTHMAN. I have no more time.

Mr. WALBERG. The gentleman's time is expired.

The chair now recognizes the gentleman from Massachusetts, the ranking member on the National Security Subcommittee, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. I want to thank you and the ranking member for holding this hearing.

I want to associate myself with the remarks of the gentleman from Pennsylvania, Mr. Cartwright, and also the written comments of the gentleman from Connecticut, Mr. Courtney.

And I want to express my condolences to the families as well, and thank you for turning your tragedy into something that may eventually help other families from the same tragedy that has befallen your families. So thank you for taking something very, very bad, something very painful and trying to make something positive out of it. And I appreciate your courage and your willingness to do that.

I just want to make a couple of observations here. Ms. Saldana, you are aware of the *Zadvydas v. Davis* case where the Supreme Court back in 2001 said that if you are holding a person, an illegal alien charged with a crime that has a deportation order but there is no foreseeable opportunity for that person to be deported, you have got to release him?

Ms. SALDANA. Painfully away.

Mr. LYNCH. Yes. So I am just pointing back to Congress, you know, we have got a responsibility here. You have got to recognize the context in which all this is happening, and it is happening in the absence of a coherent and workable immigration policy.

And I have had a chance, with my colleagues on the other side of the aisle, to go down to Central America, went down to Honduras, went down to Guatemala, went down to El Salvador. And like it or not, because of the Executive orders that are out there,

these human traffickers—they call them coyotes but I think that is too romantic a term—these are human traffickers capitalizing on that. And for \$7,000 they will give you three shots to get into the United States. And we visited some of the centers where, if they get caught trying to cross the border, they get sent back. And —

Ms. SALDANA. And we're targeting those, Congressman.

Mr. LYNCH. Yes, I know, I am just trying to make a point here. Every one of those kids that was returned, and there were hundreds that got caught at the border and were returned because in Mexico they support that sometimes, every one of those kids was picked up by their family within a couple of hours. So this is an organized attempt. It is not something that is just, you know, people are desperate. You know, they are economic refugees and they are trying to have a better life.

The point I am trying to make is the last numbers we have for South and Central America, there are 61 million people living on less than \$1 a day. They are desperate, extreme poverty, less than \$1 a day. So if we have a system, if we are going to treat North and South America as a borderless region, then I think if we want an idea of what might happen, I think we look at Germany and we look at Europe because in that case—and I have spent a fair amount of time in Germany and in the Middle East and at refugee camps in the Middle East. We are asking for the exact same problems where people are in desperate situations, and we do not have control of our border. We do not.

And it is not the fault of Immigration and Customs Enforcement that we don't have control of our border. It is a problem of a willingness here in Congress to grapple with that problem.

And we have a serious, serious problem. We can't have a Schengen zone here in the Western Hemisphere. We just can't sustain that. That is not a system that is going to provide for the safety of our citizens, and it is not going to be a system that will adequately address our need for legitimate and legal immigration.

And I think it is—At one point you were pointing back at Congress and saying, you know, you have got a responsibility here, too, and I think you are absolutely right, Ms. Saldana. Congress is responsible. We are responsible.

And I think there is a solution out there. And, you know, I think we have got to just, you know, let cooler heads prevail despite the vitriolic language we hear elsewhere about, you know, painting every single person south of the border with the same brush. That is not helpful. It is not right.

But at the same token, we have a prime responsibility of protecting our people. And this is a national security issue. We have got to get control of our borders, north and south. And the faster we do that, the better our opportunity we will have to come up with a cogent and sustainable and responsible immigration system.

So I thank you for your attendance here today. I see I have exceeded my time, and I thank the chairman for his indulgence. I yield back.

Mr. DESANTIS. [Presiding] The gentleman's time is expired.

The chair now recognizes the gentleman from Ohio, Mr. Jordan, for 5 minutes.

Mr. JORDAN. I thank the chairman and thank him for his hard work on this issue and a number of other members of the committee.

I was struck by the director's statement. In fact, she was looking directly at Congressman DeSantis, now the acting chair, when she talked about Republicans making this political. It is not about politics. It is about enforcing the law. It is about following —

Ms. SALDANA. I didn't say Republicans.

Mr. JORDAN. Well, your comments were obviously directed to Mr. DeSantis. The entire time I was here you were looking at Mr. DeSantis and following his opening statement and Mr. Chaffetz's opening statement. But that is fine. You can say Republican, so that is fine. You did say, I think political bantering was the term you used.

So I wanted to try to dissect these numbers. And again, from my perspective, following the law is not politics, it is the rule of law, it is what American is supposed to do and what American is supposed to be about. So let's look at some of these. It seems to me there are four categories of individuals that ICE probably interacts with. You have people who are here on a visa and they overstay or they violate their visa. I think the law says if someone does that, they are supposed to head back to their native country as well.

Then you have someone who is an illegal entrant. They didn't come here on a visa; they just illegally entered the country. If that comes to your attention, you have them, they are also supposed to be deported is my understanding of the way the law is supposed to work.

And then you have the categories that we are talking about today, a subset of this bigger universe if I am getting this all right. You have got people who overstay their visas or are here illegally, illegal entrant who commit a crime and they are in your custody. They are supposed to be deported.

And then it seems to me you have maybe the most important category, overstayed their visas or illegal entrant who commit a violent crime and then are in your custody and are supposed to be deported.

So we have got four categories where the law says they are supposed to be deported, but we are really only focusing on the last two, actually, even a smaller subset, illegal entrants who commit a crime who then you have in custody. And my understanding is you have released 86,000 of just that subset over the last few years. And over half of that 86,000 were released at your discretion, what is commonly called prosecutorial discretion. Is that accurate, Director?

Ms. SALDANA. That's correct.

Mr. JORDAN. That is all correct. So again, when you break it down, people came here illegally, did a crime, many cases violent crime, were in your custody, the law says they are supposed to be deported, and at your discretion, not because their country wouldn't take them back, you couldn't get travel documents, or notwithstanding other reasons, but over half of those 86,000 were you just decided you were just going to not follow the law. You were going to release them.

Ms. SALDANA. I disagree with that. We do follow the law. The law that Congress has provided says that for those—other than those that are subject to mandatory detention, a bond decision must be made and cite some of the factors that we consider, very much what you're familiar with in the penal system.

Mr. JORDAN. But the fact remains you release them.

Ms. SALDANA. After a careful analysis of each case.

Mr. JORDAN. Careful analysis. My guess is the families who are here, who I also want to express my condolences to, would disagree with your careful analysis.

Ms. SALDANA. Are we 100 percent accurate every time, looking back, sir, your—we—as I said earlier, we strive for perfection, but we are human and we do fall short sometimes.

Mr. JORDAN. Half of the 86,000 were the way I described. Is that accurate, Director, over half?

Ms. SALDANA. I think so. I think that is right.

Mr. JORDAN. What are the other reasons? What are the other 40 percent, 45 percent, whatever it is?

Ms. SALDANA. Someone who's on their deathbed and is going to—you know, we have something from a doctor says there's no purpose in putting this person in detention, they're going to die in a few months, someone who is too ill to board a flight and they have to be transported by air, someone who is pregnant, those are some of the reasons.

Mr. JORDAN. Well, I mean, again, I am struck by the four different categories, we are focused on what I think American citizens would say the most dangerous category and the fact that over half of them are released just because you can do it, that —

Ms. SALDANA. You provided—Congress has said we can do it. We wouldn't do it if we—if Congress hadn't provided that you consider bond for those that are not subject to mandatory detention.

Mr. JORDAN. But my understanding is you have the capability to hold more and you are not doing that.

Ms. SALDANA. We do, but I'm telling you that —

Mr. JORDAN. So —

Ms. SALDANA.—we exercise —

Mr. JORDAN. So —

Ms. SALDANA.—our judgment, sir, on —

Mr. JORDAN. Oh —

Ms. SALDANA.—based on what you have told us.

Mr. JORDAN.—well, you can't have it both ways. It can't be your judgment and you have the capability to hold more and then you blame it on Congress.

Ms. SALDANA. I'm not blaming it on Congress. I'm telling you what the law —

Mr. JORDAN. Well, I think you just did.

Ms. SALDANA. Well, that's what the law says, sir, if that's what you —

Mr. JORDAN. But then it can't —

Ms. SALDANA.—how you interpret —

Mr. JORDAN. Then it can't be your judgment. So you can't have it both —

Ms. SALDANA. No, you've given us that judgment. You've said there are things that are mandatory and everything else —

Mr. JORDAN. And you have the —

Ms. SALDANA.—is discretionary.

Mr. JORDAN.—capability to hold more people in that final category, illegal entrant, committed a violent crime and they are in your custody, you have the capability, the facilities to hold more, and you are exercising your judgment to release them. And some of those people you release did violent crimes and actually took the life of American citizens.

Ms. SALDANA. Today, we have about 2,000 beds available —

Mr. JORDAN. Right.

Ms. SALDANA.—based on what you authorized, this Congress authorized for us to do.

Mr. JORDAN. Yes. So I think we are saying let's use them.

Ms. SALDANA. Okay. And tomorrow, it may be 34. It may be 36 tomorrow. That number fluctuates.

Mr. JORDAN. I am over. I yield back, Mr. Chairman.

Mr. DESANTIS. The gentleman's time is expired.

The chair now recognizes Mr. Connolly from Virginia for 5 minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Welcome, Ms. Saldana, and my heart also goes out to the Hartling family and the Root family. I am a dad with a daughter. I cannot imagine. And it was a failure of the system that made you victims. It made your daughters victims.

And we have got a problem with immigration, and I think Director Saldana has been trying to point to that tome in front of her saying I need your help in fixing that because there are problems in the current system that affect American citizens who count on it to protect them, but also immigrant families who want to make sure that they are treated with respect and dignity, because overwhelmingly, most of them are not criminals.

I want to enter into the record, Mr. Chairman, two pieces of correspondence. One is from the Southern Poverty Law Center about some of the problems with the Atlanta immigration raids, and another one from my part of the country, northern Virginia, from the Arlington Public Schools, direction given by the superintendent of schools to all families and staff because of growing anxiety about these raids in northern Virginia.

Mr. DESANTIS. Without objection.

Mr. CONNOLLY. I thank the chair.

Ms. Saldana, I added those letters into the record, and one of those letters states that ICE “trampled legal rights, subjected mothers and children to terrifying and unnecessary police encounters, and tore families apart.” It also says “these raids have turned to schools, including students on their way to schools.” Are there indeed ICE raids on students on their way to schools?

Ms. SALDANA. No, there are not raids. We conduct operations, sir, and I really work very hard in the community. I've met with lots of organizations that simply do not understand what ICE does. And when the term raid is thrown around, it implies a thoughtless sweeping of people. The people we targeted in this—in both these operations that occurred earlier this year, Operation Border Resolve, Operation Border Guardian, were specifically targeted to people who had—whose status was determined to be illegal, who

had the whole—had run their gamut of appeals and rights and the processes afforded them by the Immigration and Naturalization statute, who had a final order of removal and who were ready to be removed.

Mr. CONNOLLY. Director Saldana —

Ms. SALDANA. That's not what I call a raid.

Mr. CONNOLLY. All right. You don't call that a raid. They do. And it is leading to the superintendent of schools feeling he needs to provide counsel and reassurance to an entire school system based on the actions of ICE. Now, maybe that is justified, maybe it isn't, but maybe you want to talk to the superintendent of our schools in northern Virginia.

Ms. SALDANA. I'm happy to. In fact, sir, let—if I can just brag a minute, we have set up a network—we're setting up a network of community relations officers, people who will meet with law enforcement, with school superintendents, with rotary clubs, whoever will listen to us so that we can lay out for them exactly how we go about our business. The taxpayer is entitled to know that —

Mr. CONNOLLY. Yes.

Ms. SALDANA.—and that's why we want to do that.

Mr. CONNOLLY. Fair enough. But let me go back to a student. So a student on the way to school, Supreme Court has ruled that, irrespective of status, if you are a student, you show up, you are entitled to a public education, correct?

Ms. SALDANA. I am not sure. I take your word for it. I —

Mr. CONNOLLY. Well, that is a matter of case law.

Ms. SALDANA. Yes.

Mr. CONNOLLY. You were a U.S. —

Ms. SALDANA. Whatever it is —

Mr. CONNOLLY.—attorney. I mean, that was a Supreme Court ruling. I am not making that up. And that is why local governments throughout American have to educate children, irrespective of status. So whether they are documented or not is immaterial to a local public school. And is ICE targeting children based on their documentation on the way to what is a constitutionally protected education?

Ms. SALDANA. No, just adults. Unaccompanied children —

Mr. CONNOLLY. Just —

Ms. SALDANA.—who have aged out are eligible —

Mr. CONNOLLY. Okay.

Ms. SALDANA.—if they're over 17, I believe, or older. So, no, we don't target children.

Mr. CONNOLLY. Okay. I have got a few seconds left. Just while you are doing your outreach, I urge you to do it with Members of Congress as well. I can tell you in my district probably my number-one subject now is immigration, given the demographics of my district. And we need a partner in your agency. We are not trying to make your life more difficult, but we are trying sometimes to solve through difficult problems that are family-related and confusion and all kinds of other things —

Ms. SALDANA. I'd like to follow up with you —

Mr. CONNOLLY. I would love to do that —

Ms. SALDANA.—and get —

Mr. CONNOLLY.—because —

Ms. SALDANA.—and get that arranged.

Mr. CONNOLLY.—if we don't have your cooperation, we can't resolve some problems. And trying to make sure that from the top down caseworkers cooperate with Members of Congress as they are trying to do their jobs, too, on behalf of their constituents is always welcome.

I wish I had more time. I thank the chair for the hearing. And again, my profound sympathies go with the families. There aren't words to describe how we feel.

Mr. DESANTIS. The gentleman's time is expired.

The chair now recognizes the gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman.

Director, I appreciate your service in a previous life, and I have got to confess to you, I was surprised when you used the phrase "political bantering" in your opening. I was not only surprised, I was disappointed because you seemed to direct that towards the Republicans. It was the solicitor general of this administration not 2 weeks ago before the Supreme Court who talked about the damage wreaked by the separation of families. Of course, he wasn't talking about Sarah Root's family and he wasn't talking about Joshua Wilkerson's family and he wasn't talking about Casey Chadwick's family or Kate Steinle's family. He was talking about the families of people who were not here legally.

And that just struck me as a political comment that he made, and of course it is not us on our side that advocate for sanctuary cities, which is quintessentially a political analysis that we are going to allow State and local officials to decline to follow Federal process, but at the same time we don't trust State and local cops enough to actually enforce immigration laws. That is a political calculus. That is not done by folks on our side of the aisle.

My friend from Maryland, Mr. Cummings, went to great lengths to quote episodically from a single Republican. I have never heard him quote Secretary Castro, who has come before committees of this Congress and advocated for citizenship for all 12 million aspiring Americans, like all 12 million can pass a background check, all 12 million, not a single one of them can't pass a background check.

So if we are going to talk about political bantering and if we are going to use your phrase, and you are the one who used it, I think we ought to at least acknowledge there is plenty of political bantering going on on your side as well.

Ms. SALDANA. Let me make myself very clear, very clear. I was not referring to one party or the other. I asked for everyone to drop the political banter and fighting and help me get a system that works.

Mr. GOWDY. All right. Well, then —

Ms. SALDANA. I want the record to be clear on that.

Mr. GOWDY. The record is clear. Let's let the record be clear about one other thing because I am vexed as to why Mr. Mejia was not detained. Can you tell me as a former prosecutor why the killer of Sarah Root was not detained?

Ms. SALDANA. An individual from ICE looked at the specific facts and circumstances related to that matter, had—the individual had no criminal convictions, previous criminal convictions, and made a

determination based on his judgment that he did not need to be detained.

Mr. GOWDY. And —

Ms. SALDANA. Could you and I disagree with that decision —

Mr. GOWDY. No, no, no, it is more than that you and I disagree with that. That individual was in fact wrong because Mejia has failed to appear for court, has he not? Has he absconded?

Ms. SALDANA. It is very easy to look back, sir —

Mr. GOWDY. Well —

Ms. SALDANA.—very easy to look back, and yes, he has absconded.

Mr. GOWDY. Well, I am looking back so we can look forward and prevent the next one —

Ms. SALDANA. Exactly what I'd like to do.

Mr. GOWDY.—and that is about all we can do unless we have a crystal ball is look back and see what facts we were given. And Mr. Mejia—the only two things you look at in a bond analysis are danger to the community and flight risk. Those are the only two things you look at. So help me understand why someone driving three times the legal rate of impairment who is not here legally, did he have any criminal history at all, any arrests at all?

Ms. SALDANA. We did not find criminal history. I think I've been advised by Senator Ernst that he had some traffic violations previously, but criminal convictions, our records didn't indicate that he had.

Mr. GOWDY. Has he failed to appear subsequently for court appearances?

Ms. SALDANA. Subsequent to what?

Mr. GOWDY. Subsequent to his killing of Sarah Root?

Ms. SALDANA. Oh, no, he did not appear for his —

Mr. GOWDY. Right. So he has —

Ms. SALDANA.—immigration court hearing.

Mr. GOWDY. He has failed to appear, that was my question.

Ms. SALDANA. Absolutely.

Mr. GOWDY. So the discretion exercised was wrong.

Ms. SALDANA. These are tough decisions, sir, and —

Mr. GOWDY. This one actually is not that tough to me —

Ms. SALDANA. Well —

Mr. GOWDY.—Director. With all due respect, it is not that tough.

Ms. SALDANA. Okay. Federal judges make these —

Mr. GOWDY. Would you have granted a \$5,000 for that defendant?

Ms. SALDANA. I don't think the bond was set at \$5,000 —

Mr. GOWDY. No, it was \$50,000, which means he had to post \$5,000.

Ms. SALDANA. Yes. I —

Mr. GOWDY. Would you have set that bond?

Ms. SALDANA. I would not if I were a judge in that State court, and I believe that was a judge of the State court system who made that decision, another factor that the officer from ICE might have looked at in making his decision. I will tell you, judges make tough decisions every day. And we can point to judges—I was on the receiving end of many of these as a prosecutor asking for bond—asking for detention and a Federal judge said no, and later, that per-

son absconded. Unfortunately—it irks me every time of course. Unfortunately, it happens a lot.

Mr. GOWDY. Well, it does happen, and sometimes with tragic consequences.

I am out of time so I will close up with this. I believe in a previous life I am sure you worked with State and local law enforcement in addition to Federal law enforcement —

Ms. SALDANA. Absolutely.

Mr. GOWDY.—and it has always struck me as unusual that we trust State and local law enforcement with the enforcement of every category of crime. I am sure you had them on some task forces, whether it be narcotics, whether it be human trafficking. We trust them in child pornography cases. We trust them in all categories of cases, including traffic enforcement. So why don't we trust them in immigration cases?

Ms. SALDANA. Well, we do actually. We have a 287(g) program that we enlist the help of local law enforcement in helping us with immigration enforcement. There are a number of jurisdictions, and I've asked our people to expand that program.

Mr. GOWDY. You have asked them to expand it? Because it seems like it is shrinking.

Ms. SALDANA. No, sir, it's not shrinking other than maybe a jurisdiction withdrawing. That I can't control. We beg them to stay, but sometimes they withdraw based on whatever considerations

Mr. GOWDY. So you do trust State and local law enforcement to enforce immigration laws, and you do not buy into the Democrat mantra that somehow racial profiling prevents them from being able to enforce that category of crime but not any other category of crime?

Ms. SALDANA. Well, that's a fully loaded question, which I'd like to break down because there is racial profiling, sir. I'm not saying that it happens every day, but there is. And so for me to agree with your general proposition would require me to agree with parts of it that I don't agree with.

Mr. GOWDY. Well, I would like to have this conversation more because there would be racial profiling in narcotics cases, there is racial profiling in traffic stop cases, and that doesn't stop feds and State and locals from partnering. So I am just trying to understand why immigration cases are different.

Ms. SALDANA. And think I said they're not different. We have a

Mr. GOWDY. You may have said it, but my Democrat colleagues have not. You may have.

Mr. DESANTIS. The gentleman's time is expired.

The chair now recognizes Delegate Norton for 5 minutes.

Ms. NORTON. Thank you very much, Mr. Chairman.

I am less interested in the racial profiling than I am in the racial sensitivities raised by this issue. I want to thank you, Director Saldana, for being here.

Like those who have spoken before me, I don't have the words to offer to parents who have lost their children, particularly when they consider that it could perhaps have been prevented. I have only the deepest condolences.

I would like to get beyond recrimination and into how you do law enforcement when the rhetoric is steeped with racial overtones. Look, I grew up in the District of Columbia as a minority group. It was a deeply segregated city. I went to segregated schools. I couldn't go in public accommodations because I was black. And even the newspapers, the best newspapers would say John Jones, black, committed X crime in northeast Washington. This had an effect on me and how I felt about criminals to tell you the truth because John Jones, black—sorry, they didn't say back then. John Jones, negro, I don't know whether he was guilty or not. All I know is that by pointing out his race, my community, minority group in the city, felt that law enforcement was pointed at all of us.

So I want to ask about the delicate task of law enforcement when those that are chiefly involved do happen to be from a minority group. For example, Donald Trump, when he announced he was running for President, said something that—if I put black where Mexicans are, I think people would know how I and others who are from minority groups felt. When Mexico sent its people, they are not sending their best; they are bringing drugs, they are bringing crime, rapists.

Now, I want to ask about the effect on law enforcement where you have a delicate task of in fact going mostly after perhaps Mexican-American, Central Americans who are coming into this country and operating under the specter not of racial profiling but from the highest levels on television every day hearing ethnicity called out in relation to your work. How does that affect law enforcement from the point of view of those charged with carrying it out, with carrying out law enforcement that will in fact mostly involve the very people whose names have been called out? We are cheering from the grandstands. How does that affect law enforcement?

Ms. SALDANA. Well, we go about our business without regard to race. I—it's—I will tell you this, though, Congresswoman. Immigration enforcement is a little different in the sense that the very definition of who we're after is determined by their country of origin, the fact that they're not from the United States and they're illegal.

Ms. NORTON. Their country of origin will be where people of color are chiefly located. I understand where they are coming from. But the point is that they have many relatives in this country, too, and somehow the other—law enforcement has to handle the delicate task of—you heard talk about the raids, perfectly legitimate to do, and somehow making sure it is not caught in the rhetoric we hear.

We heard also from Mr. Trump that we should close up—I would close up our borders to people, and he named who he was talking about, in this case not Mexicans but Muslims. Apart from the ignorance of that statement, is completely sealing our borders to any group possible, and is it an effective way to combat terrorism?

Ms. SALDANA. Well, that's a huge issue, but I would say no. That's why everything we do, starting with the Secretary and his priorities, is based on a case-by-case basis. You've got to look at every individual. It doesn't matter —

Ms. NORTON. So sealing the borders would involve what?

Ms. SALDANA. I can't imagine how you'd go about that. I think there have been some discussion about building a wall and that

kind of thing. That doesn't sound like it would secure anything actually because I've seen the videos of a —

Ms. NORTON. Well, could you issue something for people coming overseas saying if you are a Muslim, don't travel to the United States; you will not be accepted?

Ms. SALDANA. We would not do that.

Ms. NORTON. From the highest point of leadership, somebody has to make the American people understand the delicacy of this task. So while first I think of the relatives who have lost, my second thought is with those who have to carry out this difficult mission.

Thank you very much.

Mr. DESANTIS. The gentlewoman's time is expired.

The chair now recognizes himself for 5 minutes.

Thank you for coming. I would just echo some of my colleagues. You know, I appreciate your service and what you are trying to do, but to dismiss what we are trying to get to the bottom of as political banter, that is not what we are doing. I mean, when we see reports where—and many of these releases were before you were even in ICE. But when we see 124 people who had been in custody and were here illegally and then end up getting charged with murder, when you see things like Kate Steinle who was just going about her business and then she got killed by somebody who had no business being in the country, that is something that concerns people here in the Congress and the American people.

And our government is involved in a lot of different things, you know, the type of health insurance you have to buy, how much water our toilet can flush, all these different things, and yet a core function of the government is to ensure the safety and security of the American people. And it is frustrating when government is involved in all these other things and then fails at its core function. So we are absolutely serious about it. And it is not political theater. It is just the frustration to have families who have to go through this.

Now, you said something earlier in your testimony. You said you that you need a removal order to deport someone. Without that, they can't be deported, is that correct?

Ms. SALDANA. A final order of removal.

Mr. DESANTIS. Well, because aren't there administrative removals?

Ms. SALDANA. Yes, there —

Mr. DESANTIS. There are stipulated removals?

Ms. SALDANA. Yes, absolutely.

Mr. DESANTIS. And then there are expedited removals, correct?

Ms. SALDANA. Yes, a person can volunteer to go back, a person who's caught at the border at ports of entry, we can move through that process little quicker.

Mr. DESANTIS. So there are ways to do it. And I think that part of the frustration as we have gone through the numbers, a lot about the numbers that were discretionary versus what ICE would say because of the Supreme Court's precedent in the Zadvydas case, but even there, that is a 6-month window.

So you have somebody in custody, let's say, who got out of prison after committing a sexual assault against a child, and that individual is being held, you do have time to be able to repatriate that

individual back to their own country. And what we are a lot of times told by DHS is, well, they don't get the paperwork to us in time, they don't do all this, and so then the 6 months elapse and then this individual is released when they are clearly a danger to society.

So you guys can work through this quicker, and some of these other countries—and I get that they are not always going to comply immediately—we have not used any of our leverage against them. The State Department has not suspended a single visa for any of these countries at all.

We have the ability to do that. They depend on us more than we depend on their visa, and so what can you do to be able to move through the process quicker so that people who are clearly dangerous, have been convicted, don't have any legal right to be here, can be repatriated before that time limit expires?

Ms. SALDANA. I'm all about procedures and institutionalizing a process to make sure it works. My interest is not in second-guessing all our officers. It's in setting up a process and procedure that would get to that.

Mr. DESANTIS. So what do you need to do, though, to do that?

Ms. SALDANA. I —

Mr. DESANTIS. What do we need to do? Because Mr. Gowdy, he has a legislative fix for this Zadvydas issue. Is that something that you are familiar with?

Ms. SALDANA. I am not.

Mr. DESANTIS. Would that be something you would be open to learning about?

Ms. SALDANA. Absolutely, sir, and working with you on that total subject.

Mr. DESANTIS. Because here is, I guess, the issue, and you have raised the statute books and you have said, look, they are not mandated to be deported even if they have been convicted of some of these bad crimes because Congress has made these decisions. And while some of those crimes, it is true, may not be mandatory, that doesn't mean that the law does not provide you at least authority to detain them. In other words, just because it is not in that book does not mean that they have to be released. That does not follow that that is the case. Now, do you agree with that?

Ms. SALDANA. That is true.

Mr. DESANTIS. Okay. And then in terms of the immigration courts, you have mentioned those. Just so that the American people understand, the immigration courts, they are not article III courts, correct?

Ms. SALDANA. They're not. They're within —

Mr. DESANTIS. They are —

Ms. SALDANA. They are in —

Mr. DESANTIS. They are article II courts, correct?

Ms. SALDANA. Yes.

Mr. DESANTIS. So they are within the executive branch?

Ms. SALDANA. Within the Department of Justice.

Mr. DESANTIS. And so if an immigration judge orders somebody has got to be released and you feel very strongly that that is bad for the safety of our country, you can then go to the higher up in the executive branch and try to change that, correct?

Ms. SALDANA. You have immigration appeals and then circuit courts after that.

Mr. DESANTIS. Okay. Great. Do you know when we first did this issue in fiscal year 2013 there had been 36,000 individuals who had been released who had been convicted of crimes who are here illegally, and as of last year there had been 1,000 of those people who had already been convicted of new crimes?

Do you guys have the figures on anybody from fiscal year 2013 through fiscal year 2015 who has been in ICE custody, previously been convicted of a crime, and then got released and then got convicted of a new crime?

Ms. SALDANA. I don't know about '15 precisely. We may have '15, but yes, we do have those numbers generally.

Mr. DESANTIS. Okay. Well, if you can provide those for us, I think that would be important. And then also back from 'FY 2013, because I know that has obviously probably changed since the last time we had it.

Mr. DESANTIS. My time is up, and the chair now recognizes Mr. Hice for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

All right. Bottom line when we all come to this, everybody involved, when it comes to the issue of criminal aliens, the public safety is paramount for past victims, as well as potential future victims. We agree on that?

Ms. SALDANA. Yes, sir.

Mr. HICE. With these criminals under the custody of ICE, are there convicted sex criminals?

Ms. SALDANA. Yes.

Mr. HICE. Okay. Do you have any idea how many?

Ms. SALDANA. I think that number is available, but I don't have it in front of me.

Mr. HICE. Okay. If you could provide that, I would appreciate it.

Ms. SALDANA. In —

Mr. HICE. But to that specific —

Ms. SALDANA. In 2015, sir?

Mr. HICE. From my understanding in '15 there were almost 1,000 sex criminals released.

Ms. SALDANA. That may be right.

Mr. HICE. Okay. Let me go on from there. Of these sex offenders who are released back into society, does your agency notify law enforcement?

Ms. SALDANA. We do. And this is something I think I testified about the last time I was here. I'm very proud of the fact that we have stood up the law enforcement notification system whereby when we are releasing actually more than just sexual offenders but other criminals into a State that we believe they are going to—they have indicated and they're going to a specific State, we notify them that there are —

Mr. HICE. You notify who?

Ms. SALDANA. The State database. Usually, it's the State office and, for example, in my State of Texas, in Austin, the —

Mr. HICE. Because you promised last time you were here that by the end of 2015 that the States would—law enforcement would be notified. I spoke with the sheriff of Gwinnett County this week,

which is the second-largest county in America next to Harris County, Texas, where criminal aliens are being released, and he says he does not hear from you.

Ms. SALDANA. I did exactly as I promised. We did get the notification system up and running by the end of last year to the States. What we're working now is phase 2 —

Mr. HICE. So let's just cut to the quick of this. So you are saying that when an illegal alien sex offender or any other is released into a community, you are assuring me that law enforcement is notified?

Ms. SALDANA. The State law enforcement, yes, the State that is responsible for all the local jurisdictions within.

Mr. HICE. But not the specific counties?

Ms. SALDANA. No. We have 254 counties in the State of Texas. It would be very difficult to do that. But we are trying —

Mr. HICE. But isn't that where the rubber hits the road?

Ms. SALDANA. Absolutely, and that's why we're in phase 2, Congressman. We're in phase 2, which is trying—we're going to be communicating with the specific local jurisdiction —

Mr. HICE. All right. What about victim notification? Are they notified when the criminal is released? Say you have someone who was raped, the rapist is released —

Ms. SALDANA. We —

Mr. HICE.—in their community. Is that victim notified?

Ms. SALDANA. We have a criminal notification system just like the Department of Justice does with respect to the penal system, and people sign up for that, and we do issue notices.

Mr. HICE. So let's suppose a rapist is released, they do not register, as we know many of them do not do on the sex offender registry. How does a previous victim know that that predator is released?

Ms. SALDANA. They sign up. I think Mr. Root did this also with respect to his situation. He wanted to be advised about the proceedings with respect to that particular illegal immigrant. That they sign up for the victim notification system, and that's how we get them that information.

Mr. HICE. And all of them sign up?

Ms. SALDANA. I can't say that all of them sign up.

Mr. HICE. Well, I guess, really my question has to do with the predators themselves who are released. Now, I have actually introduced a bill, and I think that it closes this loophole, H.R. 2793. It is called TRAC. It would require ICE to register these sex offenders on the national registry when they are released.

Right now, that is required of every citizen in the United States who commits a sex crime. They are put on the National Sex Offender Registry. That is not the case with illegal aliens who commit sex crimes. And I don't understand that. For one reason, it seems very commonsensical to me that if an illegal individual in this country commits a sex crime, they need to be put on the National Sex Offender Registry when they are released. Would you have a problem with supporting that bill?

Ms. SALDANA. Well, I understand that's what happens with respect to any person that's —

Mr. HICE. It does not happen with respect to illegals.

Ms. SALDANA. Well —

Mr. HICE. That is the point.

Ms. SALDANA. And my concern is they—we expect the person to

Mr. HICE. Do you really expect a person to put themselves on a National Sex Offender Registry?

Ms. SALDANA. That's —

Mr. HICE. It doesn't happen.

Ms. SALDANA. Well, that's what you all have provided for with respect to sex offenders —

Mr. HICE. Would you have a problem with ICE being required to make sure that they are put on the National Sex Offender Registry?

Ms. SALDANA. I'd certainly like to look at that and study it, sir, yes.

Mr. HICE. I would like, Mr. Chairman, to encourage all our colleagues to get on board with H.R. 2793. This is a commonsense approach to close an enormous loophole by requiring these people to be put on the National Sex Offender Registry. I yield back.

Ms. SALDANA. Twenty-seven ninety-three?

Mr. HICE. Twenty-seven ninety-three.

Ms. SALDANA. Thank you, sir.

Mr. MEADOWS. [Presiding] I thank the gentleman.

The chair recognizes himself for 5 minutes for questions.

Ms. Saldana, you know, I am going to come to you because throughout this testimony this morning you have made a point to pat the large book in terms of the law that you need help with, you have said it is somebody else's fault. You continue to focus on everyone else that has a stake in this, and yet some of the blame actually rests directly with you. And so that is where I want to go with this because you have been equivocating, in my opinion, with some of the questions that have been answered.

And you know I think specifically the ones that I had issue with when you were talking with Mr. Grothman, when you talked about the fact do you know the entire universe of those who have committed crimes that get detained, do you know who they are, yes or no?

Ms. SALDANA. Who are in the country illegally?

Mr. MEADOWS. No, who get arrested by local law enforcement, do you get notified of all of those under the new system, which would be the Priorities Enforcement Program?

Ms. SALDANA. We have the ability to check the system.

Mr. MEADOWS. Do you know, yes or no, all of the people that are there? Do they ping DHS and you know it?

Ms. SALDANA. Not necessarily.

Mr. MEADOWS. Okay. And is that a change?

Ms. SALDANA. Is what a change?

Mr. MEADOWS. Where they don't ping DHS anymore, is that a change in the way that you have been notified over the last 18 months?

Ms. SALDANA. It's a database —

Mr. MEADOWS. Yes or no. I know the answer, so yes or no, is it a change?

Ms. SALDANA. I don't understand the question.

Mr. MEADOWS. Okay. Let me be a little bit—under the Secure Communities Act, they were required to actually come and ping you and let you know that they had someone who has committed a crime and they would actually let you know that. Is that not correct?

Ms. SALDANA. I don't know that specific —

Mr. MEADOWS. You are the head of the agency. How would you not know that?

Ms. SALDANA. That program has never been —

Mr. MEADOWS. I am a Congressman and I don't even know and I have had to read up on it. So —

Ms. SALDANA. That program has never been in effect since I have been director —

Mr. MEADOWS. Okay. So the —

Ms. SALDANA. I am generally familiar with Secure Communities.

Mr. MEADOWS. So the PEP program, let's look at it. You are saying that they are all participating. What would you classify as participating by someone under the PEP program?

Ms. SALDANA. I didn't say they were all participating, all the jurisdictions, 3,000 plus in the country are participating. I wouldn't have said that because that's not correct.

Mr. MEADOWS. Well, you had said that—okay. Well, what —

Ms. SALDANA. We've made progress.

Mr. MEADOWS. Made progress. So if someone has committed a violent act under the PEP program, are they required to let you know that they have been incarcerated, yes or no?

Ms. SALDANA. No.

Mr. MEADOWS. All right. So we could have an illegal alien that has had a violent crime, and local law enforcement does not have to let ICE know?

Ms. SALDANA. Doesn't have to, but many jurisdictions —

Mr. MEADOWS. I know many do, but they don't have to let you know. Do you not see a problem with that?

Ms. SALDANA. That's why I'm working so hard to change the minds and hearts of —

Mr. MEADOWS. Well, but you are not working hard. So let me go on a little bit further. Why would ICE be arresting and detaining 40 percent fewer people than they did in the previous year?

Ms. SALDANA. Apprehensions. Apprehension numbers are down.

Mr. MEADOWS. So is it your testimony here today that there are fewer people that are actually committing the crimes?

Ms. SALDANA. Well, I didn't get to finish my answer.

Mr. MEADOWS. No, I am all ears.

Ms. SALDANA. Okay.

Mr. MEADOWS. Because I want to understand how all of a sudden there has been this 40 percent reduction in crimes by illegal aliens according to your stats because you are not 40 percent less on detainers, 40 percent less on administrative removals. How all of a sudden did that happen this year?

Ms. SALDANA. What happened, sir?

Mr. MEADOWS. Forty percent less detainers, 40 percent less removals.

Ms. SALDANA. Well, I'll tell you, we have less people in the system. I mean, that's going to be —

Mr. MEADOWS. By design because you have changed the system to make sure there are less people in the system, and that is the frustration of the parents is what happens is you have made the universe lower so you can report fewer people that you let out of jail free.

Ms. SALDANA. I —

Mr. MEADOWS. Do you not see a problem?

Ms. SALDANA. That's not correct.

Mr. MEADOWS. Listen, if you want to go over the numbers privately after this hearing, I will be glad to go over the numbers. I am a numbers guy.

Ms. SALDANA. Yes.

Mr. MEADOWS. So you tell me how it could be 40 percent fewer.

Ms. SALDANA. As I started, part of it is the apprehensions, the number of people in the system. We are going about our apprehensions—all our decisions on a very informed —

Mr. MEADOWS. No, no, not informed —

Ms. SALDANA.—basis —

Mr. MEADOWS.—because you have to know the whole universe of the people in order for it to be informed. So how many drug dealers, how many rapists, how many kidnappers do you let a get-out-of-jail-free card?

Ms. SALDANA. None that have a final order of removal and we are able to —

Mr. MEADOWS. No, no, no —

Ms. SALDANA.—remove them.

Mr. MEADOWS.—you are equivocating again. The —

Ms. SALDANA. I am not equivocating. There's not simplistic answers —

Mr. MEADOWS. Okay. Out of —

Ms. SALDANA.—to you, sir.

Mr. MEADOWS.—the 7,000 plus that you had the discretion to let go, were any of those violent that you had total discretion over letting go? I am saying—they weren't traffic offenses, out of those discretion, were any of those violent?

Ms. SALDANA. Yes, there were some that had been —

Mr. MEADOWS. So —

Ms. SALDANA.—convicted of homicide —

Mr. MEADOWS. So don't blame it on everybody else. So it was your —

Ms. SALDANA. I'm not blaming it on everybody else.

Mr. MEADOWS. So violent criminals at your discretion have been let go?

Ms. SALDANA. Yes. Some are by order of the court —

Mr. MEADOWS. Do you not see a problem with that?

Ms. SALDANA. Sir, it's all—it's all based on the statutes.

Mr. MEADOWS. No, no, no, no, don't go there because I can go further —

Ms. SALDANA. How can I leave the statute out?

Mr. MEADOWS.—it is prosecutorial discretion. And that is your discretion, ma'am, and that is my problem.

Ms. SALDANA. And I can't —

Mr. MEADOWS. And I am —

Ms. SALDANA.—ignore the statute.

Mr. MEADOWS. I am out of time. I am out of time. Are you willing to take me up and go through all these numbers after the hearing? Because I am ——

Ms. SALDANA. I am always ——

Mr. MEADOWS.—perfectly willing, and then we will ——

Ms. SALDANA.—always ——

Mr. MEADOWS.—go public with them, right?

Ms. SALDANA.—happy to meet with you.

Mr. MEADOWS. All right.

The chair recognizes the gentleman from Texas, Mr. Farenthold.

Mr. FARENTHOLD. Thank you, Mr. Chairman.

I have got a couple of lines of questions, but I want to start with this discretion stuff that everybody is talking about. Congress has given you guys the discretion to not deport people. You know, I give my children discretion to spend their allowance as they see fit. I would probably have to come back and revisit that if I thought they were being stupid about how they were exercising that discretion. And to me it seems like you are exercising your discretion in a way that is coming up with tragic results.

Listen, I can understand you have got a violent criminal who is hospitalized and isn't expected to live 6 months, of course you use the discretion there. It is not worth the money or it is probably not even possible to safely transport that person to their country of origin. But, you know, that is the far extreme. I think you are too far towards we are just going to let them go. And I think that is the criticism that you are hearing from the Members of Congress here.

Even though we have given you the ability to do something doesn't mean you should do it. And I just wanted to clear that up because I think in all the back-and-forth here, that hasn't entirely been made clear. I think the whole point of this hearing is there are a good many members on this panel who have you up here because we think that discretion isn't being exercised wisely.

Ms. SALDANA. I got that impression.

Mr. FARENTHOLD. All right. I just wanted to make sure that everybody was clear on that.

I want to talk a minute about the Priority Enforcement Program. I meet and hear quite a bit from my local sheriffs in Texas, and as a Texan, you know, everybody loves the sheriffs and they all have an opinion. And what I hear from them is that they are having problems in getting you guys to determine about detainers. And sometimes, they will arrest somebody and it will be 3, 4, 5 days before they hear back from you guys as to whether or not to issue a detainer. And by that time, the person is already bonded out. So how can we improve that process to where they get, let's say, pick a number, 24-hour response there?

Ms. SALDANA. Okay. You know, I don't have to tell you that there are 254 counties in the State of Texas, and it is wide and long.

Mr. FARENTHOLD. Right. But everybody has got a computer. I mean ——

Ms. SALDANA. Oh, yes. Yes, yes. So—but the problem is getting to the specific local jurisdiction within a timely manner. You know, so we try to get people there as quickly as possible.

Mr. FARENTHOLD. Right, but what they want is a determination of whether or not to keep them. Most of the sheriffs I know, they will drive them to you. They will be happy to deliver them.

Ms. SALDANA. Congressman, oh my goodness, thank you so much. Would you give me the names of those —

Mr. FARENTHOLD. Yes, I will.

Ms. SALDANA.—sheriffs? No, I am not only half-kidding. I would like to know any sheriff that is having any difficulty in hearing back from ICE. I want to know that.

Mr. FARENTHOLD. Okay. We will get you that information.

Ms. SALDANA. Thank you, sir.

Mr. FARENTHOLD. We have actually worked with some of your local people and have seen that improve some. I also —

Ms. SALDANA. And I've got to say the great State of Texas does a very good job of cooperating with us.

Mr. FARENTHOLD. Well, we are spending an awful lot of money doing the job that the Federal Government can do. We could do a whole other hearing on whether or not and how much Texas should be reimbursed for doing the Federal Government's job.

But I also want to talk about the 287(g) program. And what the sheriffs have found is that if they have the revenue to pay for somebody, and a lot of these small counties—you know, you look at Brooks County, small county, very little property value, they don't have the ability to pay for a person to—you all will give them the training for free, but they have got to pay the salary for the person.

But what has been found effective in that program in addition is you get a jailer in that program where they can actually access the computer and information database directly, and then they are able to determine. So I would encourage you to work on growing that program. I am working with the appropriations to make sure you all have the money to continue to make that work.

My final question is, we talked—I am going to get back to discretion for a second. And you don't make the decision for everybody there. I mean, it is delegated down the line. How do you ensure that it is consistent, and how do you ensure that the person who has the discretion isn't of a disposition to say, oh, let's just let them all go?

Ms. SALDANA. No. No, sir. They all know my background, and they know that that would be fully unacceptable.

What we do is we train, we issue directives on policies, make things clear, give guidance. We revisit. I have myself at least once, maybe twice got on the phone with each one of the 24 field office directors with responsibility across the country to say my expectations and to make sure that people have the message of how we go about our business with respect to detention and those decisions and the exercise of prosecutorial discretion in general.

So—but it is a challenge when you have 6,000 officers out there who are involved in this. We just stay on—need to stay on top of it. I've got my field leadership coming in next week. We're going to go through this item by item and talk about the general subject of is the word getting down all the way. So I—that's what I do. We're—it's a constant vigilance.

Mr. FARENTHOLD. Well, I have plenty more to talk about but my time is expired.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from Georgia, Mr. Carter, for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman. And thank you, Ms. Saldana, for being here.

Ms. Saldana, last year, it is my understanding that you released 19,723 illegal aliens with criminal records, 19,723. That is the number I have been given —

Ms. SALDANA. Illegal —

Mr. CARTER.—19,723.

Ms. SALDANA. That number is correct by, remember, court order or some discretion.

Mr. CARTER. And these are illegal aliens with criminal records such as kidnapping, sexual assault, DUI, and homicide?

Ms. SALDANA. That's correct.

Mr. CARTER. You say that somewhat matter-of-factly as if it is okay.

Ms. SALDANA. Well, it's not okay, but that's what the statute tells me, sir. It tells me we need to—that we need to abide —

Mr. CARTER. You know, it is just unbelievable to me that we have released 19,723 illegal aliens with criminal records such as kidnapping, sexual assault, DUI, and homicide.

Ms. SALDANA. I —

Mr. CARTER. That is appalling. No wonder America is in an uproar right now.

Ms. SALDANA. It is appalling. I would —

Mr. CARTER. It is appalling.

Ms. SALDANA.—appreciate you speaking to the Supreme Court of Texas with —

Mr. CARTER. Well —

Ms. SALDANA.—the United States with respect to some of it. The immigration courts have another —

Mr. CARTER. So tell me when you can detain them. What is a priority 1? Explain to me what a priority 1 is very succinctly, very quickly.

Ms. SALDANA. Threats, generally, to national security and —

Mr. CARTER. So kidnapping, sexual assault, DUI, and homicide are not priority 1?

Ms. SALDANA. Yes, they are in that priority if they're convicted.

Mr. CARTER. If they are convicted?

Ms. SALDANA. Yes.

Mr. CARTER. Now, you have got me confused here. We established the fact that you have released 19,723 illegal aliens with criminal records, including those with kidnapping, sexual assault, DUI, and homicide, and you are telling me you shouldn't have released them?

Ms. SALDANA. If—no, I'm telling you—you just asked about priority 1. There's another priority they might be included in. And let me just remind you, sir —

Mr. CARTER. There is another priority so there is more than just priority 1.

Ms. SALDANA. There are three priorities. There's three priorities.

Mr. CARTER. There are two priorities. And the second —

Ms. SALDANA. Three.

Mr. CARTER.—priority includes kidnapping, sexual assault, DUI, and homicide?

Ms. SALDANA. Well, the first could also. The first could because it is persons convicted of crimes. We don't—in the United States we don't assume somebody is going to be convicted until they've actually been tried. I'm just saying a simple matter of fact. I think that's fairly obvious.

Mr. CARTER. So you just go ahead and release them?

Ms. SALDANA. And I should remind you that you all determine

Mr. CARTER. So please answer my questions. So you go ahead and release them?

Ms. SALDANA. If we'd been ordered by a court or if we've exercised discretion in looking at the entire case —

Mr. CARTER. So why —

Ms. SALDANA.—we may make efforts —

Mr. CARTER.—are you releasing them instead of deporting them?

Ms. SALDANA. Because of all the strictures in this statute, sir. I am not going to go outside the law in what I do. I cannot deport somebody without a final order of removal who's had the entire framework—been allowed to follow the entire framework you have provided, including appeals and consideration by the courts with respect to their claims of asylum or torture or whatever it is.

Mr. CARTER. So you are just releasing them right here in America, not deporting them at all, they are staying here, and then we have had numerous examples of where they have gone and committed these crimes again? Don't you find that to be somewhat appalling?

Ms. SALDANA. That's horrible. I wish we were—I wish there were no crime committed by anyone —

Mr. CARTER. Let me ask you something else. Let me ask you, and since fiscal year 2012 the annual budget has increased more than \$680 million. Is that correct? That is the figure I have been given. Since 2012, your budget has increased more than \$680 million.

Ms. SALDANA. ICE's?

Mr. CARTER. Yes.

Ms. SALDANA. Yes.

Mr. CARTER. But at the same time the number of aliens removed has decreased, decreased by 174,000, 174,000. Can you tell me what the reason for that is?

Ms. SALDANA. Because we can only remove those people that have a final order of removal and travel—the appropriate travel documents.

Mr. CARTER. Well, if we cut your budget, would you stop releasing them? Because we are giving you money and you are releasing them.

Ms. SALDANA. Sir, you know, you are misrepresenting the facts when you say you release them —

Mr. CARTER. I am not misrepresenting the facts or —

Ms. SALDANA. Well, we —

Mr. CARTER. We have increased your budget over \$680 million, and you have decreased the number of people that you have deported by 174,000.

Ms. SALDANA. Let's make it clear that these releases, only 7,000 plus have been entirely discretionary, but it's not willy-nilly. It's made on a case-by-case analysis of the record that we have in front of us and on flight risk analysis.

Mr. CARTER. Let me ask you this. DHS leadership took \$113 million that Congress appropriated to ICE detention and reprogrammed for use by Secret Service and FEMA. Why was that? Are you familiar with that?

Ms. SALDANA. That is a secretarial-level decision.

Mr. CARTER. Oh, secretarial-level decision.

Ms. SALDANA. Well, it it's the Department of Homeland Security, sir.

Mr. CARTER. Okay. Okay. So you wouldn't have been involved in that, and you wouldn't have known about that?

Ms. SALDANA. In the decision?

Mr. CARTER. Or even in the process.

Ms. SALDANA. Am I informed about it? I'm informed about the process, but the decision is the Secretary's.

Mr. CARTER. So we are giving you money and here we are releasing less than 174,000—you know, I am just appalled by this. This does not make any sense at all what we are doing. No wonder America is upset. They should be upset.

Chairman CHAFFETZ. The gentleman's time —

Mr. CARTER. Mr. Chairman, I apologize and I appreciate this, but Ms. Saldana, we have got to do—this is ridiculous. This is ludicrous.

Chairman CHAFFETZ. The gentleman's time is expired.

Mr. CARTER. I yield, Mr. Chairman.

Chairman CHAFFETZ. Thank you.

I now recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman.

Director Saldana, critics have argued that one factor encouraging illegal immigrants to enter the U.S. is the belief that, once they enter the country, they will not be removed. I think that has been pretty well established here. Secretary Jeh Johnson recently stated that the 11 million illegal immigrants in this country are not going away and that are in effect—and I find this absolutely astonishing—United States citizens. Does that include those who have criminal records? It is a yes or no. I am just asking, is that a yes or no?

Ms. SALDANA. Sorry. I'm just a—if you won't mind repeating me, what was your question specifically? Did —

Mr. PALMER. Jeh Johnson stated that there are 11 million illegal immigrants in the country who are not going away. They are in effect United States citizens. Does that include those who are here who have criminal records? That is a yes or no.

Ms. SALDANA. I don't think he said they are United States citizens, sir.

Mr. PALMER. He said "in effect" United States citizens. But we are not debating what he said. I am asking you, do you believe that

that includes those who are here with criminal records? Are they

Ms. SALDANA. They are not —

Mr. PALMER.—staying? Are they —

Ms. SALDANA.—United States citizens.

Mr. PALMER. No, are they staying?

Ms. SALDANA. We're doing our best to remove them.

Mr. PALMER. Well, I don't know about that because let me tell you what just happened in Alabama just earlier this month. Authorities in Oxford, Alabama, which is not in my district, arrested three men, two who are from Honduras and one from Mexico. One of the men, Camilo Antonio Espinoza-Medrano, had been ordered removed from the United States in absentia by an immigration judge on or about January 7, 2014. According to the affidavit, it appears Medrano failed to voluntarily deport himself.

Another guy, one of the other guys, Enrique Benitez of Mexico, an immigration history check confirmed Benitez was illegally present in the United States. His criminal check showed that he has prior convictions for possession of cocaine in 2011 and evading arrest in 2008 in the District Court of Dallas County, Texas.

Now, let me tell you why they were here. They were working for a security group out of Honduras who is a front for a drug cartel, and they were here, and here is what the affidavit says. They were here through a deal arranged through a security company owned by the friend's boss, who Benegas, another one of the guys, new as an enforcer and the collector for drug organizations. They were going into a private residence to steal a safe and kidnap the occupants, and Benegas further stated that he and the other individuals traveled to Oxford, Alabama, and were provided firearms, bulletproof vests, camouflage clothing, and other gear to do the job. And the group was instructed to assault the resident and take its occupants captive.

Now, here is the point. Two of these men had criminal records. One goes back to 2008. But they are still here. Now, because of the excellent work of the Oxford Police Department, who stopped them on a traffic stop but realized that something was awry when they saw them in camouflage and had weapons. And by the way, one of the weapons was a Smith & Wesson pistol that was confirmed stolen by the Arlington, Texas, Police Department.

Can you all imagine what would have happened if they had carried out this and kidnapped those people? And let me tell you what Benegas said. He planned to use the handgun to shoot the occupants of the house if they presented a firearm during the home invasion. I want to remind you, this is Alabama. Just about every house has a gun, and for good reason. I won't get into this administration's policy on gun control, but this, let me tell you. Can you imagine what would have happened if they had shot that police officer?

This is insane. You let people in here, you do criminal background checks, they commit crimes. I have got a deal here where one guy rapes a 10-year-old girl in Alabama. Here is another one. Sofyan Eldani had 34 arrests over 12 years, he is a Palestinian. When he was arrested by the Hueytown Police Department, which

is in my district, ICE told them they couldn't deport him because the U.S. doesn't recognize Palestine.

Director Saldana, it has been reported that ICE recently proposed changing current policy to require that fingerprints be taken from all people claiming custody of children who have entered the United States illegally without an adult relative. Let me ask you this. Among the many policy suggestions that have been made, do you think this would be an effective policy to actually implement for illegal immigrants who are repeat criminal offenders that are not consider priority 1 in accordance with current DHS policy?

Ms. SALDANA. I would consider that. I don't—that—we have not proposed that, but I would consider it.

Mr. PALMER. Well, why haven't you?

Ms. SALDANA. Done what, sir, proposed that?

Mr. PALMER. Why have you not proposed that? Why haven't you taken that action?

Ms. SALDANA. It's a—I'll tell you, sir, there's a lot of things I need to get to, and I'm pedaling as fast as I can. But I—we are—we all have it under advisement right now and we're looking at it.

Mr. PALMER. Well, pedaling as fast as you can won't do much good for people who are at a funeral.

Ms. SALDANA. That's the best I can do.

Mr. PALMER. I yield back.

Chairman CHAFFETZ. And that is what is pathetic.

Mr. Walker of North Carolina is now recognized for 5 minutes.

Mr. WALKER. Thank you, Mr. Chairman.

I want to start by recognizing two groups of people. The first one is Sarah Ann Root, age 21. Mr. Root, I am proud of you for representing her today, and I am also proud of your service to our country.

Casey Chadwick, Ms. Hartling, as a former minister, I can only imagine what your family has gone through and losing this 25-year-old beautiful daughter here.

There is Marilyn Pharis. Chief Martin, thank you for coming all the way to represent her today.

There is also another group of people that I want to talk about, three people: again, Eswin Mejia, Jean Jacques, and Victor Ramirez. They also have something in common today in the fact that all three of them were arrested on previous charges before they ultimately committed this heinous crime. Victor Ramirez was an illegal from Mexico. The chief did his part. Over a 15-month time, he arrested this gentleman six times, six times over 15 months. This is the guy, along with his partner, that beat Mrs. Pharis's face in with a hammer. Somehow she fought back, survived 8 days. See, this is huge.

And then we hear today from my colleagues that the way we justify this is that criminal aliens, according to one statistic, commit less crimes than the general public, of which you had a sweet chat with him about. But what if they weren't here to begin with? Would they have committed these crimes? It is not rhetorical. If they were never here, would they have committed these crimes?

Ms. SALDANA. No.

Mr. WALKER. And then we talk about the challenge of returning these people to their country. And then I believe if—I want to

make sure that you were on record saying this. As the director of U.S. Immigration and Customs Enforcement, did I hear you say correctly that sealing our borders or building a wall or even finishing the wall of 2006 from the former George Bush as President, you said that that would not help us prevent illegals from coming in our country? Did you say that?

Ms. SALDANA. I said—yes, sir.

Mr. WALKER. Okay.

Ms. SALDANA. Yes, because I've seen many videos where people scale those walls very easily. I—you know, that's just not the only answer. There's lots of things we have to do to secure the border.

Mr. WALKER. So it is easier to not have a wall at all instead of making somebody go and scale a wall in your opinion? I don't understand that a bit.

Here is the data—and let me start with the question here. Do you believe that the sexual assault, abuse, and exploitation are heinous crimes? You would agree with that, wouldn't you?

Ms. SALDANA. Yes.

Mr. WALKER. Okay. And a little earlier my colleague, Mr. Carter, talked about charges. These 19,000 are not charges; they are convictions?

Ms. SALDANA. Yes.

Mr. WALKER. Okay. And according to this, including 1,614 convictions of sexual offense—my wife is a sexual assault nurse examiner. She works in this world. She understands that she is reaching out to the people who are going the very darkest point of life. Three hundred and fifty-two convictions involve commercial sex trade. My State is number nine in the country. Yet for some reason these are listed as priority 2 instead of priority 1. Why is that?

Ms. SALDANA. Sir, because the most serious offenses are listed in priority 1. The most serious offenses, terrorism, it's just a matter of directing resources in the place that will hurt the country the most.

Mr. WALKER. So you are telling me that sexual offenses or the rape of a 6- or 7-year-old child is not as important an offense as some other?

Ms. SALDANA. I was a United States attorney. Do you—you know the answer to that question.

Mr. WALKER. Well —

Ms. SALDANA. Of course it's a serious offense.

Mr. WALKER. But I am just going by what you just told me, that you said no, that is not, that is priority 2 —

Ms. SALDANA. It is.

Mr. WALKER.—because it was more concerned with other ones.

Ms. SALDANA. Sir, in your authorization, you directed us, you have directed us to prioritize—you directed the—"the Secretary of Homeland security shall prioritize the identification and removal of aliens convicted of a crime by severity of that crime." And that is exactly what we've done. You may disagree with the three categories or the way they were placed, but you directed us to do that, and the Secretary did that.

Mr. WALKER. Well, here is what I hope we agree on is that we have a major problem, and we have illegal aliens in this country committing heinous crimes who are not being deported.

I also want to add one more thing in closing here in my 30 seconds that I have left. There was a statement made earlier that law enforcement needs to be concerned about the delicate task of not putting some of the nation of origin into the definition of the criminal activity. Do you believe that law enforcement should stop being—I look at Chief Martin, who worked 30 years in gang-related activities with El Salvador and did some great work there. Do you believe that we should stop or drop the race part of describing some of the crimes that are going on?

Ms. SALDANA. We have to look at whether someone's in the country who's not a citizen, so we have to look at the country of their origin.

Mr. WALKER. Okay. I don't know whether that was a yes or no, but with that, I yield back, Mr. Chairman.

Mr. MULVANEY. [Presiding] I thank the gentleman.

The chair recognizes himself for 5 minutes.

Ms. Saldana, you got a little bit of attention at your outset when you encouraged us this morning in your opening statement to drop the political banter, and I think you have pointed to the rules and regs and the statues that are in front of you, and you invited us to help you develop a system that works. And I would like to talk about that. In fact, you and I have talked about that in the past.

So let's go back to something you and I have talked about before, which would it help you develop a system that worked if we figured out a way to require local law enforcement to cooperate with your retainer requests?

Ms. SALDANA. Well, we need to figure out a way to get law enforcement to work with us just like this individual from law enforcement works with us. And I don't think he would take kindly to us browbeating him —

Mr. MULVANEY. Not browbeating —

Ms. SALDANA.—and forcing him to do things —

Mr. MULVANEY. Let's stay on topic. You know where I am getting at, which is, would it help you develop a system that works if we required local law enforcement to cooperate with ICE?

Ms. SALDANA. Compulsory?

Mr. MULVANEY. Yes.

Ms. SALDANA. It would help me to some extent, but that's what I'm doing in PEP is I am trying to get everybody —

Mr. MULVANEY. All right. Let's talk about that.

Ms. SALDANA.—to the table.

Mr. MULVANEY. To what extent? Because that is the third answer I have gotten now —

Ms. SALDANA. Well —

Mr. MULVANEY.—because I asked you the exact same question in June of 2015. I asked you “Would it help if we clarify the law to make it clear that it was mandatory that those local communities cooperate with your detainer requests?” And you answered, “Thank you, amen, yes.” The next day however, you released a statement that read in relevant part a different answer: “Any effort at Federal legislation now to mandate State and local law enforcement's compliance with ICE detainers will, in our view, be a highly counterproductive step.” Now, today, you just gave me a third answer, which is, “In a way, it would actually help.” So let's talk about how

requiring local law enforcement to cooperate with ICE would help you.

Ms. SALDANA. In enforcing the 4,000 laws that the Department of Justice had to enforce and I had to enforce as United States attorney, I found that the best way to work with State and locals is through cooperation and agreement and standing by—side by side.

Mr. MULVANEY. Well, that is fair, but if I am in a city that has said, you know what, we want to be a sanctuary city, we don't want to cooperate with ICE, my guess is that chance for cooperation is probably gone at that point. Wouldn't it help you do your job if we went to these so-called sanctuary cities and say, you know what, you can't do that. You have to cooperate with ICE when it comes to dealing with the sorts of people who kill their children?

Ms. SALDANA. I am working with the—with all the cities whether they want to —

Mr. MULVANEY. How is that working in San Francisco?

Ms. SALDANA. We're making some inroads.

Mr. MULVANEY. Some inroads?

Ms. SALDANA. I believe we've gotten—yes.

Mr. MULVANEY. Would it help you more if we required them to do it?

Ms. SALDANA. I don't think the government would be—the local government would be more cooperative if you browbeat them over the head by saying the feds —

Mr. MULVANEY. How about if we required them by law to do it or deny them some type of Federal money?

Ms. SALDANA. I think that they are—at least I've heard, sir, and read that State and local government don't want the Federal Government to tell them what to do.

Mr. MULVANEY. Do you think that a State and local government should have the right to tell the Federal Government that they are not going to cooperate with an immigration issue?

Ms. SALDANA. No.

Mr. MULVANEY. Okay. So they don't have a right to do it, but they are doing it anyway, and you don't want us to bring them into line? You don't want to require —

Ms. SALDANA. I am telling you the realities of the real world, and that is in trying to get people to work with us for the bottom line, and that is the public safety —

Mr. MULVANEY. I hate to be melodramatic because it is not usually what I am very good at. Turn around and tell the people behind you about the real world.

Ms. SALDANA. I have been, and I hope they've been hearing me.

Mr. MULVANEY. Let me ask you this. Does the sanctuary city program put your field personnel at more risk than they would be otherwise?

Ms. SALDANA. Having to—yes, having to go into a jurisdiction when—into somebody's home when we could have gotten them at a local sheriff's or police department, yes, it does put them at risk.

Mr. MULVANEY. So you don't want us to take steps to lower the risk for your own people?

Ms. SALDANA. I'm saying give me an opportunity to get this done with—PEP has only been in effect since last July. It's not even been a year. So give me some time to work with State and local

jurisdictions. I have made tremendous headway. Of the top 25 jurisdictions that did not honor detainers, we've got 17 back at the table. I —

Mr. MULVANEY. It has been a year since you were here last time. Let me ask you this. Does the sanctuary city program put the public at risk?

Ms. SALDANA. I don't know what the sanctuary city program is, sir.

Mr. MULVANEY. Well, no, then let's use the terminology we have been using for the last couple of minutes, which is the programs whereby cities say, you know what, we are not going to cooperate with ICE. ICE calls us and says detain that person that you just picked up, and the city says, you know what, no, we don't want to do that. Does that put the public at more risk?

Ms. SALDANA. I want every jurisdiction to cooperate with ICE.

Mr. MULVANEY. Good. We could help you with that. Would you like us to help you?

Ms. SALDANA. I need all the help I can get.

Mr. MULVANEY. Okay.

Ms. SALDANA. And I will work with you to try to come up with a rational system by which we can improve that situation.

Mr. MULVANEY. Which is the third answer you have given, so I thank you for that.

And I will yield back the balance of my time to the chair, and I will recognize the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Well, thank you, Mr. Chairman.

And, you know, all over this country people have read headlines and stories similar to the ones, some that I have here, and this one story has been mentioned a few times already today, but I was presiding over that House earlier and I didn't get in on all of this. And I know there are some people watching now who probably didn't hear some of these things earlier.

But the Washington Examiner had a headline that said "ICE releases 19,723 criminal aliens, 208 convicted of murder, 900 of sex crimes." And before that, there was a story from the Washington Times which the headline says "3,700 illegal immigrant threat level 1 criminals were released into the U.S. by the Department of Homeland Security," and that story said most of the illegal immigrant criminals Homeland Security officials released from custody last year were discretionary, meaning the Department could have kept them in detention but chose instead to let them onto the streets. Some of those released were the worst of the worst. More than 3,700 threat level 1 criminals who are deemed the top priority for deportation were still released out into the community. That is why people are so upset. That is why people are so angry about all of this.

And then earlier, we had testimony in this committee from Jessica Vaughan from the Center for Immigration Studies, and she testified that ICE officials have told her that, since the administration's policies on prosecutorial discretion were expanded, they are processing a small fraction of the number of aliens that they used to process, and one recently told me that his office used to process as many as 100 aliens per day, but since the President's executive

actions when into effect, now they are processing closer to 5 aliens per day with the same staff and budget.

And it seems to me that this is a shameful record, and the people at the top should be embarrassed about this. As Mr. Carter pointed out about how the funds have gone up so much and yet the prosecutions have gone way down, and I doubt that there is another agency in the entire Federal Government that has gotten the percentage increases, Director Saldana, that your agency has percentagewise. I mean, we just keep pouring more and more and more money into your agency, and we are getting less and less and less for that money. And I can tell you that people all over this country are angry about that and upset about that.

Are you embarrassed about this in any way? Are you ashamed, disappointed? Surely, you are not happy about all this that we talked about here this morning.

Ms. SALDANA. No, sir. And I will tell you, I think you may have missed when I spoke earlier about the fact that I would like not to see one person injured or one person certainly killed at the hands of someone who's in the country illegally.

Mr. DUNCAN. That is a —

Ms. SALDANA. But when people say —

Mr. DUNCAN. That feeling is —

Ms. SALDANA. But, Congressman, when people say that we have released 19,723 people, it failed to point out the fact that two-thirds of that were by court order or an instruction of the Supreme Court of the United States. And that is a misrepresentation of the picture. That is what I have to have to.

Mr. DUNCAN. Well, I tell you, it is a terrible thing. I mean, I have got stories up here from the Texas Tribune, and they tell about one man who was passed through Webb County four times on more than a half a dozen charges before allegedly beating his wife to death with a hammer. Another man spent 3 months in the Hidalgo County jail, 4 months in State custody, and 6 years in Federal prison for multiple felony offenses at the time he went on a random shooting spree in Houston, killing two people and injuring three more. And then of course you have the famous case of this man in San Francisco who shot Kate Steinle to death after he had racked up a criminal record, including seven felonies, mostly drug-related.

People are really angry about these sanctuary cities that the administration has gone along with. The American people are the kindest, most generous, most sympathetic people in this world, and we have allowed far more immigration, many, many millions more than any other country, and the American people have gone along with that. But they are sick and tired and angered about reading about all of these criminals being released, and you or somebody is going to have to do a lot better job on this.

I yield back.

Mr. MULVANEY. The gentleman yields back. The chair now recognizes the gentleman from Connecticut, Mr. Courtney, for 5 minutes.

Mr. COURTNEY. Thank you, Mr. Mulvaney.

And I want to thank the committee, both majority and minority, for waiving my appearance here today and having the opportunity to participate in this hearing.

To Chief Martin and Mr. Root, thank you for your presence here. Again, your stories are incredibly powerful and really demonstrate that this discussion today is not academic. It has profound, real-life impact, and it takes a lot of persistence on your part to really be here to remind us of that fact.

I am here because one of my constituents is here, Ms. Wendy Hartling. She is joined by attorney Chester Fairlie, whose story has been mentioned by other members here this morning.

Again, just a little less than a year ago just a horrific crime took her child Casey Chadwick from her, and I can personally attest to the fact that southeastern Connecticut and the whole State, you know, has, you know, been just part of the grief and pain that followed. And the admiration that folks have for Ms. Hartling, as Mr. Lynch said, trying to get some good to come out of this horrific event, it just has drawn admiration from all quarters. So thank you for being here, Ms. Hartling.

And I think I am the last one here, so all your patience is going to be paid off shortly and give you an opportunity to talk.

Director Saldana, you know, the one thing about the Casey Chadwick case is that, you know, really, there is just no ambiguity in this instance in terms of, you know, whether or not some charges were pending or whether or not the individual was convicted of an aggravated versus, you know, serious offense.

Jean Jacques, you know, came into the country without documentation, he was convicted by the State of Connecticut of the homicide, he served over 15 years in prison. At the completion of his sentence, the Department of Corrections surrendered him to the custody of ICE, again, the government had run the traps in terms of getting a deportation order completed at that point. Any appeal that he tried to pose had been exhausted. So there was just, you know, again, no sort of glitches that anyone could point to that would interfere with that process going to the next step, which is obviously removal from the country.

As we heard from Mrs. Maloney, the Government of Haiti, again, played this very frustrating exercise in terms of verbally granting and then refusing on a number of occasions.

So a year ago you were before this committee and this question of uncooperative other nations was raised with you, and at the time, your testimony stated that "Bolstering ICE's ability to obtain travel documents from recalcitrant countries is an important priority, and I will continue to work closely with the Department of State to achieve better cooperation from countries in accepting the return of their nationals."

Again, this morning, you have talked about your efforts within the PEP program in the last year or so. Can you just tell us with some specificity what is going on between ICE and State in the intervening time since you testified to fix this, you know, glaring problem?

Ms. SALDANA. I think I said earlier I've met with the Assistant Secretary for Consular Affairs, Ms. Bond, and actually, I'm going to see her this afternoon about Guinea in particular. So we meet periodically, and we made a commitment to continue to do that because I want to keep her posted on the countries we're having trouble with.

So this Memorandum of Understanding we have, we make—we give her—we meet to discuss what can be done with a particular country, and right now, you know, countries like Syria and Iraq and Afghanistan, we're just having tremendous difficulties with.

So she has listened, she has promised to follow up. She sent a cable out to our ambassadors across the world last March to say please be mindful of this. Help ICE and other agencies that are seeking to get cooperation from the jurisdiction and assist them in their efforts to remove people that —

Mr. COURTNEY. But what levers—I mean, we have levers.

Ms. SALDANA. Yes.

Mr. COURTNEY. Members have mentioned it, you know, that visas that we grant to citizens from these nations coming into the U.S., foreign aid, I mean what —

Ms. SALDANA. Sanctions, there are sanctions that we can impose

Mr. COURTNEY. But give me an example of where they have actually, you know, done more than just meet to discuss this?

Ms. SALDANA. Where Department of State has? I'm not familiar with the specifics of what they've done.

Mr. COURTNEY. Okay. And I guess, you know, Mr. Chairman, you know, that is sort of the crux of the frustration that myself and Senator Blumenthal and Murphy have experience, which is that, you know, this just screams out for the fact that we know, the agencies in the U.S., ICE and the State Department are not getting this done, and that is why we requested an inspector general's report. That process is underway right now. We are going to be receiving the results of that.

But frankly, I would just say, Director, you know, that response is just really not acceptable given the fact that, you know, we have instances where somebody—again, there was just no question about their status in terms of being deported, and to have other countries stonewall our efforts and to say that the State Department's best efforts right now is just simply to meet with ICE and to send out warning telegrams —

Ms. SALDANA. I —

Mr. COURTNEY.—to embassies, there are other options that we have available to us, and we need to exercise those.

Ms. SALDANA. Withholding aid and the sanctions, I mentioned, but I just want to be sure, sir, I am doing the best I can to try to persuade State. State is the most appropriate witness to explain to you why they make the decisions they do because —

Mr. COURTNEY. Well —

Ms. SALDANA.—I can't speak for the Department of State.

Mr. COURTNEY. If I could just have another 30 seconds, again, we experienced in this case where the Government of Haiti, again, for paperwork reasons, stonewalled Mr. Jacques' deportation. ICE can do more in terms of creating a record of country of origin in terms of interviewing witnesses in the U.S. I mean, this guy had been here for over 20 years. There were other ways that verification of country of origin could have taken place stateside, in addition to having the State Department apply levers of pressure, which, again, I think should have been exercised at the greatest and highest level.

So this discussion, Mr. Chairman, again, I want to continue with you and the members here about the fact that, you know, the response so far just, frankly, has not been satisfactory. I would ask that my letter to you and Mr. Cummings setting forth the IG request —

Chairman CHAFFETZ. It has already been submitted to the record.

Mr. COURTNEY. Thank you. Okay.

Chairman CHAFFETZ. And, Mr. Courtney —

Mr. COURTNEY. Yes.

Chairman CHAFFETZ.—I appreciate your commitment on this issue. The director has agreed within a week's time to give us all the letters of correspondence that she has had with State Department making these requests because the statute is clear. Once the Secretary receives that, it says the Secretary "shall." And I would be fascinated, and I think you are right, I think another hearing would be most appropriate, and I hope you can join us for that.

Mr. COURTNEY. Thank you, Mr. Chairman.

Chairman CHAFFETZ. The gentleman's time is expired.

Director, we thank you for your being with us here today. The committee is going to stand in recess until 12:30, and then we will convene the second panel. We stand in recess. Thank you.

[Recess.]

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order, and we will continue with the second panel of the hearing today.

I would ask unanimous consent that Congressman Young of Iowa be allowed to participate and fully participate in today's hearing.

Without objection, so ordered.

I am glad that you can join us, as well as Mr. Courtney of Connecticut, who can also come join us.

The second panel is probably the most important people that we can hear from, and we are pleased to welcome Mr. Ralph Martin, who is the chief of police at the Santa Maria, California, Police Department, has an important perspective for us. And, Chief, we are pleased and honored that you would join with us here today.

I would also like to allow Mr. Courtney to help introduce Ms. Wendy Hartling.

Mr. COURTNEY. Thank you, Chairman Chaffetz and Ranking Member Cummings.

Again, we are honored today to have Ms. Wendy Hartling from Gales Ferry, Connecticut, join us here today. Gales Ferry is sort of the quintessential sort of small-town America, and she was, again, the devoted mother of Casey Chadwick, who has been mentioned many times this morning, lost her life almost a year ago in Norwich, Connecticut, to a brutal homicide, which roughly a couple weeks ago came to a legal conclusion with a conviction of Jean Jacques.

And all I would say, Mr. Chairman, is that Wendy Hartling was leading a very private life and, you know, with strong family connections in the community. That changed radically. She has been thrust into the public eye as someone who has, again, faithfully attended all the court proceedings and has spoken out about really what was, I think, just a horrendous flaw and wonder by the gov-

ernment in terms of really following through on what, as I said earlier, was just a totally unambiguous deportation case.

She is joined here today by attorney Chester Fairlie from New London, Connecticut, who participates in the Survivors of Homicide group in the State of Connecticut; and Crysta Wydra, who was Casey's best friend, who is also from Gales Ferry that is here. Again, I think all the members will be, again, deeply moved by Ms. Hartley's testimony here today. And again, it is an honor to have the opportunity to introduce her.

And I yield back.

Chairman CHAFFETZ. I thank the gentleman.

So, again, Ms. Wendy Hartling is the mother of Casey Chadwick, who was killed by an illegal immigrant on June 15 of 2015. And we are beyond sad for your loss. And you woke up one morning and your life changed, and I am sure you never expected this. You certainly didn't ever ask for this, but we appreciate your bravery for stepping forward and sharing your candid thoughts and perspective. It is important that we all hear that, see it, and feel it, and so thank you for being here today.

We also are pleased to have Mr. Scott Root, who is here with us today, but I would like to have Congressman Young of Iowa help introduce him and give a little background and perspective.

Congressman Young, you are recognized.

Mr. YOUNG. Thank you, Mr. Chairman. Thank you, Ranking Member Cummings and the colleagues here that share this room today for this hearing, which is very important obviously. Thanks for allowing me to participate in today's hearing to introduce Scott Root, a fellow Iowan. He is from Council Bluffs, which is on the western end of the 3rd District nestled up against the Missouri River. And our mantra there is just to work hard and treat others right, a lot of patriotism there, fear and love of the Lord. Thank you for being here today.

Earlier this year, Scott lost his daughter Sarah, a beautiful girl, to a drunk driver, a criminal who took advantage of this administration's immigration policies, jumped bail, and may never be brought to justice for his crime.

Scott, thank you for being here today to share your story. And, Ms. Hartling, thank you for coming as well.

As I am sure Scott and my colleagues from Iowa can attest to Iowans have a unique sense of community, as well do other members and the folks from their district and State, a unique sense of community. We are all in this together. When something happens to one of us or our neighbors, it really gives levity to the situation. It hits us hard. It puts an impact on us personally because it is like it is happening to all of us. Though we cannot fathom his grief, Mr. Root, we are left with a deep sense of loss, and we want to see justice.

What happened to Sarah was a tragedy and a horrible crime, and now the Root family and the community are left waiting to see if Eswin Mejia will ever be found, will ever stand trial because of failures of the court and failures of the Federal Government to enforce our laws.

I had the chance to question Director Saldana early this year and she shared when I failed to follow through on a detainer that kept

Eswin Mejia from facing justice. She also said ICE will be looking at this case to make sure this doesn't happen again. As the chairman knows, this is something we hear too often without seeing actual results.

From ICE, not accurately reviewing the request of the local police to the Department of Health and Human Services, placing Eswin Mejia as an unaccompanied minor with his brother, who was also here illegally, I am astounded this administration not only continues to restrict the enforcement of our immigration laws, but they don't seem to understand them at all in the first place.

Nothing can bring Sarah back, but we can honor her and preserve Sarah's memory with justice in making sure this never happens again.

Scott, thank you for being here today. May God give you courage, wisdom, peace, and strength in your fight for Sarah and her memory and for justice. Thank you for being here today.

Mr. Chairman, I yield. Thank you.

Chairman CHAFFETZ. Thank you.

Mr. Root, we appreciate your strength in being here today and offering your perspective and look forward to hearing your testimony and grieve for your loss as well. So thank you.

We are also pleased to have Mr. Chris Burbank. He is the director of law enforcement engagement at the Center for Policing Equity. He is also the former chief of police, I believe 9 years in Salt Lake City. I have had the pleasure of interacting with him on a number of occasions. And, Mr. Burbank, we are pleased to have you here and participating and giving a perspective as well. So thank you for being here.

Pursuant to committee rules, all witnesses are to be sworn before they testify. So if you will please each rise and raise your right hand.

[Witnesses sworn.]

Chairman CHAFFETZ. Thank you. You may be seated. Let the record reflect that the witnesses all answered in the affirmative.

We would appreciate your limiting your verbal comments to 5 minutes, but your entire written statement will be entered into the record.

Chief Martin, we will start with you. You are now recognized for 5 minutes. And please know in advance, you need to bring that microphone up close and just make sure it is on. And thank you. That will help us all.

Chief Martin.

STATEMENT OF RALPH MARTIN

Chief MARTIN. Mr. Chairman and committee members, good afternoon. My name is Ralph Martin and I am the police chief for the city of Santa Maria, California. Santa Maria is the largest city in Santa Barbara County and one of the largest cities on California's Central Coast. It has a population of over 100,000, is a few minutes from the coastline, and is surrounded by agriculture. We are about halfway between Los Angeles and San Francisco.

I am here today to share with you an event that occurred just 9 months ago. It's about the brutal and vicious attack of 64-year-old Santa Maria resident, Marilyn Pharis. At the time of this at-

tack, Ms. Pharis was gainfully employed at nearby Vandenberg Air Force Base, where she worked the night shift as a satellite tracker civilian contractor. She's been doing this since 1974. Prior to that, she spent 4 years in the United States Air Force.

On the morning of July 24, 2015, at approximately 9:45 in the morning, while Ms. Pharis was sleeping, two suspects broke into her home, sexually assaulted her, strangled her, and beat her about her head and face with a hammer. But despite the incredible beating, Marilyn would not give up. She fought back with all the strength she could muster, even while receiving repeated blows. The suspects left her for dead. But somehow, with her eye socket shattered and her broken—neck bone broken, she dialed 911.

As the suspects made their escape, one of them, identified as Victor Martinez-Ramirez, broke into another home on West Donovan Street, entering through a sliding door. There, he encountered three young children and their mother. However, she managed to dial 911 and the suspect fled again.

As officers were responding to Ms. Pharis's home, additional officers were now responding to the West Donovan home. Suspect Martinez starts jumping backyard fences, but the patrol officers set up a solid perimeter around him. And within minutes, one of our K-9 officers finds Martinez hiding underneath a tarp on a patio of a nearby home on Cox Street. Now, that's three blocks from Ms. Pharis's home and one block from the Donovan Street home.

He was arrested for burglary, sexual assault, and attempted murder. During the fourth day of the investigation, detectives identified and arrested a second suspect, Jose Villagomez. He was subsequently charged with the same crimes.

Eight days after Ms. Pharis was attacked, she died in her hospital bed, unable to recover from her brutal injuries.

Victor Martinez is an illegal alien from Mexico. He had been arrested by the Santa Maria Police Department six times in the previous 15 months. He was released from the Santa Barbara County Jail 96 hours before he attacked Ms. Pharis. Villagomez is a U.S. citizen, although he spent much of his life in Mexico. He had one previous arrest. Both are currently in custody awaiting trial.

I believe that when the Federal and the State government fails to do its job, it falls on the shoulders of local government, and we are not equipped to deal with these issues financially or with personnel.

The arrest sheet on Martinez is a glaring example of Federal and State failures. On one occasion in 2014, ICE filed a form I-247 immigration detainer. However, the Santa Barbara County Sheriff's Department does not recognize the hold—the lawful hold based on the *Miranda-Olivares v. Clackamas County* decision, which is a Federal court ruling. Two weeks before the attack, Martinez was cited as opposed to arrested for possession of methamphetamine, because recently, California passed prop 47, which I'll address in just a moment.

On July 16, 2015, eight days before assaulting Ms. Pharis, Martinez was arrested again for felony possession of a dirk or dagger, as well as possession of drug paraphernalia. He was additionally charged at that time with two additional misdemeanors because he had two outstanding warrants for \$10,000 a piece, one for failure

to appear, and the other was—failure to appear in court, and the other one was a probation violation. He was released that day. Four days later, he attacks Ms. Pharis.

Now, the State of California passed prop 47 in November of '14. It was a complete con job pulled on the people. It was titled "Safe Schools and Safe Neighborhoods," but in reality it was just nothing more than a title. What it did was in the fine print reduce felony drug possession like possession of heroin, possession of cocaine, possession of methamphetamine to a misdemeanor citable offense.

So now thousands of arrestees are petitioning the courts to reduce their convictions, as did Martinez. And the reason I bring this up is that if the convictions are then reduced to misdemeanors, ICE will look at those later on and see the felonies are now misdemeanors.

The city of Santa Maria, as well as other cities throughout California, are seeing an increase in homeless persons that been high—with high drug dependency. And many of these persons would have been removed from our streets, been required to appear in court, and referred to drug rehabilitation and treatment programs. But the numbers have substantially decreased because of prop 47, so it's a combination of Federal issues and State issues.

You know, I can't help but think our U.S. marine makes a wrong turn at the border and he's locked up for months and months at a time, and yet we in the U.S. seem to be running a catch-and-release program for criminal aliens.

And I've been in this business for 40 years, and when I hear of incidents, whether it's the Root case or others and people say it's a tragedy or some kind of senseless tragedy, you know, I just shake my head and say no because when we do not enforce our Federal and our State laws, all we truly have is predicible consequences.

Thank you for your time.

[Prepared statement of Chief Martin follows:]

Submitted to the Committee on Oversight and
Government Reform
Hearing on “Criminal Aliens Released by the Department
of Homeland Security”
April 28, 2016
Testimony of Ralph Martin, Police Chief for the City of
Santa Maria, California

Good morning,

My name is Ralph Martin and I am the Police Chief for the City of Santa Maria, California. Santa Maria is the largest city in Santa Barbara County, and one of the largest on the Central Coast. It has a population of over 100,000, is a few minutes from the coastline, and is surrounded by agriculture. We are halfway between Los Angeles and San Francisco.

I am here today to share with you an event that occurred just nine months ago. It is about the brutal and vicious attack of 64 year old Santa Maria resident, Marilyn Pharis.

At the time of this attack, Ms. Pharis was gainfully employed at nearby Vandenberg Air Force Base where she worked the night shift as a Satellite Tracker Civilian Contractor since 1974. She is also a four year veteran of the U.S. Air Force.

On the morning of July 24, 2015, at approximately 9:45 a.m., while Ms. Pharis was sleeping, two suspects broke into her home, sexually assaulted her, strangled her, and beat her about her head and face with a hammer.

But despite the incredible beating, Marilyn would not give up. She fought back with all the strength she could muster, even while receiving repeated blows.

The suspects left her for dead. But somehow, with her eye socket shattered and a broken neck bone, she called 9-1-1.

As the suspects made their escape, one of them, identified as Victor Martinez-Ramirez, broke into another home on West Donovan Street, entering through a sliding door. There, he encountered three young children and their mother. The mother called 9-1-1, and the suspect fled.

As officers were responding to Ms. Pharis' home, additional officers were now responding to the West Donovan Street home.

Suspect Martinez starts jumping backyard fences, but the officers set up a solid perimeter around him. Within minutes, one of our K-9 officers finds Martinez hiding underneath a tarp on the patio of a home on Cox Street, three blocks from Ms. Pharis' home and one block from the Donovan home. He was arrested for burglary, sexual assault, and attempted murder.

During the fourth day of the investigation, detectives identified and arrested the second suspect, Jose Villa Gomez. He was subsequently charged with the same crimes as Martinez.

Eight days after Ms. Pharis was attacked, she died in her hospital bed, unable to recover from her brutal injuries.

Victor Martinez-Ramirez is an illegal alien from Mexico. He had been arrested by the Santa Maria Police Department six times in the previous 15 months. He was released from the Santa Barbara County Jail 96 hours before he attacked Ms. Pharis.

Villa Gomez is a U.S. Citizen. He had one previous arrest.

Both are currently in custody awaiting trial.

Whenever the federal or state government fails to do its job, it falls on the shoulders of local government, which is not equipped to deal with the issues, either financially or in dedicating personnel.

The arrest sheet on Martinez is a glaring example of federal and state failures. On one occasion in 2014, ICE filed a form I-247 Immigration Detainer – Notice of Action. However, the Santa Barbara County Sheriff's Department does not recognize this as a lawful hold based on the Miranda-Olivares v. Clackamas County, Oregon Federal Court ruling.

Two weeks before the attack, Martinez was "cited" as opposed to arrested for possession of meth, because of California's Prop 47 which I'll address in a moment.

On July 16, 2015, eight days before assaulting Ms. Pharis, Martinez was arrested for felony possession of a dirk or dagger, as well as possession of drug paraphernalia. He was additionally charged with two misdemeanors, two \$10,000 warrants, failure to appear, and violation of probation. There was no ICE detainer submitted during this detention. Four days later in court, the weapon charge was dismissed, a "No Contest" plea entered for drug paraphernalia, and he was released that day. Four days later, he assaulted Ms. Pharis.

The State of California passed Prop 47 in November 2014. It was a complete con job pulled on the people. Titled "Safe Schools – Safe Neighborhoods" sounds like a fine title. But it was only a title. In the fine print it reduced felony drug possession like heroin, cocaine, meth, etc. to a misdemeanor citable offense. Thousands of arrestees petition the courts to reduce their convictions. So did Martinez.

The City of Santa Maria, as well as other cities throughout California, are seeing an increase in homeless persons that have high drug dependency. Many of these persons would have been removed from our streets, been required to appear in court, and referred to drug rehabilitation/treatment programs. But, the numbers have substantially decreased in these programs because of California's Prop 47.

As our U.S. Marine makes a wrong turn at the border in Tijuana and ends up in a jail cell for months, we in the U.S. are running catch and release programs for criminal aliens.

I've been in this business for over 40 years, and every time I hear the term "senseless tragedy" or "terrible accident", I cringe. When our federal and state laws are not enforced, all we really have is predicable consequences.

This concludes my statement. Thank you for your valuable time.

Chairman CHAFFETZ. Thank you.
Ms. Hartling, you are now recognized.

STATEMENT OF WENDY HARTLING

Ms. HARTLING. Hi. Hi. My name is Wendy Hartling, and my life will never be the same after June 15, 2015.

I am here on behalf of my daughter Casey who was stabbed to death over 15 times and stuffed into a closet by a criminal alien, Jean Jacques. He was found guilty of attempted murder in 1996 and served 16 years in Connecticut Prison. He should have automatically deported by Immigration and Customs Enforcement when he was released from prison. Instead, he killed Casey on June 15, 2015, and was found guilty of her murder after a trial. My hope is that he never gets out of prison.

According to laws passed by Congress, Jacques should have been deported. ICE had him in custody and detention three times. Tragically, ICE released him three times, and he killed my—killed Casey just a few months after his last release by ICE.

From defensive wounds, we know that Casey fought courageously and that she suffered greatly before her death. If ICE and Homeland Security had done their job, Casey would not have died, and I would not be here as part of the club of Homicide Survivors, which no parent ever wants to join.

My Attorney Chester Fairlie has written an article on the failure of deportation of criminal aliens. I would like to submit a copy of deportations process contributed to the—oh, wait a minute. No. I've got to go back.

Mr. Fairlie states "This miscarriage of the deportation process contributed to the death of Casey Chadwick and caused grief and suffering to her parents and friends."

I understand that the Inspector General of Homeland Security has undertaken a full investigation of the Jacques failed deportation case, and we are awaiting the report.

My daughter was loved so many family and friends. Over 300 came to her wake. Casey and I were very close. She called or texted me every day. I can no longer talk to my daughter, hold her, hug her, or simply just hang out with her or go out to eat, which was one of her favorite things to do. This breaks my heart of every second of every day

Her best friend Crysta of 13 years plus, who came with me on this trip in support, is devastated, as is Casey's boyfriend.

This is what I have lost. I can't watch her walk down the aisle on the arm of her father. She will never have the chance of becoming a mom, something she was thinking of before her death. She will never see her two nephews grow up or go to her siblings' weddings. She will never again be at our family functions and holidays.

The tragedy of Casey's death is not an isolated case and is occurring frighteningly around the country. Something has to be done to fix this horrible problem. I would never want any family to have to go through this. The pain is always with me. My heart is broken.

I go to a Survivors of Homicide group, which is very helpful. An important thing I learned was that the pain will never go away. I have to learn to live with it. I am trying, but it is the hardest

thing for me in my entire life. Still, I must find the courage and strength to advocate for Casey, who cannot speak for herself.

Thank you for listening.

[Prepared statement of Ms. Hartling follows:]

**SUBMITTED TO THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
Hearing on April 28, 2016
"Criminal Aliens Released by the Department of Homeland Security"
Submitted by: Wendy Hartling**

BIOGRAPHICAL SUMMARY

I Wendy Hartling am the mother of Casey Chadwick who was brutally stabbed to death by a criminal alien on June 15, 2015. I hope my comments today will help avoid any similar tragedy from happening to anyone else.

MY STATEMENT AND TESTIMONY

Hello. My name is Wendy Hartling. My life will never be the same after June 15, 2015. I am here on behalf of my daughter Casey who was stabbed to death and stuffed into a closet by a criminal alien, Jean Jacques. He was found guilty of attempted murder in 1996 and served sixteen years in Connecticut Prison. He should have been automatically deported by Immigration and Customs Enforcement when he was released from prison. Instead he killed Casey on June 15, 2015 and was found guilty of her murder after a trial. My hope is that he never gets out of prison.

According to laws passed by Congress, Jacques should have been deported. ICE had him in custody and detention three times. Tragically, ICE released him three times and he killed Casey just a few months after his last release by ICE. From defensive wounds, we know that Casey fought courageously and that she suffered greatly before her death. If ICE and Homeland Security had done their job Casey would not have died and I would not be here as part of the club of Homicide Survivors which no parent wants to join.

My Attorney Chester Fairlie has written an article on the failure of deportation of criminal aliens. I would like to submit a copy of the article as part of my testimony. Mr. Fairlie states "This miscarriage of the deportation process contributed to the death of Casey Chadwick and caused grief and suffering to her parents and friends." I understand that the Inspector General of Homeland Security has undertaken a full investigation of the Jacques failed deportation case and we are awaiting the report.

My daughter was loved so much by family and friends. Over three hundred people came to her wake. Casey and I were very close. She called and texted me every day. I can no longer talk to my daughter, hold her, hug her or just simply hang out with her or go out to eat which was one of

her favorite things to do. This breaks my heart every second of every day. Casey's best friend for thirteen years, Crysta, who came with me on this trip in support is devastated as is Casey's boyfriend.

This is what I have lost. I can't watch her walk down the aisle on the arm of her father. She will never have the chance of becoming a mom, something she was thinking of before her death. She will never see her two nephews grow up or go to her siblings' weddings. She will never again be at our family functions and holidays.

The tragedy of Casey's death is not an isolated case and is occurring frighteningly often around the country - when it really shouldn't be happening at all

Something has to be done to fix this horrible problem. I would never want any family to have to go through this. The pain is always with me. My heart is broken. I go to a Survivors of Homicide group which is very helpful. An important thing I learned was that the pain will never go away. I have to learn to live with it. I am trying but it is the hardest thing for me in my entire life.

I was not prepared for Casey's sudden death and I am doing the best I can. I was not prepared to become a Victim Advocate in her honor and I am doing the best I can.

Thank you for listening.

DEPORTATION FAILURE AND MURDER

Jean Jacques came to the United States as an undocumented alien, probably by boat. Whether he was vetted by the Border Patrol or by Homeland Security is not yet known. He made his way to Norwich, Connecticut. In 1996 he shot two people killing one and wounding another. He was convicted of attempted murder in Connecticut and was sentenced to serve twenty years in prison. He served seventeen. Shortly before his scheduled release on parole, Connecticut Corrections notified the Federal Department of Immigration and Customs Enforcement (ICE) for automatic deportation. ICE held him and then released him. Jacques returned to Connecticut where he was soon picked up for a parole violation. He was returned to Connecticut Corrections which again transferred him to ICE for deportation. ICE released him again. There was a third occasion when ICE had him in custody and still released him. On June 15 2015 in Norwich, Connecticut Jacques stabbed Casey Chadwick to death. Jacques was found guilty in April of 2016 and will be sentenced on June 6, probably to life in Connecticut prison.

The miscarriage of the deportation process of Jacques contributed to the death of Casey Chadwick and caused grief and suffering for her family and friends. The State of Connecticut will pay more than a million dollars to incarcerate Jacques on his new sentence.

Across the country, there have been more than six thousand immigrants who committed aggravated felonies and who should have been deported and who instead were released by ICE. There have been more than 120 murders committed by those immigrants who should have been deported but who were instead released. Murders by deportable aliens have occurred in Massachusetts, New York, Connecticut and many other states. There also have been large numbers of rapes and other serious crimes committed by the same population released by ICE. Public Safety and justice cry out for reform.

Deportation policy involves all three branches of our Federal Government, Legislative, Executive and Judicial. At the Congressional level, Congress passed the legislation creating and empowering the Department of Homeland Security and the Agency of Immigration and Customs Enforcement. Legislation has defined that immigrants who commit certain aggravated felonies should be automatically deported by ICE, usually at the conclusion of their State Court sentences. The crimes for automatic deportation and the consequences are set out in Federal Immigration law enacted by Congress. An important purpose of the legislation for deportation is to protect public safety. Congress also has the authority to convene Congressional investigations to address how deportation laws

are carried out to determine if further legislation or additional funding are needed.

Deportations are handled through the Department of Immigration and Customs Enforcement which is an Agency of Homeland Security. Both agencies are part of the Executive Branch of government. ICE is expected to carry out the laws as directed by Congress and has evolved to be the largest police force in the Country. The duties of ICE include identification of someone who should be deported, apprehension of the person, and detention until they are deported. Deportation requires development of the necessary travel documents. Travel documents must include the agreement of the country of origin to accept return of the deportee.

The process of returning deportees is set out in repatriation treaties between the US and the foreign country. If there is no treaty, deportation to that country cannot occur. In the case of Jean Jacques, identification, apprehension and detention were all in place. Haiti had agreed to a repatriation treaty. Why ICE failed to deport Jacques is not yet known.

Part of the complexity of deportation arises from decisions from the Judicial Branch of government. In a case from the United States Supreme Court entitled *Zadvydas vs. Davis* (2001) the Supreme Court set limits for the period of pre-deportation detention by ICE. Part of the complexity before the Court was that the legislation enabling detention included the ambiguous language of "may detain". The Court found a lack of clear Congressional intent. The Supreme Court set a time limit of six months as the allowable period for detention unless there was a reasonable prospect that the documentation could be obtained.

The Court by the decision in *Zadvydas* recognized the importance of clear Congressional direction and invited Congress to enact further legislation to make the categories for longer detention more limited and to declare the detention mandatory, especially when national security or public safety were involved. Congress failed to follow up on the Court's suggestion. ICE accepted the six month limitation of its detention authority. In deportation cases where the documentation could not be completed within six months, ICE began to release the intended deportees to civilian population. The intended deportees were required to provide a current address for ICE to contact them if the deportation documents became complete. It is not yet know if any of thousands of those intended deportees were later recalled for deportation. The information is known to ICE.

After the murder of Casey Chadwick, requests were made to ICE to explain why Jacques had been released. Newspapers reported that ICE initially

declined to provide information citing a privacy right of Jacques who by then had been charged with murder. Fortunately as a result of the coordinated efforts by Connecticut Senators Richard Blumenthal and Christopher Murphy and Congressman Joseph Courtney the Inspector General of Homeland Security has ordered ICE to provide a full investigation of the processing and policies applied by ICE in the Jacques case. The results of the report will be revealing to a degree not yet obtained in similar cases.

For the future, what can be done to address the threats to public safety posed by these deportation failures. One suggestion has been to propose federal legislation to define limited categories for longer detention of immigrants who commit aggravated felonies when either national security or public safety are involved. The legislation should include mandatory language to avoid the ambiguity of the "may detain" language as currently exists. The Supreme Court indicated it would likely defer to properly worded legislation. Tragically, Congressional reform of deportation of criminal alien could become caught in the morass of contentious political parties. Still, there could be congressional hearings and investigations into deportation failures so that the statistics and failures are known when the Congress addresses immigration reform. Another important avenue for investigation is to demand more transparency from ICE. Perhaps an ombudsman could be appointed to monitor individual public safety cases within ICE. With greater information of the functions, decision making and process of ICE, citizens and congressional representatives could then focus efforts for improvement of criminal alien deportations. In these times of increased refugee migration, there is even more imperative for reform.

By Attorney Chester Fairlie New London, Ct
Phone 860 443 5297
Email fixdeportation@gmail.com

Chairman CHAFFETZ. Thank you. And of course we will include that letter into the record.

[The information follows:]

Chairman CHAFFETZ. And you did great. Thank you.

Mr. Root, you are now recognized for 5 minutes.

STATEMENT OF SCOTT ROOT

Mr. ROOT. Chairman Chaffetz, Ranking Member Cummings, and respected members of House Committee on Oversight and Government. My name is Scott Root, and I thank you for the opportunity to be the voice of my murdered daughter, Sarah Rae-Ann Root, murdered on Sunday, January 31, at approximately 2:00 a.m. by a drunk driver and illegal immigrant, Edwin G. Mejia.

Less than 24 hours, Sarah walked with a 4.0 grade point average at—bachelor's in criminal investigations from Bellevue University.

I would also like to take this to thank Officer Bowes, Rizzo, Adam and Dawn Turnbull and Swanson of the Omaha Police Department. We would also like to thank Congressmen and staff of Steve King, Robert Goodlatte, also take Senators Ernst, Fischer, Grassley, Sasse, Sessions, and the doctors and nurses at the University of Nebraska Medical Center.

As a 30-year member of Steamfitters Local 464, it is ironic that I find myself thanking a Republican House and a Senate member who reached out to us within weeks of Sarah's death. My ex-wife were not contacted by any Democrats or ICE until April 22, after I learned I would testify and the days—and 82 days after my daughter was murdered. They were told ICE had a victim's unit and they would be reaching out.

I am an Army veteran. I served with the 1st Cav. My father was a World War II medic and was a recipient of the Purple Heart, Silver Star, and a French medal, Croix de Guerre. I don't share this to talk about ourselves, rather to point out that the Root family has served their country when called upon. Now, they're asking for your help in getting answers and justice.

My mother and sister legally immigrated to the United States after World War II and—to become American citizens. In my opinion, the Obama administration with open-borders policy has changed us. We no longer ask for immigrants to assimilate to our way of life; rather, schools, governments are required to accommodate to their needs of their country.

My mother and sister took pride in becoming Americans and learning the language and culture. By allowing illegal immigrants to take custody of illegal immigrants with no controls in place for a person like Edwin Mejia, the man who killed my daughter, were to break our laws.

Sarah was a daughter, sister, granddaughter, cousin, niece, and friend. She was bright, smart, loving, caring, respectful, and strong. Like her brother and mom, she stood up for her beliefs. My son Scott lost his best friend, confidante, when I—when Sarah died. Her mother lost her best friend, daughter, and fellow Kansas City Chief.

I would like to take this opportunity to walk my daughter down the aisle on her wedding day and spoil her grandchildren she want-

ed. She loved to fish and her—and this year, she wanted to try deer hunting.

In the early morning of January 31, I received no call a parent should ever have to change. My family was summoned to the hospital at approximately 4:00 a.m. I thought we had a deal with a broken leg or a broken arm. I didn't get—dare think the worst. I was awaiting something that no father should have to go through. That was identify their child. Her spinal cord was snapped, her skull fractured in two places, her face was swollen beyond recognition. We identified her by her tattoo on her ribcage, "Live, Laugh, Love" and a crucifix.

The neurosurgeon said on a scale from 1 to 10 that her chance of recovery was zero. No parent should have to deal with that, especially when the situation could have been prevented if the laws had been followed and enforced.

Sarah was an organ donor. Her mother and I kept her on life support 3 days to allow the organ recipients and their doctors to prepare themselves for harvesting. Sarah, through her unselfish act, was able to save six individuals. She also helped five—four to five dozen more through donation of tissue and tendons, bones.

Since the accident, I learned Edwin had been apprehended in Arizona at 16-year-old minor, yet our government allowed him to be turned over to his brother, another illegal immigrant. Due to pressure being applied to the mentioned Congressman and Senators, Edwin is now on the ICE's top-10 most-wanted list. This is ironic, on the Web page it says "unlawful," "illegal." When apprehended in Arizona, he was released to another illegal.

When the Omaha police approached ICE five times requesting a detainer we were reached each time with unlawful illegal. Edwin was released 4 days in jail and his brother posted 10 percent of \$50,000, which is \$5,000. It cost more to bury my daughter than—and her family and friends have been given a death sentence and a denial of her love, companionship.

My family understands that our questions have not been answered, but I would like to go on for record with the following:

At a local level, my friends are collecting signatures against Jeffrey Marcuzzo to remove him from the bench. He failed to for minor traffic infractions and presented a flight risk. Our question at the Federal level, who is accountable? Sarah Saldana? Jeh Johnson? Barack Obama? Harry Truman used to say, "The buck stops here." This is not only a case of administration.

Marcuzzo recently set bail for another illegal immigrant accused of vehicle homicide in Omaha, \$2 million for—the local ICE set a detainer on him.

Congressman Goodlatte, Senator Grassley, in a joint letter to Jeh Johnson demanding answers for our case. The Senator has—Senator Sasse has demanded answers from Sarah Saldana. If they cannot get answers from a family from Iowa—Iowa—sorry—accountable. Yes. Sorry. Has anyone been held accountable for the local level? It's been 2-1/2 months since the Senators and Congressman have asked answers from ICE. When can we expect to get the answers?

The Omaha Police Department did their jobs. How is it that his illegal brother was able to bail him out and disappeared? Do I get

a choice which laws to follow? If now, which does an unlawful or illegal immigrant mean? Sarah's family and friends are punished.

When officials of ICE Edwin's crime in the criteria for level. I would like—would someone please explain to me how a daughter had a spinal cord and a skull fractured in 2,000 places by a 6,000 pound pickup with 1,000 of roofing equipment traveling at 70 to 80 miles per hour and an underage person three times over the legal limit drag racing from Honduras not violent? Explain that to me.

What information do we have on Edwin's family and friends? Who owned the vehicle that Edwin was driving that killed my daughter? I understand it's another illegal from Wichita, Kansas. He was driving the streets of Omaha with no driver's license, no registration, no insurance. He did not show up for obligations for minor traffic violations. It was assumed he would show up for motor vehicular homicide?

On intentional level, has a red pool notice been issued? Are those steps in place? Does he have a cellular card? What is being done as the country of Honduras? Edwin was apprehended in Arizona. Was a file created? If so, what information has been communicated?

If the Obama administration position on this is not to enforce immigration law, what is the purpose of ICE and our tax dollars being wasted? The only incentive to capture him is \$5,000 reward through the Omaha Crime Stoppers. What other tools and means are available to the national law enforcement and people in Honduras, Mexico, or United States to turn Edwin into the authorities?

In my closing, my family and friends will not stop until people at the local and Federal level are held accountable to her killer and brought to justice. When Edwin is caught, he will face a 20-year prison sentence and 8 to 10 years with good behavior, but my family is facing a sentence without her. Her sentence is avoidable and would not—occurred if the failed policies of the Obama administration and the laws that allowed be ignored and an incompetent local judicial system.

This was—the last time I saw Sarah was January 31. She graduated from Bellevue University. Now, I carry a cross on my heart with a crucifix around my neck.

I want to leave you with a personal story. When Sarah was young, she had a patch of hair on her back. I would tease her by calling her Monkey Girl. She hated it, but she knew it came from a father's love. I love you forever, Monkey Girl.

Thank you for this opportunity to share Sarah's story and my family's story. Scott Root.

[Prepared statement of Mr. Root follows:]

**SUBMITTED TO THE COMMITTEE ON OVERSIGHT AND GOVERNMENT
REFORM**

Hearing on "Criminal Aliens Released by the Department of Homeland Security"

April 28, 2016

Testimony of Scott Root

Chairman Chaffetz, Ranking Member Cummings, and respected members of the House Committee on Oversight and Government Reform, my name is Scott Root and I thank you for the opportunity to be the voice of my murdered daughter, Sarah Rae-Ann Root. Sarah was murdered on Sunday, January 31st at approximately 2:00 a.m. by a drunk driver and illegal immigrant, Edwin G. Mejia. Less than 24 hours earlier, Sarah walked with a 4.0 GPA with a Bachelor's in Criminal Investigations from Bellevue University.

My family and I would like to take this opportunity to thank officers Bowes, Rizzo, Adam and Dawn Turnbull and Swanson of the Omaha Police department for their help and support to my family since the accident. We would also like to thank the Congressmen and staff of Steve King and Robert Goodlatte. We also want to thank the Senators and staff of Ernst, Fischer, Grassley, Sasse and Sessions and the doctors and nurses at the University of Nebraska Medical Center

As a 30 year member of Steamfitters Local 464, it is ironic that I find myself thanking Republican House and Senate members who reached out to us within days and weeks of Sarah's death. My ex-wife and I were not contacted by any Democrats or ICE officials until April 22nd - after they learned I would testify at this hearing - and 82 days after my daughter was murdered. We were told that ICE had a victim's unit and that they would be reaching out to us.

I am an Army veteran and served with the 1st Cav. My father was a World War II Army medic who was the recipient of a Purple Heart, Silver Star and the French medal, Croix de Guerre which is awarded to foreign soldiers aiding the French under threat of enemy combatants. I don't share this to talk about ourselves, rather to point out that the Root family has served their country when called upon and now we're asking for your help in getting answers and justice.

My mother and sister legally immigrated to the United States after World War II and aspired to become American citizens. In my opinion, the Obama administration with their open borders policy has changed us. No longer do we ask immigrants to assimilate to our way of life, rather local schools, governments are required to accommodate their needs and not the needs of the country. My mother and sister took pride in becoming Americans and learning the language and culture. By allowing illegal immigrants to take custody of other illegal immigrants, there are no controls in place if a person like Edwin Mejia – the man who killed my daughter - were to break our laws.

Sarah was a daughter, sister, granddaughter, niece, cousin and friend. She was bright, loving, smart, caring, lovable, respectful and strong. Like her brother, mother and I, she stood up for her beliefs. My son Scott lost his best friend, confidante and sister when Sarah died. Her mother Michelle lost her best friend, daughter and fellow Kansas City Chiefs fan. I lost my opportunity to walk my only daughter down the aisle on her wedding day and spoil the grandchildren she wanted. She loved to fish with her family and this year she wanted to try deer hunting.

Early in the morning of January 31st, we received the call no parent should ever get and that changed all of our lives. My family was summoned to the hospital and at approximately 4:00 a.m. had to deal with what we thought was a broken arm or leg. We didn't dare to think the worst and couldn't imagine the nightmare awaiting us. I was asked to do something that no father should have to do and that was identify their child.

Her spinal cord was snapped and her skull fractured in two places. Her face was swollen and she was unrecognizable. We identified her by a tattoo on her rib cage that read, "Live, Laugh, Love" with a crucifix. When we asked the neurosurgeon on a scale of 1 to 100, what was her chance for recovery and he said 0, no parent should have to deal with that especially with a situation that would have been prevented if the current laws had been followed and enforced.

Sarah is the hero as she was an organ donor. Her mother and I kept her on life support for three days to allow the organ recipients and their doctors to prepare for harvesting of her organs and surgery for the recipients. Through Sarah's unselfish act, she was able to save the lives of six individuals. She also helped another four to five dozen more through the donation of tissue, tendons and bones.

Since the accident we've since learned that Edwin had been apprehended in Arizona as a 16 year old minor, yet our government allowed him to be turned over to his brother, another illegal immigrant. Due to the pressure being applied by the mentioned congressman and senators, Edwin is now listed on ICE's top Ten Most Wanted list. It is ironic that on his webpage the words "unlawful" and "illegal" are mentioned yet when apprehended in Arizona he was released to the custody of another illegal immigrant.

When the Omaha Police department approached the Omaha ICE office five times requesting a detainer and were rejected each time, the now "unlawful" and "illegal" Edwin was released after four days in jail and after his brother posted 10% of \$50,000, which is \$5,000 bail. It cost more to bury my daughter and she and her family and friends were given a death sentence and the denial of her love, companionship and friendship.

My family and I understand that our questions may not be answered today but I want to go on the record asking the following:

1. At a local level, my family and friends are collecting signatures on judicial complaint forms that anyone can sign to present to the Nebraska Supreme Court where our goal is to get Judge Jeff Marcuzzo removed from the bench for ignoring the facts that Edwin failed to show for minor traffic infractions and the flight risk he presented. Our question is, who at the federal level is accountable? Sarah Saldana? Jeh Johnson? Barack Obama? President Harry Truman used to say, "the buck stops here." This is not the case in the Obama administration. Judge Marcuzzo recently set bail for another illegal immigrant accused of motor vehicle homicide in Omaha at \$2 million dollars and the local Omaha ICE office set a detainer on him.
2. Congressman Goodlatte and Senator Grassley authored a joint letter to Jeh Johnson demanding answers about our case. Senator Sasse has demanded answers from Sarah Saldana. If they cannot get answers, how can a family from Iowa get any and why hasn't anyone been held accountable at the local or national level? It's been 2 ½ months that the senators and congressman have requested answers from ICE, when can the family expect to get answers?
3. The Omaha Police department did their jobs and Edwin Mejia was released. Who is paying for the time and effort at the local and national level for the additional investigative and fugitive work? What about the medical bills for Edwin Mejia? The American taxpayer, that's who. It's my understanding that illegal immigrants kill, injure or maim thousands of Americans yearly.
4. How is it that Edwin's illegal brother was able to bail him out and has now disappeared? How is this not aiding and abetting? Were taxes paid on the money used? Do I get a choice as to which laws to follow? If not, why does an "unlawful" and "illegal" immigrant get rewarded and Sarah's family and friends are punished.
5. According to the local officials of ICE, Edwin's crime did not meet its criteria for the level of violence. Would someone please explain how my daughter who had her spinal cord snapped and skull fractured in two places by a 6,000 pound pickup loaded with 1,000 pounds of roofing equipment that hits my daughter's 3,000 pound SUV at an estimated 70-80 miles per hour driven by an underage, three times over the limit, 241 drunk driving, drag racing illegal immigrant from Honduras is not violent? Explain to me what is then?
6. What information do we have on Edwin's family and friends? Who owned the vehicle that Edwin was driving when he killed my daughter? Our understanding is that it was another illegal immigrant that lived in Wichita, Kansas, yet he was driving the streets of Omaha with no driver's license, no registration and no insurance. Edwin did not honor his court obligations for minor traffic violations, why was it assumed he would show for motor vehicular homicide?
7. On an international level, has an Interpol Red Notice been issued? If not, whose responsibility is it to ensure it occurs and when will it be done? What other steps are being taken? Do we know Edwin's maternal/paternal name? Does he have a Cedula card? What is being done in his home country of Honduras? When Edwin was apprehended in Arizona, was a file created? If so, has the information been communicated to law enforcement?

8. If the Obama administration's position is to not enforce existing immigration law, what is the purpose of ICE and are our tax dollars being wasted? The only incentive to capture him is the \$5,000 reward through Omaha Crime Stoppers. What other tools or means are available to local and national law enforcement to incent people in Honduras, Mexico or here in the United States to turn Edwin into the authorities?

In closing, my family and friends will not stop until people at the local and federal level are held accountable and her killer brought to justice. When Edwin is caught, he will face 20 years in prison, 8-10 years with good behavior, but my family is facing a life sentence without her. Her death was avoidable and would not have occurred if not for the failed policies of the Obama administration that allowed the laws to be ignored and an incompetent local judicial system.

The last time I saw Sarah was on January 30th, the day she graduated from Bellevue University. Now I carry her close to my heart in the crucifix around my neck.

I want to leave you with a personal story. When Sarah was young, she had a patch of hair on her back and I would tease her by calling her Monkey Girl, a nickname she hated but she knew came from the love of a father. I love you forever Monkey Girl.

Thank you for the opportunity to share Sarah's and my family's story.

Scott Root

Chairman CHAFFETZ. Mr. Root, thank you. Thank you for your personal service to this country —

Mr. ROOT. Thank you.

Chairman CHAFFETZ.—and for the strength to be able to offer that statement and be here today. And God bless you. Between yourself and Ms. Hartling —

Ms. HARTLING. Thank you.

Chairman CHAFFETZ.—thank you for sharing your stories.

We will now recognize Chief Burbank for 5 minutes.

STATEMENT OF CHRIS BURBANK

Mr. BURBANK. To begin, I would like to say to the Hartling family and the Root family that I am sincerely sorry for your loss. You deserve much better, the tireless effort of law enforcement and the love of your communities.

Committee members, we are experiencing a modern transformation of our world and especially of our nation. Demographics, cultures, economies, and public expectation are evolving rapidly. Interconnection of the globe through technology and the migration of people is a dynamic driver of change.

Modern immigration has introduced cultural, religious, and intellectual diversity creating avenues for multicultural competitiveness. Robust scientific evidence indicates that immigrants contribute economically, improve the local tax base, stabilize the economy, and drive down crime whether they move lawfully or unlawfully into new communities.

Some of the highest immigrant-populated cities have experienced the steepest declines in crime. Coincidentally, this dramatic change has also marked an increase in bias, inequality, vitriol, and fear. Immigrants are ever-increasingly stereotyped and demonized inappropriately for their involvement in criminal activity.

Research conducted over the past 30 years has consistently shown that immigrants are less likely to commit serious crimes or to be incarcerated. This holds true whether documented or undocumented and regardless of their country of origin. It is a fact, as undocumented immigration has increased, crime has decreased dramatically. There's no demonstrable correlation between immigrants and crime. Additionally, there is no documented relationship between enhanced immigration enforcement and reduced crime. Public policy must be driven by evidence and not anecdotes.

We have demonstrated that enforcement, arrest, incarceration, and force are not the most effective tools to prevent crime. A case in point, as incarceration rates soared in the 1990s, so did police officers, search warrants, and other enforcement activities. We were at war against drugs, against gangs, and yet violent crime increased.

The lasting legacy of this period was not crime reduction, but rather historically high national incarceration rates, zero-tolerance approaches, stop-and-frisk practices, and the over-incarceration of individuals of color for misdemeanor violations, harming our communities far more than helping.

In fact, the mistrust in communities of color that we face today is a result of hard-on-crime, indifferent enforcement tactics perpetrated on neighborhoods labeled "high crime."

People experience their lives within neighborhoods, rarely at a national, State, or even city level. This is especially evident in socioeconomically depressed communities. Effective and appropriate policy and practices must understand and address life issues, education, health, housing, safety, and transportation. Public safety, as exercised through community policing, is best accomplished at a local level capable of a nimble, small-government approach to addressing these life issues.

Immigration enforcement has created a double standard wrought with constitutional concerns. Immigrants not only face potential criminal penalty but excessive detention without due process and ultimately deportation. Immigration enforcement can only be accomplished through racial profiling. Immigrants have been stopped for pretext traffic violations, questioned about their status, detained for numerous days without probable cause, transferred to the custody of ICE and deported without notification to their families. This most certainly does not represent equal treatment under the law.

Recidivism rates hover around 67 percent for individuals incarcerated. Conversely, persons adjudicated within a restorative justice model, designed to be an alternative to incarceration, reoffend at a rate less than 40 percent. Education or knowledge about society, social norms, laws and traffic codes gained through participation and inclusion is the way out of addiction, substance abuse, and misdemeanor crime.

When communities or groups of people are afraid to participate, we systematically isolate them, creating a negative environment where success is difficult, if not impossible. Studies have shown that immigration enforcement is not viewed as a legitimate public safety tool. It does not serve to enhance community well-being but further divides communities and undermines the already-difficult job law enforcement has of maintaining public trust.

Throughout history, law enforcement has been an efficient tool of social oppression directed to protect certain races against the symbolic threats of others. We are still working to repair the mistrust, resentment, and rage that many in our communities continue to feel.

It is not surprising that law enforcement officials across the Nation are troubled at the proposition of mandatory immigration enforcement practices that appear motivated by prejudice and are likely to result in increased crime.

The time has come to accomplish comprehensive immigration reform. We must bring millions of people residing in our neighborhoods, contributing to our economy, adding value to our lives out of the shadows and into mainstream. Crime prevention is best accomplished when we are partners in the effort with all members of society. Just as we have been unable to incarcerate our way out of crime, we will never solve immigration issues through deportation.

Thank you.

[Prepared statement of Mr. Burbank follows:]

Chris Burbank
Testimony before the United States House of Representatives
Committee on Oversight and Government Reform
April 28, 2016

To begin, I would like to say to the Hartling Family and the Root Family that I am sincerely sorry for your loss. You, as all victims of crime, deserve the tireless effort of law enforcement and the love of your communities.

We are experiencing a modern transformation of our world and especially of our nation. Demographics, cultures, economics and public expectations are evolving rapidly. Interconnection of the globe through technology and the migration of people is a dynamic driver of change. Modern immigration has introduced ethnic, cultural, religious and intellectual diversity creating avenues for multi-cultural competitiveness. Robust scientific evidence indicates that immigrants contribute economically, improve the local tax base, stabilize rural and urban economies, and drive down crime whether they move lawfully or unlawfully into new communities. Some of the highest immigrant populated cities have experienced the steepest declines in crime over the last ten years. Coincidentally, this dramatic change has also marked an increase in bias, inequality, vitriol and fear. Immigrants are ever increasingly stereotyped and demonized inappropriately for their involvement in criminal activity. Immigration continues to provoke tense political disagreement.

Research conducted over the past thirty years has consistently shown that immigrants are less likely to commit serious crimes or to be incarcerated. This holds true whether documented or undocumented and regardless of their country of origin. It is a fact, as undocumented immigration has increased, both violent and property crime has decreased dramatically throughout the nation over the past ten years. There is no demonstrable correlation between immigrants and crime. Additionally, there is no documented relationship between enhanced immigration enforcement and reduced crime. Public policy must be driven by evidence and not anecdotes.

The mission of law enforcement should always be to prevent crime and disorder from occurring in our neighborhoods not to merely respond after the fact. We have demonstrated that enforcement; arrest, incarceration and force are not the most effective tools to prevent crime. A case in point, as incarceration rates soared in the nineties, so did police officers, search warrant service and other enforcement activities. We were at "war" against drugs, against gangs, and yet violent crime increased.

The lasting legacy of this period was not crime reduction but rather historically high national incarceration rates, zero tolerance approaches, stop and frisk practices and the over incarceration of individuals for misdemeanor violations, harming our communities far more than helping. In fact, the bias, inequity and mistrust in communities of color that we face today are the result of hard on crime, indifferent enforcement tactics perpetrated on neighborhoods labeled "high crime."

People experience their lives within neighborhoods, rarely at a national, state or even city level. This is especially evident in socioeconomically depressed communities. Effective and appropriate policy and practices must understand and address life issues, education, health, housing, safety and transportation. Public safety as exercised through community policing, is best accomplished at a local level capable of a nimble, small government approach to addressing these life issues.

Immigration enforcement has created a double standard wrought with constitutional concerns. Immigrants not only face potential criminal penalty but excessive detention without due process and ultimately deportation. Immigration enforcement can only be accomplished through racial profiling. Immigrants, within the United States, have been stopped for traffic violations, questioned about their status, detained for numerous days without probable cause, transferred to the custody of ICE and deported without notification to their families. This most certainly does not represent equal treatment under the law.

Recidivism rates hover around sixty-seven percent for individuals incarcerated within the United States. Conversely, persons adjudicated within a restorative justice model, designed to be an alternative to incarceration, reoffend at a rate less than forty percent. Education or knowledge about society, social norms, laws and traffic codes, gained through participation and inclusion is the way out of addiction, substance abuse and misdemeanor crime. When communities or groups of people are afraid to participate we systematically isolate them, creating a negative environment where success is difficult if not impossible.

What then should the role of law enforcement be? This is a deceptively tricky question. Law enforcement executives agree that officers should enforce and uphold the law regardless of race, ethnicity, gender, religion, sexual orientation, or national origin. However, law enforcement is formally tasked with enforcing the laws that legislators sign. Consequently, if the law of the land is bias, it is the job of law enforcement to enforce racism.

Shortly after immigration legislation came to be the topic of debate in Utah during the summer of 2008, the Center for Policing Equity (formerly the Consortium for Police Leadership in Equity) was invited to conduct research on what the impact of law enforcement officers acting as immigration agents might mean to the State of Utah and City of Salt Lake. The findings were submitted in a report to Congress in advance of House Judiciary Committee hearings on racial profiling. The findings reveal that giving law enforcement the powers of federal immigration agents is likely to discourage cooperation with law enforcement and encourage community contempt and mistrust. This means that, undocumented Latinos, legal Latino citizens, and White citizens are all less willing to report crimes when they occur. In fact, about one-third of the citizens surveyed said that they would not report certain serious crimes under a policy of cross-deputization. This is a finding that warrants repeating: One in three law abiding citizens who, under normal circumstances would report a serious crime, would not report if law enforcement officers were empowered to ask for proof that an individual was in this country legally. The result of this under-reporting is that all people are made more

susceptible to violent criminal behavior—particularly the most vulnerable segments of our population. Similarly, data from the report suggested that support of the bill was related more to fear and dislike of Latinos than principled objections to illegal immigration, concerns about public safety, or even a dislike of immigration.

These findings echo the sentiment that immigration enforcement is not viewed as a legitimate public safety tool and does not serve to enhance community well being but further divides communities and undermines the already difficult job law enforcement has of maintaining public trust in the service of public safety.

Throughout history, law enforcement has been an efficient tool of social oppression. Prior to 1865, law enforcement's job was to protect property rights of slave owners by patrolling for runaway slaves and even detaining free Blacks if they failed to carry proper documentation. Law enforcement played a similar, if less visible role during World War II, when they were required to enforce curfews and detain suspected "enemy aliens"—all of which was coded language for the harassment and persecution of Japanese Americans. And it was barely a generation ago that law enforcement's job was to keep water fountains separate and high schools racially segregated. In these and countless other cases, law enforcement was directed to protect certain races against the symbolic threats of others. The profession of law enforcement is still working to repair the mistrust, resentment, and rage that many in our communities continue to feel.

It is not surprising that many law enforcement officials across the nation are troubled at the proposition of mandatory immigration enforcement practices that appear motivated by prejudice and are likely to result in increased crime. Individuals become officers out of a desire to assist others and make a difference in society. That is why it is so discouraging for officers to show up to work knowing that the community they serve suspects them of racism. It is even more disheartening to realize that by doing their jobs, they are compromising the civil rights of community members. It is the intention of officers to serve the public with integrity. That is why so many in law enforcement are voicing their objection to institutionalized racial profiling and biased policing.

The time has come to accomplish comprehensive immigration reform. Families, such as those represented on the panel with me, deserve nothing less. We must bring millions of people residing in our neighborhoods, contributing to our economy, adding value to our lives out of the shadows and into mainstream. Crime and disorder prevention is best accomplished when we are partners in the effort with all members of society. Just as we have been unable to incarcerate our way out of crime we will never solve immigration issues through deportation.

Chairman CHAFFETZ. We have got a lot to talk about, Mr. Burbank, because I think you are in totally the wrong planet. But we are going to get after that. There is a vote on the Floor, and so our apologies for this, panel, but the committee is going to recess. We have three votes, and then we will come back and resume the questioning portion of this.

So the committee will stand in recess and we will reconvene no sooner than 1:30. Thank you.

[Recess.]

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will return to order, and we will start the questioning portion. We have excused Ms. Hartling, but we will continue now with the questioning part, and we will start with the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman. I would like to thank each of you for being here. And your stories are extremely moving, and our hearts go out to you.

I spoke yesterday with the sheriff of Gwinnett County, which is number two in terms of criminal aliens being dropped off, second only to Harris County, Texas. And he heads law enforcement, of course, in the country. In fact, he informed me that, as I just mentioned, that it is number two.

Chief Martin, as a 40-year veteran of law enforcement, I am hoping you might be able to shed some light on some of the questions from your own experience, your knowledge. When an illegal alien is released, are you notified?

Chief MARTIN. No, sir.

Mr. HICE. By anyone?

Chief MARTIN. We are not notified by anyone.

Mr. HICE. Okay. So we heard testimony this morning that ICE notifies the States of all those who are released, and then that information filters down. And you are saying that that is not the case?

Chief MARTIN. We do not receive any direct communication from ICE. The only way we would know if somebody was released is if—what they talked about earlier, the victim would be notified, and if they filled out a form, then the local sheriff's department is supposed to notify us if they're released so that we can talk to the victim.

Mr. HICE. Okay. So the law enforcement notification system, is it working?

Chief MARTIN. No, sir.

Mr. HICE. What is it doing? If it is not working, what is the value, if any?

Chief MARTIN. Well, I have to take you back years ago when INS or ICE used to have their agents in all the county jails. I think by reason—I'd like to preface my remarks by saying that most municipal police departments don't hold their prisoners at the police departments. They book them into the county jails so the sheriffs would have the authority to keep them.

Now, Santa Maria, we arrested 6,000 people last year, and we'd keep them, we would book them into our custody, and then within about 6 to 8 hours we would transfer them to the sheriff's department. And what we do at that point is we do fill out a pretrial serv-

ice, and about three-quarters of the bottom of the page it says "Does the police officer request an immigration review?" And in the case of Victor Martinez, we checked yes. So that's about the only time that we have the ability to communicate with ICE to have a review done.

Now, that the ICE doesn't have officers in the county jails full time, they just show up in the morning, they'll look at the scrolls or the gate book if you will. But that really doesn't serve any purpose because many times they'll bail out the night before. So it's not working.

Mr. HICE. Is it true that when a criminal alien is released from prison on parole that local law enforcement have to be assigned to check on them?

Chief MARTIN. No. We're not assigned to check on them at all. In fact, when they're released from either the county jail or, say, a State prison, they're taken by ICE to a processing center and then down to Los Angeles where they're supposed to be released. They never release them from the prisons. They always do it down in Los Angeles.

Mr. HICE. So how does the parole work? I mean, does the State assign someone to watch over them?

Chief MARTIN. Well, pretty much the State of California has gotten rid of almost all of their parole. It's all become localized for the probation department, which is really not equipped to deal with it. So the State has gotten rid of their funding for parole and pushed it down to the local level much like —

Mr. HICE. But you are saying local level is not handling it?

Chief MARTIN. No, we're not being notified of any of it.

Mr. HICE. So what is happening to these people? There is no parole, no accountability? They are not watched at all?

Chief MARTIN. I think if they're watched, it's—in our county, in Santa Barbara County, it'd be by the local probation department.

Mr. HICE. Okay. So how do they get involved? In other words, when these people are released and put on parole, who is looking after them and how does that process work?

Chief MARTIN. It would just be a county probation officer who is assigned the case, and he may or she may see them once a month or maybe never.

Mr. HICE. Okay. Well, then who is paying for it? The local parole officers—who is paying?

Chief MARTIN. Yes, Congressman, in the county it's actually the probation departments, county probation.

Mr. HICE. So the taxpayers are paying this?

Chief MARTIN. Yes, sir.

Mr. HICE. All right. So we have ICE that is responsible for releasing these people that should be deported, but in many cases no one is looking out for them. But when there are cases that a parole officer—in other words, your local county is having to pick up the tab for the lack of work being done by ICE? Is that a fair assessment?

Chief MARTIN. That would be a fair assessment. And not only that, we're having to pay for all of the investigations that result of us arresting these people. And the local district attorney's office is also having to pay to prosecute. And then once they are found

guilty, they have to go to a State prison if it's a State crime. So either the local, the county, or the State is paying for all of that.

Mr. HICE. Well, thank you very much.

Mr. Chairman, I appreciate this, but I am shocked we have a conflict in testimony from what we heard earlier from Ms. Saldana saying that all the States are being notified, and it is filtering down, and that obviously is not taking place, at least in your case. And I think this needs some further research and investigation.

Thank you. I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I will recognize the gentleman from Massachusetts, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you very much, Mr. Chairman. Thanks for holding this hearing. I thank the ranking member as well.

Like all of the other members before me, I just want to say to the victims' families, thank you for your courage and your willingness to come forward and try to make sure that this does not happen again. And Mr. Martin and Mr. Burbank, thank you as well for your participation.

Ms. Hartling, can I ask you, the contact that you have had with any Federal law enforcement or—can you tell me if they have been—I am trying to explore the communication between Federal agencies and victims such as yourself and families. Could you tell me a little bit about that? Has any of that gone on?

Ms. HARTLING. No. My—I have not heard from the Federal Government or Homeland Security or —

Mr. LYNCH. ICE?

Ms. HARTLING. ICE, nothing, no.

Mr. LYNCH. No.

Ms. HARTLING. But—no, not Congressman—Blumenthal, he had got things rolling pretty good for Casey's case when I saw him in Hartford last year that—so I know for a fact that Homeland Security is investigating Jean Jacques' case, my daughter's case.

Mr. LYNCH. Right. Right.

Ms. HARTLING. And we're just waiting for the report.

Mr. LYNCH. Okay. Mr. Martin, could you tell me about the contact that your department has on a regular basis with ICE? Do they inform you when there could be somebody in your jurisdiction that is, you know, under a deportation order or is there any communication going on between your department?

Chief MARTIN. We do have some limited communication with ICE. Recently, Homeland Security did build an ICE facility in Santa Maria, and it was —

Mr. LYNCH. And you are north of L.A., between L.A. and —

Chief MARTIN. Yes, we're between Los Angeles and San Francisco.

Mr. LYNCH. Okay. Yes.

Chief MARTIN. However, it is not a detention center. It is simply a processing center. So when they go—and I'm referring to ICE—when they pick up people maybe who have done their time in a State prison or a county jail, they will take them to that processing center for a few hours and then by van take them down to either Oxnard or to Los Angeles. So the center is there, but it's only open during the day, and it's just simply a processing center.

Mr. LYNCH. That is it?

Chief MARTIN. Yes, sir.

Mr. LYNCH. And tell me a little bit—I know in some of your testimony, you know, there is a description of decriminalization of possession of heroin —

Chief MARTIN. Yes.

Mr. LYNCH.—meth, others. How has that played into your ability to do your job in this respect?

Chief MARTIN. All across California it has increased property crimes over 20 percent, so we're seeing an increase there. We're seeing an increase in homelessness. So—and many of these—some of these people are illegal aliens who are living on the streets. So when they passed that law, prop 47, it really took our ability away to force them into a court or to force them even into rehabilitation or probation.

Mr. LYNCH. I see. All right. Well, again, Ms. Hartling, Mr. Root, very sorry for you—Mr. Root, do you have anything else you want to add to that in terms of any contact with ICE or Federal authorities or their inability or unwillingness to do so?

Mr. ROOT. I had one gentleman from ICE when we were dealing with the Omaha Fugitive Task Force by the name of Jake, and he was 100 percent great, you know, trying to give me some information. He had—if they catch this killer of my daughter, the sheet where they—if they tell where he has hearings, that type of stuff. And he was going to hand-carry it out and have me fill it out, and whoever his superior is did not that want to happen and it came in the mail. And I just asked him, I said, are—doesn't he want to deal with me? You know, they dropped the ball again.

Mr. LYNCH. Yes.

Mr. ROOT. And then probably about a month later I'm trying to get some answers. I had some contact numbers from Jake up to the Minneapolis-St. Paul area, and a couple of his supervisors called back, and basically it was just general information about the same thing as Sarah Saldana. And then 2 days before I came here, Sarah's advisor had called, said she wanted to reach out to me. I told them I wasn't interested, you know, and a day or two later wanted to know after the testimony, and I said no. I mean, what part of no don't you get? No means no.

Mr. LYNCH. Yes.

Mr. ROOT. That's it. Thank you.

Mr. LYNCH. Okay. Thank you for your testimony. I see my time is expired. Again, I thank the witnesses.

Ms. HARTLING. Thank you.

Mr. LYNCH. I yield back.

Chairman CHAFFETZ. Thank you. We will go to the gentleman now from Florida, Mr. DeSantis, the chairman of the Subcommittee on National Security. I will recognize him for 5 minutes.

Mr. DESANTIS. Well, Thank you, Mr. Chairman. And thanks to the witnesses. You have my sympathies. This is just a terrible thing. And the thing is, is what really gets me, it was preventable. Had our government simply done its job, its core duties, you guys would have your loved ones here today.

And I appreciated, Ms. Hartling, in your testimony pointing out that this is happening across our country. And I was in law en-

forcement a time as a prosecutor, and if it is just some random American commits a crime, we want to prevent it, but when you have somebody in custody and you release them, whether they are early release as a criminal in the normal justice system or here, in this case people were here illegally and don't have a right to be here and have committed crimes, you are putting the public at risk. And so it is just very, very frustrating.

And I was disappointed in Director Saldana trying to say this is just political banter. It is not political banter. These are lives that are at stake, and this is a government that is not fulfilling its duty.

What was your view, Ms. Hartling? I mean, when you hear that being dismissed as political banter, how did that make you feel?

Ms. HARTLING. I couldn't believe it, let's put it that way. I found it hard to believe that that came up.

Mr. DESANTIS. Mr. Root, how did you feel about that?

Mr. ROOT. I don't know how you can be so incompetent and still keep your job.

Mr. DESANTIS. What about the excuses that you hear, well, we got a lot of factors to consider or this or that, how does that make you feel?

Ms. HARTLING. That's the worst part because I know in my heart and my family and everybody that loved Casey that—I forgot where I was going with this. What was your question again?

Mr. DESANTIS. Well, just when you hear the different excuses about why we can't do this or —

Ms. HARTLING. Oh, yes, that —

Mr. DESANTIS.—we have to release people, how does that make you feel?

Ms. HARTLING. That's the first time I said she was—Casey was killed last June. When I heard that he was an illegal alien and he was supposed to be deported three times, I said to myself, I said out loud, I want to make it to Washington, D.C. one day. And I did, and I'm very happy about that because it—I don't see anything happening, any changes happening, you know, with our deportation rules and enforcement of them, you know, so this doesn't happen. I mean, he got—he was supposed to be deported three times, and he got let go the same day the last time, the—when he—before he killed Casey. He was let go the day he got out of prison and ICE had him and let him go that exact same day. So it's very frustrating.

Mr. DESANTIS. How about you, Mr. Root?

Mr. ROOT. Well, several times I saw her hold the book up. I think, you know, it comes down to common sense, you know? I mean, in my case you got a homicide, you're going to let that person go with priors? Are you nuts? Just common sense.

Mr. DESANTIS. Yes, I agree. I think that showing a statute book that says these are mandatory removals does not then mean anything not in there means you should let them. You still have the authority to hold people, and when the public safety is at risk—and the frustrating thing is is that maybe we do need to do some reform in the Congress, but a lot of this, there are tools available right now that the executive branch isn't using. I mean, if some of these countries aren't taking these folks who have committed

crimes, we have things that we can do through the State Department. They have never attempted that one time.

Ms. HARTLING. Right.

Mr. DESANTIS. Not once.

Ms. HARTLING. Right.

Mr. DESANTIS. And so basically, we are going to continue to see—and the list of criminal offenses that you see—and this is what ICE gives us—and it is really startling to see the type of things—so these are all, in every instance people that are not here lawfully, and you have sex assault, kidnapping, homicide, arson. I mean, it is a terrible, terrible list, and I feel for you. We on the committee on the subcommittee, on the full, we think it is a very important issue. We are going to continue to do what we can do. If that means legislative changes, we need to do it, but the executive branch has got to take this seriously.

I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from Pennsylvania, Mr. Cartwright, for 5 minutes.

Mr. CARTWRIGHT. Thank you, Mr. Chairman. And, Mr. Root, thank you for your testimony and —

Mr. ROOT. You bet.

Mr. CARTWRIGHT.—I did want to follow up with you because we were talking about your daughter's case earlier. And I didn't realize that you are passing a petition against the judge who set the bail so low —

Mr. ROOT. Yes, sir.

Mr. CARTWRIGHT.—for the killer, and what I read from news reports, and I want to get your take on it because —

Mr. ROOT. Sure.

Mr. CARTWRIGHT.—you can't always trust the news, it said that the prosecuting attorney, the Douglas County attorney admitted that it could have been handled better, and that basically we were dealing with an offender who had committed previous offenses and who had skipped out on court appearances on previous occasions. Am I getting that right?

Mr. ROOT. That is correct. I believe he had a—he was going the wrong direction on a street before, I think he didn't have a child seat-belted in and a couple other—he had two other times where he was supposed to show up for court and he did not.

Mr. CARTWRIGHT. So my colleague —

Mr. ROOT. Prior to my daughter's death.

Mr. CARTWRIGHT. Right. Right. And my colleague Mr. Gowdy pointed out—and he was a prosecutor for many years—is there is really only two issues in front of a judge when you are setting bail is danger to the community and probability of a flight risk. But here is a guy that had exhibited not the probability but the certainty that he would be a flight risk, and then add to that that he was an undocumented illegal immigrant. That is like walking into court with a stamp on your forehead that says I am a flight risk. Incarcerate me at a very, very high bail.

And so, you know, I can see being mad at the judge, but it sounded like the prosecution didn't lay that out, according to the news reports. Were you there for that?

Mr. ROOT. I was not. I mean, I don't know what was communicated. You know, when he got his bond, we were actually burying my daughter, you know, so we didn't go the pretrial. I spoke with Officer Swanson. Both of them—a lot of them officers I dealt with day and night shift daily, and they took it real personal. I mean, they all did their job. To me and my family, you know, whatever you do for your job, whether you're a judge, ICE, whatever, you should be accountable for what you do, you know. If I—I'm a pipe-fitter. If I put in pipe that falls down and kills somebody or leaks, I don't have a job.

Mr. CARTWRIGHT. Right.

Mr. ROOT. So from my understanding is they're saying he didn't have all the information but he didn't ask for it either. But with a name Eswin Mejia and having a homicide, maybe—wouldn't you want to do some leg work? He was in jail for 4 days. You wouldn't do some research on him before you just hurry up and set the bond instead of just running him through?

Mr. CARTWRIGHT. Right. Do you fault the county attorney for not putting that information in front of the judge?

Mr. ROOT. I would say yes, too. Yes. I mean, it's at all levels, you know, city level, Federal level, yes.

Mr. CARTWRIGHT. Well, again, thank you for being here and —

Mr. ROOT. You bet.

Mr. CARTWRIGHT.—hopefully, we do learn something —

Mr. ROOT. You bet.

Mr. CARTWRIGHT.—from all this.

Mr. ROOT. I'm sorry. The same judge had a bond of \$2 million, too. It was just last week when my ex-wife Michelle was there, same judge.

Mr. CARTWRIGHT. Ms. Hartling, again, thank you as well for being here.

The man who killed your daughter unquestionably should have been deported. That is why ICE put him on the deportation list, but as we know, that didn't happen. And you deserve an answer as to why —

Ms. HARTLING. Yes, yes —

Mr. CARTWRIGHT.—it didn't happen.

Ms. HARTLING.—I do.

Mr. CARTWRIGHT. November 24 last year Senator Blumenthal, Senator Murphy, and Representative Courtney, who you heard from here today, wrote a letter to the Department of Homeland Security inspector general—there are inspectors general that serve as watchdogs over Federal agencies—asking for an investigation. And in that letter the members wrote, "It appears that ICE could and should have taken simple additional steps that might have resulted in Jacques being repatriated and therefore never given the opportunity to murder Casey Chadwick." Ms. Hartling, I assume that you support that letter?

Ms. HARTLING. Oh, yes.

Mr. CARTWRIGHT. Okay. And on January 12 the inspector general sent a memo to ICE announcing that they had agreed to this request and were initiating the investigation. Were you aware of that?

Ms. HARTLING. I knew that the investigation is still ongoing.

Mr. CARTWRIGHT. Okay. So since then, we on the committee have obtained some additional details about your case, and the information indicates that Haitian officials repeatedly, repeatedly said they would accept Mr. Jacques, and then they reversed their decisions over and over again at the last minute. In fact, in one instance, these Haitian officials even approved a manifest that had Mr. Jacques listed to board a flight to Haiti, but they pulled it back at the last minute. And that happened October 10, 2012.

Ms. HARTLING. Right.

Mr. CARTWRIGHT. And you were familiar with that?

Ms. HARTLING. Yes.

Mr. CARTWRIGHT. Okay. So the letter from Senator Blumenthal, Senator Murphy, and Representative Courtney also asks the inspector general to examine what could be done “to overcome the objections of the Haitian Government to the removal of this individual.” And I assume you support this part of the investigation

Ms. HARTLING. Yes.

Mr. CARTWRIGHT.—as well?

Ms. HARTLING. Yes.

Mr. CARTWRIGHT. Well, again, thank you all for being here. And my time is up so I have to —

Ms. HARTLING. Thank you.

Mr. CARTWRIGHT.—yield back.

Mr. MEADOWS. [Presiding] The gentleman’s time is expired. The chair recognizes the gentleman from North Carolina, Mr. Walker, for 5 minutes.

Mr. WALKER. Thank you, Mr. Chairman.

Today is about six names, what it boils down to, the name of Marilyn Pharis, Sarah Rae-Ann Root, Casey Chadwick, and the people who took their lives: Victor Ramirez, Eswin Mejia, and Jean Jacques.

Now, what I am impressed with is, Ms. Hartling, Mr. Root, you are willing to relive this situation over and over again, many questions, and I am sure you don’t want politicized or exploited. Yet at the same time, Mr. Root, Ms. Hartling, I have got the same question. What is it that drives you to keep fighting for you lost loved one? Why are you doing this?

Mr. ROOT. Well, if it changes the life of one person, it’s worth it. You know, I know if you don’t say nothing and do nothing, nothing gets done. You got to be vocal on what you want to do and how you feel. I was brought that—brought up that way, and that’s how I feel. My whole family’s that way.

Mr. WALKER. So whatever the sacrifice is —

Mr. ROOT. It doesn’t make a different —

Mr. WALKER.—you’re willing to take on.

Mr. ROOT. What do you live for, your kids, don’t you?

Mr. WALKER. Absolutely.

Mr. ROOT. I have one kid left.

Mr. WALKER. Thank you, Mr. Root.

Mr. ROOT. It’s my only daughter.

Mr. WALKER. Ms. Hartling?

Ms. HARTLING. Yes, I agree with—exactly with what he said. Casey should still be here. There’s no doubt about that. She should

still be here. I shouldn't be here. I shouldn't belong to a group that nobody wants to join. And I'm glad he—that he's guilty, he was convicted.

Mr. WALKER. Sure.

Ms. HARTLING. So that's a big relief. But having to go over and over it in your head —

Mr. WALKER. I want to compliment the strength that you guys are exhibiting. And Chief Martin, for you to take up the cause, and of course, congratulations, December, as far as being appointed full-time chief there. And a lot of that is due to your many years of experience. I have done a little reading on your background, very impressed with the background for what you did with the sheriff's department and the gang-related stuff, that you have been fighting this fight for a long time, so you have seen it firsthand.

I was very impressed that you are willing to call it out what it is. I believe that you made a quote, said I think this is a national issue. I think it starts in Washington, D.C., with this administration that we see and their policies. I think you can draw a direct line over to Sacramento with the policies. And you talk about AB 109, prop 47, and you made this quote. You said, "And I am not remiss to say that from Washington, D.C., to Sacramento there is a blood trail into the bedroom of Marilyn Pharis." Do you still believe that?

Chief MARTIN. I do, sir.

Mr. WALKER. Can you expound just for a moment why, why you feel that way. Why are you that passionate about it?

Chief MARTIN. Well, you know, we on the local level are really feeling the total brunt of all this. You know, we talk about the national, we talk about the State, but, you know, it's every police officer that goes to all these crime scenes. And it just sunk in that this was so, as I stated earlier, preventable. He was arrested six times

Mr. WALKER. Yes, over —

Chief MARTIN.—in 15 months.

Mr. WALKER.—15 months, yes.

Chief MARTIN. In 15 months.

Mr. WALKER. Yes.

Chief MARTIN. And it's catch and release, catch and release. All right. Now, if they're misdemeanors and—there—two of those were felonies and they're dumbled down to a misdemeanor, I still think ICE ought to look at those cases and say, okay, he might have, you know, went and said I'll go ahead and take the misdemeanor plea bargain —

Mr. WALKER. Right.

Chief MARTIN.—but I think we ought to look at the original case and what it is if it's a felony.

Mr. WALKER. Of course. Yes.

Chief MARTIN. Yes.

Mr. WALKER. What does it do the morale of the good men and woman that you lead when they see this kind of situation where they're working, putting themselves in danger, six times out of 15 months? Speak to that if you would, please?

Chief MARTIN. Well, the Santa Maria Police Department is a great police department, and hired 40 new police officers in the last

3-1/2 years. They're dedicated, they come to work every day, and I just think they realize that something needs to be done at a higher level. They all need that.

Mr. WALKER. And you know that by sticking your neck out like this, you're going to get all kinds of innuendos and name-calling and everything else. I commend you for being willing to fight this fight because I think it is going to make a difference in the future, all of you.

I had several questions. I may have time for one I at least want to get to for Mr. Burbank.

Mr. Burbank, do you agree with the job Director Saldana is doing at the Immigration and Customs Enforcement department?

Mr. BURBANK. The system is broken on both ends.

Mr. WALKER. Okay. Does she have a responsibility for some of the decisions that she is making?

Mr. BURBANK. Absolutely.

Mr. WALKER. Okay. I have got a specific question for you. As you previously testified before the House Judiciary Committee in opposition to a bill that would make criminal alien drunk drivers deportable. How do you explain that? And I am not trying to add histrionics to this case today, but how do you explain this to families that that shouldn't be to that level of criminal offense?

Mr. BURBANK. The criminal offense should be equal under the law. So if you are a citizen, if you are a visitor to the country, or if you are undocumented in the country, they should have the same due process that anyone is entitled to the in the United States. And that's what I firmly believe in my job.

Mr. WALKER. But see, that is a flawed argument. I heard that today. You said, listen, aliens don't have as many criminal background or acts as the normal population. My point is if they weren't here to begin with, there would be no criminal acts from them. Is that not true?

Mr. BURBANK. You have a point.

Mr. WALKER. Thank you. I yield back. I see I am over my time. Thank you for your time. I appreciate that.

Chairman CHAFFETZ. I now recognize the ranking member, Mr. Cummings, for 5 minutes.

Mr. CUMMINGS. What were you going to say?

Mr. BURBANK. I was just going to say we've identified many flaws within the criminal justice system that are not necessarily directly related to immigration status.

Mr. CUMMINGS. Okay. As I said to you, Ms. Hartling, and to you, Mr. Root, I really do thank you for being here.

Mr. ROOT. You bet.

Ms. HARTLING. Thank you.

Mr. CUMMINGS. And, you know, the Government Printing Office prints the records of these hearings, and you know, one of the things that I noticed about myself—sometimes you can learn stuff about yourself when you go through stuff—is that I never wanted anybody to forget my nephew. You know, I didn't want him to be like a flash and then it is like he didn't exist.

And since a record is being made here that is a permanent record, I wanted to give you an opportunity to say anything special about your loved ones. Ms. Hartling?

Ms. HARTLING. Oh, now?

Mr. CUMMINGS. Yes, you.

Ms. HARTLING. Oh. Casey was a spitfire. Everybody loved her. She was a tiny little thing and —

Mr. CUMMINGS. Was she like you?

Ms. HARTLING. Yes.

[Laughter.]

Ms. HARTLING. She was like me except she —

Mr. CUMMINGS. How did I guess?

Ms. HARTLING. She is not as tall, though. She was very short, right. My—I have two daughters that are 5'1". That's Casey and my oldest, and my other daughter is 17. She's as tall as me. But all my other—my other two daughters are short so—but she was—Casey wouldn't put up with any wrongdoings or anything. Casey was—she was a fighter, and that's why she had so many defensive wounds on her and everything because she fought. She fought back.

And—but she was great. She was—we talked every single day. I talked or texted—she talked or texted me every single day. If there was a car accident on the highway, because I'm a lousy driver, she'd call me on the phone and—to make sure that it wasn't me in the accident every time. And I would—sometimes I'd just answer the phone, I'm home, Casey. It wasn't me.

So she just—she was just a very caring, loving 25-year-old beautiful girl with her whole life ahead of her, and now she's gone.

Mr. CUMMINGS. You know, you said something that kind of caught my ear, and you said after it happened you wanted to come to Washington.

Ms. HARTLING. Yes.

Mr. CUMMINGS. And you said these words, you said it made me happy to be able to come.

Ms. HARTLING. Yes.

Mr. CUMMINGS. Sometimes I think we who sit in these chairs don't realize the significance of these kinds of moments. Can you explain to me why you said that?

Ms. HARTLING. Because I felt that I could contribute my story about my daughter and how he was supposed to be deported three times, and you know, so ICE and the Federal Government need to—I wanted to just say what I wanted to say, that it was wrong and they need to have more steps to take or whatever they do to detain an illegal alien who may—did a heinous crime.

So he obviously had already done that before Casey. He had already—he was acquitted of killing one guy and he attempted murder the guy's girlfriend. So he was already a—you know, he was already a criminal. And when he got out of jail and I just—when I found out that ICE let him go the same exact day, I was like that doesn't make any sense to me.

Mr. CUMMINGS. Yes. You know, one of my favorite sayings is that out of pain comes one's passion to do their purpose.

Ms. HARTLING. Exactly.

Mr. CUMMINGS. Pain, passion, purpose. Mr. Root, can you tell us about your daughter?

Mr. ROOT. Well, my daughter, she's just a lot like Mrs. Hartling's daughter. She was small but she was a little spitfire. You know,

you always knew where you stood with her, just like my whole family being vocal. But, you know, she was very loving, very smart, very beautiful, very caring. She was passionate and willing to help people all the time. She was—like I said, she just graduated with a 4.0 at—and then she worked at Walgreen's, too, while she wanted to continue her master's. And then people, you know, need something, she was always willing to help somebody, you know, at the drop of a dime, just a good-hearted person, you know?

Enjoyed doing a lot of family things, you know, hunting and fishing. She was going to hunt this year with me. She goes, Dad, you know, you're going to be pissed when I shoot on bigger than you. So I bought her a shotgun and, you know, them aren't in the cards. But, you know, she just was—she was real active in soccer when she was younger, she used to go fishing with me, be on the boat. If we're not catching no fish, she'd want to steer. And just a real joy, you know. We never had problems with either one of our kids. It's just—it's a lot to swallow in, you know, but I'll see her again.

And, you know, you don't want your kids to die in vain. You've got to speak up for you believe in. And it's hard to do but, you know, myself and my family, like I said, feels from a—from the local to the Federal level, you know, it's—the ball's been dropped everywhere, and everybody should be held accountable. Until my baby girl gets justice, I'll be here.

Mr. CUMMINGS. You know, there is a song that I love so much. It says the time we shared will always be. The time we shared will always be. And, you know, as I listen to you, you know, I think it is very important that we put faces. That was one of the reasons I wanted you to talk about them —

Mr. ROOT. That's fine.

Mr. CUMMINGS.—to put faces. I mean, people—you know, we get to a point in our nation and in our world where things happen to people and it is just collateral damage. It is like it is not a human being, a family behind, the people mourning, feeling sorrow, you know, and as I say mourning for things that could have been.

Ms. HARTLING. Yes.

Mr. CUMMINGS. And so I just wanted to—I appreciate you all sharing.

And, again, there are definitely some problems here that we are going to try to solve. And I agree with the other side. I don't think—to use the word political banter, I thought that was not appropriate. It is about trying to solve problems and trying to make it so. And I think this would be—your aim of being here, trying to make sure that this doesn't happen to somebody else's daughter

Mr. ROOT. Yes, sir.

Mr. CUMMINGS.—or somebody else's cousin or sister or friend or fiancé. So, again, I want to thank you all for being here.

Ms. HARTLING. Thank you.

Mr. CUMMINGS. And when you talk about your daughters, I can tell you, when you put the personal side to it, I think it helps us when we are trying to resolve these problems to just keep in mind, you know, this is for two wonderful, awesome spitfire—as you have said—young people.

Ms. HARTLING. They probably would have been friends.

Mr. CUMMINGS. Yes. Thank you all. Thank you very much.

Ms. HARTLING. Thank you.

Mr. ROOT. You bet.

Chairman CHAFFETZ. Thank you. I now recognize myself.

Again, I love how Elijah Cummings puts his heart into it and cares, and I think we all do. I don't think this is a partisan issue. But there are public policy issues that we have to deal with.

And, Mr. Root, I wanted to put up a picture, if it is all right with you, of Sarah. This is your daughter there. How long ago was that picture?

Mr. ROOT. She graduated the 30th of January. She died January 31. That night, her—after graduation during the day she went out with her mom and her mom's side of the family and they had something to eat, and I was helping a friend do some work and I asked if she wanted to have steak and crab legs with us, but no, she wanted to go celebrate her graduation with a friend. And I had her in the driveway blocked in with my vehicle, and she moved her vehicle—or, I'm sorry, I moved my vehicle. I was parked behind her. And she parked her vehicle on the street, and she walked back up after parking her vehicle and hugged me and gave me a big old hug, and it was like a death hug. You know, she said I can't go nowhere without telling you I love you, Dad, and that's the last time I seen her alive before I identified her.

Chairman CHAFFETZ. Well, you know, the strength that you exemplify here is just amazing to me. I have long said that it is ordinary people doing extraordinary things that I think I am most impressed with. And people wake up and something happens and they don't think they are going to be sitting in this situation, and here you are testifying before Congress.

And I want you to know in your heart it does make a difference and that it is incumbent upon all of us to learn those lessons. As clearly and succinctly as you can, the person that is suspected of committing this—or that committed this murder, what had this person done previously —

Mr. ROOT. Well —

Chairman CHAFFETZ.—that you in your mind justifies deportation?

Mr. ROOT. Well, first of all, he was 16 or 17 when he was—15 or 16 was he identified in Arizona, I believe, and he was released to his brother, who was another illegal. You know, they—to me, they should have been both deported at that time. You're both entering the country illegally, you know, that's—there's two. If he would have been deported, we wouldn't be in this boat right now. And then the traffic offenses he committed where he was going the wrong way and didn't—failure to show up for that, I think, and he might have had a couple other—I know he had one where he didn't seatbelt a child in. I mean, I don't have the information right in front of me. I know —

Chairman CHAFFETZ. Yes.

Mr. ROOT.—he had two or three other times where he was supposed to be in court, and he didn't show up. This was prior to the incident with my daughter. And that—you know, with the judge deal, that should have been all public record. I mean, in this day

and age, you know, you should be able to push that computer and it should show everything.

And prior to releasing him, he was in jail for 4 days, 4 to 5 days. So, you know, they were claiming they didn't know his immigration status and the county prosecutor didn't, you know, give us this information. And to me, you know, that's—you know, if a guy's in jail for 4 days, it gives you plenty of time to figure it out. You know, you should have known 15 minutes pretty much all of it. I mean, I don't do legal work, but it's just commonsense issue, you know. And the way his name is spelled—and I'm not trying to be prejudiced because, like I said, my mother was an immigrant—that would probably tell you that he's, probably, you know, not, you know, just like Bob Smith or something. You know, you might want to do a background check, just common sense, you know.

And not to the point where—even where you're a judge and you're supposed to be highly educated, to protect the public, to me, you've failed.

Chairman CHAFFETZ. And, Mr. Burbank, look, you served the people of Utah for a long period of time. And I may not be able to convince you or change your mind, but I do want to offer another perspective. I want you to be able to offer another perspective, and I want to offer one as well because I believe in the principle of restitution. You steal a candy bar, you put it back or you pay for it. You break a window, you pay for it. You are here illegally, you go home.

And so I think you do—for me personally, I think you do see need for some immigration reform—which I agree with. I think we need to fix legal immigration. I think it is broken. I think we are failing those people who are trying to do it legally and lawfully, but we doing it to the advantage of the people who do break the laws and just blow past the laws of the land. And I think we need to stand more firm as a nation and say we are a nation of laws. And if you break them, there is a consequence to that.

And right now, that is what I don't see happening, and that is what I see time and time again just being dismissed as, well, that wouldn't have really helped.

And there are a couple things that you said that I would like to ask you about. You said we couldn't deport our way out of this, but for somebody who has committed a serious crime who is here illegally—remember, they are here illegally—they committed a crime, they are convicted of that crime, why shouldn't they all be deported? Why should we stand for that?

Mr. BURBANK. If they have committed a serious crime, I don't think there's a police chief in the nation that's not going to tell you they shouldn't be deported or dealt with appropriately. But we should not move outside the laws or the Constitution in order to obtain that. Now, we have unfortunate circumstances where people fall in a category, but our criminal justice system adjudicates this.

Now, if part of that is they are adjudicated and then we fail, I mean there's no question we've identified today that there's failures in the system.

Chairman CHAFFETZ. So would you agree that—see, Immigration and Customs Enforcement is required by law to have a minimum of 34,000 beds, but they are only in the 30,000 range. That means

there is a good at any time 2 to 4,000 people that should be detained, could be detained, that the Congress funded to be detained, and they don't do that.

Now, you don't work for ICE, you don't work for Homeland Security, but can you see the frustration, that there are literally thousands of people that are here illegally as criminal aliens and they are not being detained? Not because they haven't been funded, not because it is not the law, just because the Homeland Security folks and the Obama administration decide, no, that is probably not in our best interest. But why is that not in the best interest of the United States of America?

Mr. BURBANK. If we have identified individuals—interestingly enough, I did work with ICE in order to come up with those people and to try and make the major city chiefs of the United States say, yes, we should deport those people who've committed serious criminal acts.

Chairman CHAFFETZ. Do you think driving under the influence falls to that level?

Mr. BURBANK. I think laws such as that fall into the category that they should be adjudicated as they do with someone else. We've identified a shortcoming. Do you realize there are people driving around in this country now that are citizens that have four and five DUI arrests in the past that we haven't dealt with appropriately either? And so we're looking at a flawed —

Chairman CHAFFETZ. Now, but I am asking you, for somebody who is here illegally and convicted, convicted of a DUI, do you believe they should be immediately deported?

Mr. BURBANK. A DUI is a class B misdemeanor in the State of Utah —

Chairman CHAFFETZ. I am asking you —

Mr. BURBANK.—and so —

Chairman CHAFFETZ.—do you —

Mr. BURBANK. No, I do not.

Chairman CHAFFETZ. So you think somebody who is here illegally, drives under the influence, it is in the best interest of this country to leave them in the United States?

Mr. BURBANK. I think it's in the best interest of this country to follow the standards set forth so that you have equal —

Chairman CHAFFETZ. I am asking you what —

Mr. BURBANK.—protections under the law.

Chairman CHAFFETZ. I am asking you what you think the standard should be. I would deport all of them. You commit a crime in this country, you are out of here. Guess what, you did jump to the front of the line. That is the deportation line. So why shouldn't we deport that person?

Mr. BURBANK. Well, this is where you and I absolutely disagree because I think that we have a practice in place and how we adjudicates things, and I think there needs to be some fairness and equity in that system. And when there's not, when we identify people and they have harsher penalties because of the color of their skin or the language that they speak —

Chairman CHAFFETZ. No, wait, wait, wait. I never said anything about the color of their skin. Those are your words, not mine. I never said that. I said they are here illegally. And that knows no

bounds, right? Name a country that doesn't have somebody here illegally. It happens from the entire world. Why shouldn't we deport that person?

Mr. BURBANK. One, I don't think we have the capacity to reach that, and then two, this is the same —

Chairman CHAFFETZ. So you think that saving money is more important?

Mr. BURBANK. No, but what I'm telling you is this is no different than tax code. This is a civil penalty. It's not a criminal penalty enforceable in the State of Utah as a crime.

Chairman CHAFFETZ. This is where —

Mr. BURBANK. You can only be detained and deported for this, you cannot be jailed or fined for being in the country undocumented.

Chairman CHAFFETZ. And you should be deported. That would solve all the problems. That would solve all the problems right there.

My time is expired.

I will now recognize Mr. Grothman of Wisconsin.

Mr. GROTHMAN. Thank you.

I am not going to follow with Mr. Burbank, but my goodness, it is kind of incredible how we have people who don't want to enforce our immigration laws.

I will go with Mr. Martin, Chief Martin. Could you just in general—you have been involved in law enforcement for quite a while. When were you first involved in law enforcement in California?

Chief MARTIN. Nineteen seventy-three.

Mr. GROTHMAN. Okay. So you have seen a lot. Could you describe the difference in the way the immigration laws of this country, say, have been enforced, say, in 1975 and the way it is today?

Chief MARTIN. Well, I can tell you from a perspective in Los Angeles when I worked in the Los Angeles County Jail, we used to have INS agents at the time working inside our jail, so every person that was booked in to the Los Angeles County Jail, they were screened by, at that time, INS, has now become ICE. So there's a change there.

Then, I've seen changes—just through administrations you see the differences, you know, '70s into the '80s, and now we see it to the point where it's—like I testified earlier, it's like catch and release. It's at the point now where we've—at the local level it's saturation, and we're having a very difficult time dealing with it in Santa Maria and other places, too.

Mr. GROTHMAN. Are you seeing that people who would have been deported 40 years ago, today either for the lack of resources or maybe kind of Mr. Burbank's attitude of, you know, we don't care who comes in this country very much—do you see a difference in whether somebody would be deported or not 40 years ago compared to today?

Chief MARTIN. Yes, I do. And what we saw in the '70s and '80s was when you would have one or two convictions, you would normally be deported. Victor Martinez was arrested six times in 15 months, and he was never deported, not even on the list to be deported, so therein lies the actual evidence.

Mr. GROTHMAN. Do you get any feeling—it is to a certain extent a mystery of mine because in my mind, we are ruining our country. And we have had witnesses appear not just in this example but people who represent the border patrol the degree to which—not just this administration but other administrations as well—don't want to enforce our immigration laws at all, which is I think, I as a Republican, we are going to get Donald Trump as our nominee because we have a lot of bad candidates who wouldn't say they would enforce the immigration laws. Did you ever hear why we don't care to enforce our immigration laws anymore? Is there any speculation you have?

Chief MARTIN. Well, the only thing I hear in California is that we need illegal immigration to work the agriculture area, but that does not—that doesn't ring true in Santa Maria. We have many people there who come from different countries under the H-2A laws, and they work there for 6, 7, 8, 9 months and then return. So that argument doesn't seem to really hold water for us.

Mr. GROTHMAN. Okay. Do you feel we ought to do a better job enforcing our immigration laws?

Chief MARTIN. I'm sorry, sir, say —

Mr. GROTHMAN. Do you think we ought to do a better job enforcing our immigration laws?

Chief MARTIN. Yes, sir.

Mr. GROTHMAN. Okay. Do you care to comment on Chief Burbank's comments before?

Chief MARTIN. Well, the only thing I would say, I would like to share with the committee what happened in Santa Maria just 8 weeks ago. We had an increase in homicides for the past year-and-a-half in Santa Maria. Normally, we only have about three homicides a year. Last year, in 21 months—or in 15 months we had about 21 homicides.

Eight weeks ago this day, we undertook an operation that had an impact in these homicides. Along with the FBI, along with ATF, we undertook and we led the investigation. We served search warrants at 12 locations, eight in Santa Maria, some in Bakersfield, some in Ohio and other areas, culminating in the arrest of approximately 16 people. All 16 people are illegal aliens from either El Salvador or Honduras, and they were all booked for multiple counts of conspiracy to commit murder, and there are other murders that we believe we will be able to prosecute them for later on. So that was just 8 weeks ago on March 3.

So, yes, I am seeing a huge increase in some of the problems we're having.

Mr. GROTHMAN. It would seem to me common sense that if you have somebody breaking the law to come here, while there may be wonderful people doing that, proportionately they would be more likely to break other laws, including maybe the laws against murder. Based on your experience in the last 20 months, do you believe that illegal immigrants in Santa Maria are less likely to commit crimes than the native-born?

Chief MARTIN. Are they less likely?

Mr. GROTHMAN. Right. Right.

Chief MARTIN. No, I don't believe that. I think it's proportional. We have a lot of people—Santa Maria has got a 70 percent His-

panic population. Half of my police force is Hispanic or African-American, right, so they're seeing it on all levels also. But I don't think that, you know, they're—the illegals are—that when they are here, many of them, the only way to support themselves—they're not working the fields—they're committing crimes just like Victor Martinez was doing. He didn't have a job. You know, he's hooked on methamphetamines so he makes his living—or he makes his money by stealing.

Mr. GROTHMAN. That, to me, makes sense. So you would say in general—and there is this myth out there. I think I saw it in some of the stuff that Chief Burbank said—that the illegal immigrants are less likely to commit crimes. I mean, my experience just talking to people in law enforcement, common sense would tell you, you are here illegally, more likely to commit crimes. Is that your experience, more likely to commit crimes, you think, people who are here illegally?

Chief MARTIN. No, I don't think—well, let me give you an example. We had—we arrested 500 people for drunk driving, I think it was last year in Santa Maria. Of the 6,000, 500 were drunk-driving cases. I would estimate that about 40 percent were illegal aliens, and I think they only make up about 20 percent of our population.

Mr. GROTHMAN. Okay. Well, that is kind of shocking.

Mr. PALMER. [Presiding] The gentleman's time is expired.

Mr. GROTHMAN. Well, thank you for giving me the extra minute.

Mr. PALMER. The chair now recognizes Mr. Connolly, the gentleman from Virginia, for 5 minutes.

Mr. CONNOLLY. Thank you. Thank you, Mr. Chairman.

Mr. Burbank, I just heard that last statistic, and that is awful misleading. I mean, if you want to go down that road, what percentage of black American men as a total population—part of the U.S. population and what percentage do they constitute in terms of incarcerated adults?

Mr. BURBANK. They are incarcerated at a much higher rate.

Mr. CONNOLLY. Much higher rate. What are we to conclude from that? Don't answer. I would suggest, respectfully, tread very lightly on what you conclude about that.

So the fact that you have got a higher percentage of people who are undocumented who are arrested in a community that has a lot of undocumented people, I don't know what to conclude from that. There could be good and bad things to be concluded from that, including about policing. And I can tell you this. If my police chief were at this table, he would testify that we don't want to essentially federalize our police forces and make them the equivalent of immigration police because we want the cooperation of the immigrant community, including the undocumented immigrant community, in terms of law enforcement.

I can tell you in my community right across the river it was because of an undocumented individual we were able to solve a murder by an undocumented individual. We would never have gotten the cooperation of the day laborer community, in this case undocumented, with our police if we had not had a different kind of policy where we differentiated our local law enforcement function from that of immigration and customs and so forth.

So just a word of caution about that, and Chief, you are more than welcome to comment on that if you wish.

Chief MARTIN. Thank you, Congressman. I have an excellent relationship with the Hispanic community. We have outreach officers that go out into the fields and speak with them all the time. We do have many undocumented people come forward to report crimes.

But the question was do I see an increase or decrease, I'm not sure the exact numbers, but I think it's proportionate, as I said. So

Mr. CONNOLLY. Yes.

Chief MARTIN.—we have B coordinators, we have—like I said, 40, 45 percent of my officers speak Spanish. So I go to every meeting that I'm invited to. So I agree. We're not supposed to be immigration officers, that's not our job —

Mr. CONNOLLY. Right.

Chief MARTIN. But at the same time, we are feeling the impact

Mr. CONNOLLY. Sure.

Chief MARTIN.—of the lack of enforcement at the Federal and State level.

Mr. CONNOLLY. I understand that, too.

Chief MARTIN. Yes, sir.

Mr. CONNOLLY. Yes. Thank you very much.

Chief MARTIN. Sure.

Mr. CONNOLLY. Mr. Burbank, is deportation just sort of the answer to all of our immigration problems here? Let's really up the game on deportation and that will solve everything?

Mr. BURBANK. I do not believe it's the answer personally, no.

Mr. CONNOLLY. Really? Why not?

Mr. BURBANK. I do not believe it's realistic, and in fact, it's an unfair system in which we don't treat people equally across the board. Then the other thing is border issues and everything else. People come back. We need a system that reforms immigration so individuals can come into the country and work, can come into the country and visit, return home, can come out of the shadows and participate in society.

This is not a question of legalization of everybody. This is a question of allowing them to participate so that understand traffic laws, so that they understand the rules, that they can get the treatment that everyone in society—for drug, alcohol, and mental health issues that everyone in society experiences regardless of what their race is or where they may be from.

Mr. CONNOLLY. What is the recidivism rate of deported individuals? I mean, we sometimes act as if deportation is the ultimate answer to a set of problems. But the fact of the matter is, depending on who you are and where you come from, you may illegally enter the United States multiple times even after having been deported, is that not correct?

Mr. BURBANK. That is correct.

Mr. CONNOLLY. And that is because of why?

Mr. BURBANK. I think there is a desire to be in this country. And there are family members, there's many issues, but they do not—studies have shown, conducted by research institutes and univer-

sities across the Nation that show that individuals even in multiple returns are committing crime at a lesser rate.

Mr. CONNOLLY. But even where we have got criminal activity, for example, in northern Virginia where I live, we have had gang leadership that has been deported back to Central America only to have them show up again, you know, 4 to 5 months later, and we had to go through the process all over again.

So sometimes when we are dealing with criminals, they have a criminal network that also serves to re-inject them unfortunately back in this community. And that is a different kind of challenge than simply addressing somebody's status. Would you agree?

Mr. BURBANK. Absolutely. And you've just identified the frustration of police chiefs across the Nation. The system is broken, and until we reform immigration as a whole, we will not be able to get past some of these loopholes that criminals are finding.

Mr. CONNOLLY. I would just say this in my final comment, but I think you just put your—I spent 14 years in local government before coming here and was chairman of my county, was the equivalent of being a mayor, 1.2 million people. And that is my feeling that the Federal Government in some ways, by overseeing a broken system, has forced localities and local communities to deal with the consequences of this broken system. And sometimes, certainly as our two grieving parents here give witness to, it leads to tragedy. We have got to fix this system.

Thank you.

Mr. PALMER. The chair now recognizes Mr. Carter, the gentleman from Georgia, for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman. And thank all of you for being here. I can only imagine the feelings that you have. And please know that you are in our prayers, and we appreciate your courage for being here.

Ms. HARTLING. Thank you.

Mr. ROOT. You're welcome.

Mr. CARTER. Mr. Martin, if I can ask you specifically, Victor Martinez-Ramirez, he was the illegal alien who cared Air Force veteran Marilyn Pharis. He had been arrested by your police department six times in the previous 15 months, is that correct?

Chief MARTIN. That's correct, sir.

Mr. CARTER. Six times in the previous 15 months?

Chief MARTIN. Yes, sir.

Mr. CARTER. And it is my understanding he had been released by the Santa Barbara County Jail only 96 hours prior to doing this?

Chief MARTIN. Yes, sir.

Mr. CARTER. Had ICE issued a detainer for this guy?

Chief MARTIN. Not in this particular case. They did provide a detainer in 2014, but that was the only one we knew.

Mr. CARTER. Mr. Martin, is your city or Santa Barbara County a sanctuary jurisdiction?

Chief MARTIN. No, sir. The city of Santa Maria is not a sanctuary city, never has been. In fact, I have letters from our State manager, which was authored by our city council stating specifically they have never voted for at any time in the past or in the present to be a sanctuary city.

Mr. CARTER. Have you ever contacted ICE previously to request a detainer on someone or on a suspected illegal alien? Have you ever had that experience?

Chief MARTIN. No, sir. What we do is when we arrest someone, the Santa Maria Police Department makes an arrest, we fill out a form that goes with the prisoner to the county jail. The Santa Maria Police Department, we don't have a jail for people to put in. We just have a booking/processing area. And in this form we do check—the officer does—the officer requests an immigration review, and in this particular case for Victor Martinez, we checked yes. So then it would be in the hands of the sheriff's department and ICE for them to go down and make the review.

Mr. CARTER. Okay. And you are not sure what happened after that in that particular case?

Chief MARTIN. No, sir.

Mr. CARTER. Okay. Wouldn't you agree, Chief, that increased communication between local law enforcement and Federal law enforcement would—and Federal law enforcement especially because obviously they are the ones who are responsible for the immigration enforcement, wouldn't you agree that better communication would obviously benefit everyone in this case?

Chief MARTIN. Yes, sir, I would.

Mr. CARTER. And hopefully keep a tragedy like this from happening again? I mean, this is obviously not our best work and could qualify as being our worst work.

Mr. Chairman, obviously, I am appalled, as we all are, at what has happened in this particular case and what has happened in many cases like this. And, you know, especially when you had a veteran who was murdered at the hands of an illegal alien who was in police custody only hours before, only hours before this person was in police custody.

So I want to bring to your attention, Mr. Chairman and other members of the committee, a bill that I have. It is H.R. 4007, the ALERTED Act, and it helps to increase communication at all levels of law enforcement, and it ensures that DHS and that ICE are responsive to those inquiries just like Mr. Martin just indicated. And that is that they will work to make sure that these illegal aliens are indeed checked on and that our immigration laws are enforced.

Again, it is H.R. 4007. That is a bill that I am sponsoring. It is called the ALERTED Act. Hopefully, it will improve communication between local law enforcement and between the Federal Government. That is what we need more of.

Again, thank you for being here, and again, our condolences. Thank you so much. We appreciate your courage.

Mr. Chairman, I yield back.

Mr. PALMER. I thank the gentleman from Georgia.

I now recognize myself for 5 minutes.

And first of all, I want to thank the ranking member for asking you to tell us about Casey and Sarah, and you can, Mr. Martin, tell us a little bit about Marilyn Pharis. We don't want these people to just be statistics. And I watched as people wiped tears. As the dad of two daughters, I can't imagine what you have been through. We all of us are very, very grateful for you coming. This has been very helpful.

Mr. Root, is it true that Mr. Mejia's bail was less than the cost of Sarah's funeral?

Mr. ROOT. Yes, it is.

Mr. PALMER. Do you know whether or not Mr. Mejia had a driver's license?

Mr. ROOT. He did not.

Mr. PALMER. Do you know whether or not he ever had one?

Mr. ROOT. I do not know that fact. I know there's no insurance. The vehicle that killed my daughter, I'm not even sure the true owner of that vehicle. It's in the Omaha impound lot right now. I heard it was from another illegal roofing contractor from Wichita, Kansas, but, you know, I—they won't let me take it out of there to get it tested for prints or whatever you want to say. So —

Mr. PALMER. Okay. Mr. Martin, I listened to Mr. Burbank's response to Chairman Chaffetz about deporting drunk drivers, and frankly, that didn't go over well with me. But I'm going to ask you, do you think we have enough legal citizens that drive drunk without adding illegal immigrant drunk drivers to that number?

Chief MARTIN. Yes, sir.

Mr. PALMER. Do you think it makes sense when we know that they have record of drunk driving—and I would like for you to answer that again. You didn't have your microphone on. I ask you if you think we have enough without adding illegal drug drivers to that —

Chief MARTIN. Yes, sir, we have enough.

Mr. PALMER. Do you think it makes sense when they are picked up for drunk driving since they are here illegally, regardless of race, national origin, sex, gender, does it matter—or since they are here illegally and they are breaking our laws, does it make sense for them to stay here?

Chief MARTIN. No, sir, it does not. I view the vehicle just as I would a pistol.

Mr. PALMER. And in Sarah Root's case it was just as deadly as a pistol, wasn't it?

Chief MARTIN. Yes, sir.

Mr. PALMER. Mr. Burbank, in your last comments, you seemed to imply that the American taxpayers should pay for substance abuse treatment for people who are here illegally. Is that what you are saying that we need to do as a nation?

Mr. BURBANK. I don't believe I said that as regards to that —

Mr. PALMER. I believe you did.

Mr. BURBANK.—and the taxpayers. I said that we have demonstrated through restorative justice programs in which substance abuse treatment—that is the direction that we bring people out and they do not reoffend. We are more effective than we are with incarceration.

Mr. PALMER. Okay. But —

Mr. BURBANK. What I said.

Mr. PALMER.—you said that in the context of illegals, and if they are here illegally and they are in these substance abuse programs, you are pretty much saying that we need to invest American taxpayer dollars in providing substance abuse for people who are here illegally. Does that not create another incentive for them to come here illegally?

Mr. BURBANK. We have people who exist in this country in all different forms and stats —

Mr. PALMER. Listen, you are trying to —

Mr. BURBANK.—so I —

Mr. PALMER.—turn this into something it is not, and I am not going to let you do it. And the chairman would probably pull me out of the chair, but we are sick of this. You have got three people here representing families who have lost loved ones. We know that there were 124 people who are here illegally who have committed murders. Just this month in my home State of Alabama they have arrested three illegals, two Hondurans and a Mexican, who were here to do a home invasion, and one of them said had the family been there with a firearm, he would have shot them.

They were arrested, Mr. Martin, by local police in Oxford, Alabama, who were alert enough to see that they were carrying weapons and arrested them. They had prior convictions as well. One of them was carrying a pistol stolen from Arlington, Texas. One of them had a felony that goes back to 2008. It is insane. It is criminal. And you are sitting next to people who have lost two of the most precious things they will ever lose in their lives. And frankly, I find it offensive.

Mr. BURBANK. May I respond?

Mr. PALMER. Yes, you may.

Mr. BURBANK. So I sympathize with these individuals. In fact, in the year 2000, my friend and colleague lost his life at the hands of an undocumented immigrant. I would not want that person caught who has never been found—he was held in custody and released, but I would not want that person found at the expense of someone else's constitutional rights or civil rights.

Mr. PALMER. We are not talking about constitutional rights, and I think you have crossed a line in trying to imply that people who are here illegally have the same rights as people who are here legally, who are citizens of the country. And we are not denying people due process. We are not denying them access to the justice system. We are trying to treat people as humanely as we possibly can, but the fact of the matter is I don't care if it was just one in the last 10 years, it would have been one too many if it were my daughter or my son.

I yield back and recognize Mr. Grothman for 2 minutes.

Mr. GROTHMAN. I don't even need 2 minutes. I just wanted to do a follow-up with Chief Martin. I would like to thank you for being here today. I see Congressman Connolly had left. I just did want to respond a little to his comment. I thought it was completely out of line. I think the implication was completely unwarranted without anything to back it up.

I appreciate what you are saying, and I think we see, both from Representative Connolly and former Chief Burbank, kind of the mentality that we have got to get over in this country if we are going to save our country because we are going to lose our country unless we begin to take these immigration laws seriously. We have too many people thinking of any ridiculous pretext under the world not to do the obvious. And we have seen that here today.

But I just would like to thank Chief Martin and thank all the other law enforcement officers around the country who, I think, are

doing a tremendous job. I think it is unfortunate that so many people want to disparage them. That is all.

Mr. PALMER. I now recognize the ranking member for a closing statement.

Mr. CUMMINGS. Again, I want to thank all of you for being here.

And I think when we look at this total problem, we have to understand that there is a lot of pain, and rightfully so. And at the same time, when our nation was put together, the Founding Fathers tried to create all kinds of balances so that we keep our people safe, make sure that there is equal protection under the law, and a true sense of justice. And sometimes, these things seem to kind of collide, but I am convinced that we can do better. I mean, as I heard Director Saldana talk, she was clear that there are some things that we need to do, we as Members of Congress need to do perhaps in looking at the code and figuring out ways we can help them be more effective and efficient in what they do.

No system, unfortunately, is perfect. I practiced law for many years, and I saw a lot of things that will go with me in a negative way until I die. But I think what we have to do as Americans is constantly reach for that more perfect union. Whether we will ever get there, I don't know, but we need to be striving for it every day.

And there are so many people who—and I want us to always be careful, though, and I go back to my opening statement, that we don't just label a group of people because I think that is very dangerous, too, because when we turn against each other, then I think it is almost impossible for us to truly pursue that more perfect union. So that means we have got to try to address the issues that come out of this. We have got to look at ICE and make sure that ICE is doing what it is supposed to do, and all the other agencies. And where there are places that need to be strengthened, we need to do that.

But in the end, we want to try to make sure, to all of you, that these kind of things don't happen again. And again, we may only be able to minimize the possibility because, Chief, as you know, things happen. Even when you have the laws, people find a way to get around them. You know that because I know you have been in this business long enough.

But again, your testimony has been very helpful to all of us. And I really—from the depths of my heart, I thank you. I really do. And I think somebody said it a little bit earlier, you know, you never get over the loss. You don't. You just learn to live with it. You learn to live with it. And you have learned—you are learning to live with it because it is still new. And the idea that you are able to do what you are doing, to come here and speak for, for your loved ones, and, like you said, Ms. Hartling, I think you said something to the effect that I don't want to see her having died in vain. You want to see something come out of this —

Ms. HARTLING. Yes.

Mr. CUMMINGS.—to help somebody else, and that is one of the greatest ways you can deal with it. And we really appreciate it. And you came to the right place.

Ms. HARTLING. This is where I wanted to be.

Mr. CUMMINGS. Well, we are glad you came, all of you. Thank you very much.

Ms. HARTLING. Thank you.

Mr. ROOT. Thank you.

Mr. PALMER. We thank all of our witnesses for their appearance here today. If there is no further business, without objection, the committee stands adjourned.

[Whereupon, at 2:59 p.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

ERO LESA Statistical Tracking Unit

For Official Use Only (FOUO)/Pre-decisional

FOIA 2015-ICFO-95524

<http://judiciary.house.gov/wp-content/uploads/2015/04/fy14-criminal-releases-total-crime>
 FY2014 Convicted Criminal Releases data is through 09/30/2014 (IIDS v1.16 run date 10/30/2014; EID
 Charge history data is updated through 03/23/2015 (IIDS v1.16 run date 03/26/2015; EID as of 03/23/2

The following table provides a breakdown of the types of specific criminal convictions associated with
 placed in a non-custodial setting in Fiscal Year 2014. ICE custody excludes those aliens housed in Offi
 (ORR)/Mexican Interior Repatriation Program (MIRP) facilities and U.S. Marshals Service Prisoners.

The criminal convicted charges represent the individuals' entire criminal conviction history as extracted
 Screen.

Please note that an alien may have more than one criminal conviction. As such, the total number of crim
 than the total number of criminal aliens released from ICE custody.

Breakout of FY2014 30,558 Convicted Criminal Releases By Criminal

Conviction Category
Traffic Offenses - Traffic Offense
Traffic Offenses - Driving Under Influence Liquor
Dangerous Drugs
Larceny
Immigration
Obstructing Judiciary, Congress, Legislature, Etc.
General Crimes
Burglary
Public Peace
Assault
Fraudulent Activities
Obstructing the Police
Weapon Offenses
Assault - Domestic Violence
Invasion of Privacy
Stolen Vehicle
Assault - Battery
Forgery
Stolen Property
Assault - Aggravated Assault
Family Offenses
Robbery
Sex Offenses (Not Involving Assault or Commercialized Sex)
Damage Property
Traffic Offenses - Hit and Run
Commercialized Sexual Offenses
Liquor
Sexual Assault
Health / Safety
Traffic Offenses - Driving Under Influence Drugs

Assault - Simple Assault
Flight / Escape
Kidnapping
Threat
Assault - Intimidation
Homicide
Arson
Conservation
Juvenile Offenders
Tax Revenue
Extortion
Gambling
Homicide-Negligent Manslaughter-Vehicle
Smuggling
Embezzlement
Obscenity
Bribery
Homicide-Negligent Manslaughter-Weapon
Homicide-Willful Kill-Gun
Voluntary - Manslaughter
Homicide-Willful Kill-Weapon
Homicide-Willful Kill-Non-family-Gun
Traffic Offenses - Transporting Dangerous Material
Homicide-Willful Kill-Family-Gun
Homicide-Willful Kill-Family-Weapon
Homicide-Willful Kill-Non-family-Weapon
Sovereignty
Grand Total

s.pdf

as of 10/28/2014).

015).

the 30,558 criminal aliens
of Refugee Resettlement

from the Crime Entry

ninal convictions is greater

il Convictions

Number of Convictions
17,831
14,938
10,403
5,501
4,545
3,692
3,008
2,892
2,709
2,689
2,575
2,077
1,874
1,496
1,415
1,362
1,335
1,243
1,235
1,160
1,105
895
800
758
717
506
488
473
440
418

315
275
215
165
160
101
70
56
48
48
46
41
40
39
27
22
19
18
16
15
10
9
4
3
2
2
1
92,347

Breakdown of the Types of Specific Criminal Convictions Associated with Criminal Aliens Placed in a Non-Custodial Setting in Fiscal Year 2015

The following table below provides a breakdown of the types of specific criminal convictions associated with the 19,723 criminal aliens placed in a non-custodial setting in Fiscal Year 2015, based on a variety of circumstances, including by order of an immigration court, to comply with the Zadvydas Supreme Court decision, or as a result of an ICE determination based on controlling law and policy.

Please note that an alien may have more than one criminal conviction. As such, the total number of criminal convictions is greater than the total number of criminal aliens released from U.S. Immigration and Customs Enforcement custody.

Convictions	Number of Convictions
Traffic Offense—Driving Under Influence Liquor	12,307
Traffic Offense	9,811
Dangerous Drugs	7,986
Larceny	3,535
Immigration ¹	3,064
Obstructing Judiciary, Congress, Legislature, Etc.	2,561
General Crimes ²	2,008
Burglary	1,963
Fraudulent Activities	1,880
Assault	1,728
Public Peace	1,659
Obstructing the Police	1,420
Assault—Domestic Violence	1,347
Weapon Offenses	1,317
Invasion of Privacy	1,012
Assault—Aggravated Assault	921
Assault—Battery	912
Forgery	840
Robbery	804
Stolen Vehicle	782
Family Offenses	763
Stolen Property	761
Sex Offenses (Not Involving Assault or Commercialized Sex)	614

¹ Immigration crimes include “illegal entry,” “illegal re-entry,” “false claim to U.S. citizenship,” and “alien smuggling.”

² “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).

Convictions	Number of Convictions
Damage Property	552
Traffic Offense—Hit and Run	394
Liquor	363
Health/Safety	361
Traffic Offense—Driving Under Influence Drugs	354
Commercialized Sexual Offenses	352
Sexual Assault	320
Assault—Simple Assault	229
Kidnapping	216
Flight/Escape	214
Threat ³	134
Homicide	101
Assault—Intimidation	98
Conservation	72
Gambling	56
Embezzlement	50
Arson	41
Tax Revenue	40
Extortion	36
Juvenile Offenders	35
Obscenity	32
Smuggling	28
Homicide—Negligent Manslaughter—Weapon	19
Homicide—Negligent Manslaughter—Vehicle	19
Homicide—Willful Kill—Weapon	19
Homicide—Willful Kill—Gun	18
Bribery	13
Voluntary—Manslaughter	12
Homicide—Willful Kill—Non-family—Gun	9
Homicide—Willful Kill—Non-family—Weapon	4
Traffic Offense—Transporting Dangerous Material	4
Homicide—Willful Kill—Family—Weapon	3
Homicide—Attempt to Commit	2
Homicide—John/Jane Doe—No Warrant	1
Homicide—Negligent Manslaughter—Weapon—Attempt to Commit	1
Total	64,197

³ The “threat” category includes any kind of threat, including terroristic threats.

Note: Convicted criminal charges are defined here as all criminal charges with a Criminal Charge Status of "convicted" or an available conviction date are included in the table above as recorded in ICE's data system.

How many criminal aliens (convicted criminal released -- i.e., not deported -- by ICE) have been released nationally broken down by location of release?

In a number of circumstances, an alien may be released from U.S. Immigration and Customs Enforcement (ICE) custody due to the decision of an immigration judge or as otherwise required by law or precedential decision. In some cases, the Department of Homeland Security (DHS) has authority to set custody determinations pursuant to controlling law. The release of aliens on bond is clearly provided for by statute, and it would not be permissible for DHS to categorically prohibit the release of certain aliens who are not subject to mandatory detention under Immigration and Nationality Act (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 an immigration judge, who may reduce the bond amount imposed, ameliorate conditions of release, or order release without bond.

Breakdown of the Criminal Aliens Placed in a Non-Custodial Setting in Fiscal Year 2013

State of Detention Facility Tied to Latest Release	Count of Aliens
CA	8,597
TX	6,073
AZ	2,084
FL	1,967
VA	1,647
GA	1,643
WA	1,453
CO	1,360
NJ	1,318
NY	1,109
IL	1,003
PA	790
LA	787
MN	686
OH	466
MA	446
MD	404
NE	395

State of Detention Facility Tied to Latest Release	Count of Aliens
IA	239
OK	224
WI	179
KS	173
IN	167
NC	102
NM	99
TN	88
SC	77
CT	56
NH	42
ID	37
SD	35
DE	22
HI	20
AR	19
PR	18
ND	12

State of Detention Facility Tied to Latest Release	Count of Aliens
KY	392
NV	362
AL	310
UT	295
OR	284
MI	265
MO	248

State of Detention Facility Tied to Latest Release	Count of Aliens
GU	7
MT	2
ME	1
AK	1
WV	1
MP	1
VI	1

Total	36,007
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Breakdown of the Criminal Aliens Placed in a Non-Custodial Setting in Fiscal Year 2014

State of Detention Facility Tied to Latest Release	Count of Aliens
CA	6,304
TX	5,146
AZ	1,797
FL	1,721
GA	1,468
NJ	1,340
VA	1,300
NY	1,172
WA	1,079
CO	1,072
IL	933
LA	857
PA	660
MN	480
MA	466
MD	456
KY	448
OH	395
NV	347
NE	326
UT	298

State of Detention Facility Tied to Latest Release	Count of Aliens
NC	168
IA	154
OR	142
KS	130
SC	112
WI	91
NM	90
NH	89
TN	78
ID	49
SD	46
HI	45
CT	42
PR	30
AR	17
ND	13
GU	10
DE	8
VT	5
WY	3

State of Detention Facility Tied to Latest Release	Count of Aliens
MI	280
IN	236
MO	234
OK	216
AL	193

State of Detention Facility Tied to Latest Release	Count of Aliens
ME	3
AK	3
MT	3
WV	2
VI	1

Total	30,558
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Breakdown of the Criminal Aliens Placed in a Non-Custodial Setting in Fiscal Year 2015

State of Detention Facility Tied to Latest Release	Count of Aliens
CA	3,777
TX	3,349
AZ	1,224
FL	1,101
GA	825
NJ	1,014
VA	791
NY	646
WA	665
CO	568
IL	752
LA	673
PA	523
MN	348
MA	346
MD	384
KY	408
OH	229
NV	325
NE	171
UT	173
MI	215
IN	137

State of Detention Facility Tied to Latest Release	Count of Aliens
NC	60
IA	91
OR	58
KS	67
SC	69
WI	54
NM	43
NH	44
TN	27
ID	32
SD	1
HI	34
CT	18
PR	23
AR	10
ND	16
GU	4
DE	9
VT	2
WY	1
ME	1
AK	1

State of Detention Facility Tied to Latest Release	Count of Aliens
MO	171
OK	94
AL	147

State of Detention Facility Tied to Latest Release	Count of Aliens
MT	1
WV	1
VI	0

Total	19,723
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Breakdown of criminal alien removals vs. non-criminal alien removals since 2009

FY 2009- FY2014 ICE Removals by Criminality

	2009	2010	2011	2012	2013	2014	2015
Criminal Alien Removals	136,343	195,772	216,698	225,390	216,810	177,960	139,368
Non-Criminal Removals	253,491	197,090	180,208	184,459	151,834	137,983	96,045
Total	389,834	392,862	396,906	409,849	368,644	315,943	235,413

Interior vs. at the border removals since 2009

FY 2009- FY2014 ICE Removals by Border vs. Interior

	2009	2010	2011	2012	2013	2014	2015
Border	151,893	163,627	173,151	228,879	235,093	213,719	165,935
Interior	237,941	229,235	223,755	180,970	133,551	102,224	69,478
Total	389,834	392,862	396,906	409,849	368,644	315,943	235,413

Breakdown of Release Reasons for Criminal Aliens Placed in a Non-custodial Setting, FY 2013- FY 2015

As described in Question 1 above, ICE exercises its detention and release authorities in accordance with applicable law, and immigration judges may review ICE's custody determinations and order an alien's release. In addition, a number of ICE's release determinations are made pursuant to the requirements of *Zadvydas v. Davis*, 533 U.S. 678 (2001), under which 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. This can also occur when a country refuses to issue a travel

document for the individual, including where the United States has limited or no diplomatic relations with a country.

In a number of circumstances, an alien may be released from ICE custody due to the decision of an immigration judge or as otherwise required by law or precedential decision. In some cases, DHS has authority to set custody determinations pursuant to controlling law. The release of aliens on bond is clearly provided for by statute, and it would not be permissible for DHS to categorically prohibit the release of certain aliens who are not subject to mandatory 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 an immigration judge, who may reduce the bond amount imposed, ameliorate conditions of release, or order release without bond.

Below is the request breakdown:

	<i>Zadvydas</i>	Bond with Custody Redetermination by IJ	Unable to Obtain Travel Document	ICE Discretion	Total
FY 2013	3,652	10,532	54	21,769	36,007
FY 2014	2,457	10,607	134	17,360	30,558
FY 2015	2,166	10,175	89	7,293	19,723

Joint Statement by Senators Grassley and Ernst of Iowa
April 28, 2016
House of Representatives
Committee on Oversight and Government Reform Hearing Entitled “Criminal Aliens
Released by the Department of Homeland Security.”

Mr. Chairman, Ranking Member, and Members of the Committee,

We appreciate the opportunity to submit for the record a joint statement to honor our constituent, Ms. Sarah Root, who lost her life because of a drunk driver in the country illegally. The Senators from Nebraska, Senator Sasse and Senator Fischer, join us in honoring Ms. Root as well.

Today, her father, Scott Root, will share his personal story about the loss of his daughter and how someone in the country illegally was able to walk free after fatally hitting his daughter’s vehicle on graduation night.

Sarah was 21 years old, and had just graduated from Bellevue University with perfect grades and an interest in pursuing a career in criminal justice. In the words of her family, “she was full of life and ready to take on the world.” According to a close friend of hers, Sarah was smart, outgoing, and dedicated to her friends and family. She embodied the words tattooed on her skin: Live, Laugh, Love.

The day Sarah graduated, she was struck by a drunk driver in the country illegally. The alleged drunk driver was Eswin Mejia, who had a blood-alcohol content of more than three times the legal limit. Mejia was charged with felony motor-vehicle homicide and operating a vehicle while intoxicated on February 3.

After causing the death of an American citizen and being charged with felony motor-vehicle homicide, one would think he would clearly meet U.S. Immigration and Customs Enforcement’s so-called “Enforcement Priorities.” Unfortunately and shamefully, that was not the case.

After the crash, local law enforcement apparently asked the federal government – specifically U.S. Immigration and Customs Enforcement (ICE) – to take custody of Mejia, but the federal government declined. An ICE spokesman stated that the agency did not lodge a detainer on the man because his arrest for felony motor-vehicle homicide “did not meet ICE’s enforcement priorities.”

In responding to questions about ICE’s failure to lodge a detainer during a recent Senate Homeland Security and Governmental Affairs Committee hearing, ICE Director Sarah Saldaña actually suggested that ICE neglected to issue a detainer because at the time they were contacted, Sarah Root was seriously injured, not dead.

How twisted and convoluted has our immigration system become that an illegal immigrant who – while driving drunk and drag racing – hits and either seriously injures or kills an American

citizen is not considered a priority for deportation?

In fact, only after a floor speech, multiple letters, and hearing questions from Senators from Nebraska and Iowa, as well as media attention and concerns raised by the Root family, did ICE finally acknowledge that they should have taken Mejia into custody.

Tragically, after ICE declined to file a detainer against Mejia, he posted a \$5,000 bond, was released, and has since disappeared.

This case has shed light on the breakdown between the federal government and state and local government. It has also showcased – in heartbreaking fashion – why the President’s policies don’t work, and how they are having a dire effect on American families like the Root family.

Under the Obama Administration’s Enforcement Priorities, a person in the country illegally will only be detained or removed in a few limited circumstances.

In this case, these so-called “priorities” resulted in a tragedy. A smart young lady who had a bright future was struck by a drunk driver who entered the country illegally, and ICE declined to take custody of him.

While America has been and always will be a nation of immigrants, we are also a nation of laws.

It is a privilege to live in this country, and anyone who comes here illegally and harms our citizens should – without question – constitute a priority for removal.

For ICE to decide otherwise is baffling. In recognition of their clear mistake, they have since listed Mejia on their “Most Wanted” list and acknowledged they should have taken him into custody.

While nothing can bring Sarah back, her family and friends deserve clear answers as to why Mejia was allowed to flee.

And for the countless other families who are suffering today because of their personal losses, they deserve our commitment that the U.S. Government will enforce the law. Things have to change. The President must rethink his policies and seriously reconsider his so-called “priorities” so that tragedies like this one are not replicated elsewhere.

Office of the Director

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

JUN 07 2016



U.S. Immigration
and Customs
Enforcement

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Chaffetz:

Thank you for the opportunity to testify before the House Oversight and Government Reform Committee on April 28, 2016. We appreciate your courtesy and candor as we continue to openly address the challenges faced by U.S. Immigration and Customs Enforcement (ICE).

ICE is committed to providing accurate responses to the questions regarding ICE's work with the State Department raised by the Chairman of the Committee. In the spirit of that commitment, please find enclosed the responses to those questions and requests.

As I stated at the hearing, we are committed to implementing ICE's priorities in a smart and strategic manner to maximize success and enhance cooperation with state and local stakeholders. We 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.

Sincerely,

A handwritten signature in black ink, appearing to read "SR Saldaña".

Sarah R. Saldaña
Director

Enclosures

Cc: Ranking Member Cummings

U.S. Immigration and Customs Enforcement Responses to the House Committee on Oversight and Government Reform Following the April 28, 2016 Hearing

1. Copies of all letters sent (since December 2014) to the Department of State and/or the Attorney General pertaining to the countries which do not permit ICE to remove criminal aliens to their country of origin.

The Department of Homeland Security (DHS) as a whole, as well as U.S. Immigration and Customs Enforcement (ICE) specifically, take very seriously the issue of removing foreign nationals in a timely and efficient manner, and the consequences associated with limitations on the ability to do so. ICE works with the Department of State (DOS) to improve cooperation with countries that systematically refuse or delay the repatriation of their nationals.

ICE works with foreign governments and the Department of State, Bureau of Consular Affairs, through a suite of tools to encourage countries to comply with ICE requests to accept repatriated nationals. The process for ICE begins with requests for travel documents from the appropriate foreign government. If a travel document is not issued then the ICE Executive Associate Director for Enforcement and Removal Operations (ERO) can, in appropriate circumstances, send a letter to the nation's Embassy in the United States seeking cooperation with the removal process. These are called Annex 9 letters. Another possible tool is a joint meeting between ICE, DOS Consular Affairs and the Ambassador of the uncooperative nation. The ICE Director may also issue a Demarche Letter to the Embassy.

An April 2011 Memorandum of Understanding between ICE and DOS Consular Affairs outlines a variety of ways in which ICE and DOS will work together to ensure that countries accept the return of their nationals in accordance with international law. The MOU, among other things, establishes a target average travel document issuance time of 30 days and outlines measures to address those countries that systemically refuse or delay repatriation of their nationals. ICE and Consular Affairs will pursue the following in attempts to gain compliance for countries that systematically refuse or delay repatriation of their nationals:

- a. Issue a demarche or series of demarches at increasingly higher levels;
- b. Hold joint meetings with the Ambassador to the United States, DOS Assistant Secretary for Consular Affairs and the Director of ICE;
- c. Consider whether to provide notice of the U.S. government's intent to formally determine that the country is not accepting the return of its nationals and that the U.S. government intends to exercise the provisions of Section 243(d) of the Immigration and Nationality Act to gain compliance;
- d. Consider visa sanctions under Section 243(d) of the Immigration and Nationality Act; and
- e. Call for an inter-agency meeting to discuss withholding aid or other funding.

In a letter dated September 19, 2014, DHS Secretary Johnson wrote to DOS Secretary Kerry seeking assistance in efforts to explore measures that would be helpful in prompt removal of dangerous individuals in accordance with the Immigration and Nationality Act. Enclosed are copies of subsequent letters from ICE Director Saldaña to DOS Assistant Secretary Bond

regarding Cuba (April 1, 2016), seeking measures in accordance with the 2011 Memorandum of Understanding (MOU) between ICE and DOS Consular Affairs. A letter regarding Guinea, requesting exploration of more aggressive actions to address the removal issue, including the temporary discontinuation of visa issuance under Section 243(d) of the Immigration and Nationality Act (INA) was sent to DOS on March 28, 2016. On April 28, 2016, Director Saldaña and Assistant Secretary Bond jointly met with the Ambassador of Guinea to push Guinea on the need to be more compliant on the issuance of travel documents. On May 13, 2016, ICE sent a letter to DOS concerning removals to Liberia. On May 13, 2016, ICE also sent a letter to DOS requesting assistance in coordinating a high-level meeting with China on removal issues, but did not specifically request invocation of Section 243(d). These letters are also enclosed.

2. Has ICE/ERO reached out to the Attorney General or Department of State (DOS) for assistance in withholding funds, withholding visas, etc., for countries who refuse to accept their nationals? If so, which countries?

Section 243(d) of the INA, Discontinuing Granting Visas to Nationals of Country Denying or Delaying Accepting Alien, was first invoked on September 7, 2001, when the Attorney General requested that DOS implement visa sanctions against Guyana. On October 10, 2001, DOS discontinued granting nonimmigrant visas to employees of the Government of Guyana, along with their spouses and children. Within 2 months, the Government of Guyana issued travel documents to 112 of 113 Guyanese aliens who had been ordered removed from the United States. DOS lifted the visa sanctions against Guyana on December 14, 2001. Similarly, threats of visa sanctions have resulted in the timelier issuance of travel documents from Ethiopia and Jamaica.

ICE has regularly asked DOS for assistance with such actions as the withholding of funds and visa sanctions for countries that refuse to accept their nationals. DOS has noted that these measures could have significant potential impact on U.S. foreign and domestic policy interests. DOS prefers to instead attempt to use diplomacy and the other tools of the 2011 MOU to try and garner cooperation from countries. As noted above, ICE has written letters to DOS to specifically ask that such actions including visa sanctions and the withholding of aid or other funding be considered since informal requests have not worked.

There have been two demarches issued since December 2014. The Government of Algeria was issued a demarche on March 13, 2015, and the Government of Iraq was issued a demarche on March 31, 2015.

ICE has also sent so-called Annex 9 letters to certain International Civil Aviation Organization (ICAO) Member States. In Annex 9 to the Convention on International Civil Aviation, ICAO has issued standards regarding the issuance of replacement travel documents for nationals subject to removal, including time frames for the issuance of such documents. Since December 19, 2015, ICE has sent 64 Annex 9 letters on individual cases to China, Eritrea, Gambia, Ghana, Guinea, Jordan, Liberia, Mali, Morocco, Senegal, and Uganda. DOS is copied when ICE delivers such a letter to a foreign government. Enclosed is a list of recent Annex 9 letters sent by ICE.

When was the last time ICE/ERO asked the DOS to intervene?

ICE asked DOS to intervene at the most recent Removal Cooperation Initiative meeting, on April 21, 2016, and routinely engages with DOS Consular Affairs and DOS Regional Bureaus to request assistance with regard to individual cases. Most recently, in two separate letters dated May 13, 2016, ICE Director Saldaña wrote to DOS Assistant Secretary Bond regarding the People's Republic of China and Liberia, seeking DOS assistance consistent with the 2011 Memorandum of Understanding (MOU) between ICE and DOS Consular Affairs.

Office of the Director

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



**U.S. Immigration
and Customs
Enforcement**

APR 1 2016

The Honorable Michele T. Bond
Assistant Secretary for Consular Affairs
Department of State
2201 C Street, NW
Washington, DC 20520

Dear Assistant Secretary Bond:

It has been over a year since Secretary Johnson enlisted the support of Secretary Kerry in his September 19, 2014 letter regarding a significant immigration enforcement matter where recalcitrant countries are not cooperating in the timely removal of their nationals.

During this past year, the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) have continued to seek the cooperation of many of these recalcitrant countries through multiple engagements with respective Embassy officials, communications with government representatives abroad, and through liaison and coordination with officials from within the Department of State's (DOS) Bureau of Consular Affairs. Unfortunately, these efforts have been unsuccessful in soliciting any significant changes to the removal practices of these recalcitrant countries.

ICE has advised DOS of the Cuban government's lack of cooperation many times, and it is important to note that Cuba was brought to the attention of the Assistant Secretary of State for Consular Affairs on March 9, 2015. The time has come to begin aggressively taking the first measures against Cuba in accordance with the 2011 Memorandum of Understanding (MOU) between ICE and the Bureau of Consular Affairs. As you know, per the MOU, our agencies agreed to take the following measures when dealing with countries that refuse to accept the return of their nationals who have been ordered removed from the United States:

- issue a demarche or series of demarches at increasingly higher levels;
- hold joint meetings with the Ambassador to the United States, DOS Assistant Secretary for Consular Affairs, and the Director of ICE;
- consider whether to provide notice of the U.S. Government's intent to formally determine that the country is not accepting the return of its nationals and that the U.S. Government intends to exercise the provisions of Section 243(d) of the Immigration and Nationality Act (INA) to gain compliance;
- consider visa sanctions under Section 243(d) of the INA; and
- call for an inter-agency meeting to pursue withholding of aid or other funding.

The Honorable Michele T. Bond
Page 2

As the normalization of relations and the re-opening of embassies in respective countries continues, it is imperative that the removal process normalize. On November 30, 2015, DOS hosted the 29th migration talks with Cuba. ICE participated, along with Deputy Assistant Secretary (DAS) Alex Lee and other DOS and DHS delegates. During these talks, DOS was extremely supportive of the repatriation issue and DAS Lee presented the issue to the Cubans on numerous occasions. ICE is extremely appreciative of DAS Lee's efforts to ensure the issue received appropriate attention. Furthermore, ICE presented a proposal to establish a workgroup (WG) to address the removal issue. The proposal included establishing the WG within 30 days and having an agreement in place within 90 days. ICE proposed that a pilot program be established that would include two routine flights a month for the removal of Cubans with an order of removal who are a current ICE priority and entered the United States on or after January 1, 2006. Under this proposal, up to 3,240 removals would occur on an annual basis. This number is less than 10 percent of the years-long backlog, but would show a good faith attempt on the part of Cuba to honor its international obligations, consistent with the reestablishment of diplomatic relations.

The Government of Cuba also submitted a proposal to address the repatriation issue, adding that any agreement must include an overhaul of the existing migration agreements. This is something that ICE finds unreasonable since the acceptance of citizens under final order of removal is an international obligation and this discussion should not be limited to occurring every 6 months at the migration talks. Further, at the end of the talks, it appeared that the repatriation issue would not be taken up again until the next round of migration talks, tentatively set for June 2016. ICE believes it is unreasonable to continue to allow the issue to wait, as ICE currently conducts a very small number of removals based on the limitations outlined in the 1984 Mariel Agreement. Moreover, during the November 30th migration talks, U.S. Customs and Border Protection reported that encounters with Cuban nationals have increased by 405 percent from fiscal year 2011 to 2016. With continued migration to the United States both legally and illegally, the backlog of cases released due to an ability to remove will only continue to grow.

ICE considers Cuba to be the most uncooperative country based on its refusal to accept nationals outside of the 1984 Mariel Agreement. The Government of Cuba only allows the repatriation of specific Cuban nationals in accordance with the 1984 Mariel Agreement.

- Since the inception of the 1984 Mariel Agreement, the number of convicted criminal Cuban nationals that ICE has been unable to remove has reached approximately 35,000. On March 19, 2015, ICE proposed that 20 non-list Mariel Cubans be substituted for 20 Cubans remaining on the Cuban repatriation list for a proposed charter flight on April 16, 2015, based on information received from Government of Cuba officials that a substitution was acceptable. On March 24, 2015, the Government of Cuba responded via diplomatic note that they would not accept ICE's request to substitute the new individuals for those on the original list and indicated that there had been a miscommunication. During migration talks in November 2015, Cuba stated it would allow ICE to substitute individuals on that list but only as part of a bigger migration agreement.

The Honorable Michele T. Bond
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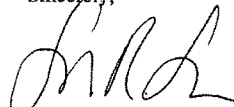
- The DOS Bureau of Consular Affairs had proposed to increase Cuban student and exchange visitor visas from 3-month single entry to 60-month multiple entry. In January 2015, DHS reviewed the DOS's visa extension proposal and advised that DHS did not concur with DOS's proposed increases due to the Government of Cuba's position regarding repatriation of Cuban nationals ordered removed from the United States. DHS has since agreed to concur on the visa extension proposal in the hopes of better cooperation in several areas and most notably the repatriation issue.

ICE and DOS agree that countries that refuse or delay removal should not do so with impunity. When a country routinely ignores the obligation to accept the return of its nationals, ICE and DOS must pursue steps to achieve comity and compliance with international norms. As diplomatic efforts to date have failed to yield any progress, I request your assistance in exploring more aggressive actions as outlined in the MOU to accomplish this goal, starting with the issuance of a demarche. I believe that DOS should put forth a concerted effort to remedy this stalemate, as existing practices and efforts aimed at garnering cooperation from such countries have been ineffective. DHS and ICE have exhausted standard diplomatic approaches and seek alternative measures that fall within the purview of DOS.

The intent of this letter is to request that DOS acknowledge and commit to the importance of enforcing the Nation's immigration laws with respect to countries that refuse to honor their international obligations. The steps outlined in the 2011 MOU further our national security interest. Your support will facilitate removal of Cuban nationals subject to a final order of removal, particularly those who have committed serious criminal offenses in this country. The removal of such individuals remains a significant national security interest for both our Departments, and a more comprehensive and effective approach to address this problem is warranted.

Thank you for your continued support and cooperation in these combined efforts.

Sincerely,



Sarah R. Saldaña
Director

Office of the Director

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



**U.S. Immigration
and Customs
Enforcement**

MAR 18 2016

The Honorable Michele T. Bond
Assistant Secretary for Consular Affairs
Department of State
2201 C Street, NW
Washington, DC 20520

Dear Assistant Secretary Bond:

It has been over a year since Secretary Johnson enlisted the support of Secretary Kerry in his September 19, 2014 letter regarding a significant immigration enforcement matter where recalcitrant countries are not cooperating in the timely removal of their nationals.

During this past year, the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) have continued to seek the cooperation of many of these recalcitrant countries through multiple engagements with respective Embassy officials, communications with government representatives abroad, and through liaison and coordination with officials from within the Department of State's (DOS) Bureau of Consular Affairs. Unfortunately, these efforts have been unsuccessful in soliciting any significant changes to the removal practices of these recalcitrant countries.

At this time, I believe that a more concerted effort is needed from DOS, as existing practices and efforts aimed at garnering cooperation from such countries have been ineffective. DHS and ICE have exhausted available avenues of approach and seek alternative measures that fall within the purview of the DOS.

As was discussed during our meeting in April 2015, ICE and the Bureau of Consular Affairs entered into a Memorandum of Understanding in 2011 concerning measures to take when dealing with countries that refuse to accept the return of their nationals who have been ordered removed from the United States:

- issue a demarche or series of demarches at increasingly higher levels;
- hold joint meetings with the Ambassador to the United States, DOS Assistant Secretary for Consular Affairs, and the Director of ICE;
- consider whether to provide notice of the U.S. Government's intent to formally determine that the country is not accepting the return of its nationals and that the U.S. Government intends to exercise the provisions of Section 243(d) of the Immigration and Nationality Act (INA) to gain compliance;
- consider visa sanctions under Section 243(d) of the INA; and
- call for an inter-agency meeting to pursue withholding of aid or other funding.

www.ice.gov

The Honorable Michele T. Bond
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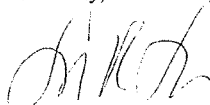
The Republic of Guinea has been identified as one of the more recalcitrant and problematic of these countries. Over the past 5 years, ICE, in conjunction with the Bureau of Consular Affairs, has made considerable efforts to work with the Republic of Guinea to address the matter of cooperation with removals, as outlined in the enclosure. The steps highlight the major collective efforts of both our Departments to work with the Republic of Guinea since 2010. These combined efforts have failed and are representative of the failures we have experienced when implementing similar actions with other recalcitrant countries.

I understand that your Department believes that continued close interagency cooperation and coordinated approaches, both in Washington and at posts overseas, is the recommended course of action; however, as evidenced by the enclosure, these efforts have failed to yield any progress. Consequently, I request your assistance in exploring more aggressive actions to address the removal issue including the temporary discontinuance of visas under Section 243(d) of the INA. The governing statute provides that "the Secretary of State shall order consular officers in that foreign country to discontinue" visa issuance upon appropriate notification from DHS. 8 U.S.C. § 1253(d).

The removal of aliens subject to final orders of removal remains a significant national security interest for both our Departments. A more comprehensive and effective approach to address this problem is warranted.

Thank you for your continued support and cooperation in these combined efforts.

Sincerely,



Sarah R. Saldaña
Director

Enclosure

**U.S. Immigration and Customs Enforcement and the Bureau of Consular Affairs'
Engagement with the Republic of Guinea Regarding the Removal of Guinean Nationals**

- In July 2010, a demarche was issued to the Embassy of the Republic of Guinea.
- On August 25, 2011, then-U.S. Immigration and Customs Enforcement (ICE) Director John Morton met with Ambassador Blaise Chérif for the first time to discuss removals.
- On May 22, 2012, ICE Director Morton and Assistant Secretary Janice Jacobs met jointly with Ambassador Chérif to discuss the removal issues.
- On June 22, 2012, as a result of the May 2012 meeting, a delegation from Guinea was sent to the United States to discuss removals and conduct interviews of alleged nationals of Guinea with final orders of removal. Although the interviews were conducted and individuals were deemed to be nationals of Guinea, no travel documents were issued, as the delegation conveyed that Conakry would not proceed without a written removal agreement.
- On April 23, 2013, a draft Memorandum of Understanding (MOU) was delivered to the Embassy of Guinea for review as a result of the June 2012 delegation visit. Despite numerous requests for follow up from the Embassy, ICE has yet to receive any response to the proposed draft.
- On June 11, 2015, ICE and Bureau of Consular Affairs representatives met with the new Ambassador, Mamady Conde, to discuss the lack of cooperation and feedback to the MOU presented in 2013. Ambassador Conde indicated he would take steps to improve on the cooperation and indicated that he would re-address the MOU with authorities back in Conakry during an upcoming trip. However, these sentiments are no different than the responses routinely provided by his predecessor.
- On August 18, 2015, ICE was notified that any discussions related to the MOU and removals in general would not occur until after the October 2015 elections in Guinea.
- In December 2015, ICE met with the Embassy on two occasions. On December 8, 2015, the Assistant to the Ambassador indicated that no action would be taken until the new President was sworn in and a new Cabinet appointed. In the interim, on December 22, 2015, ICE met with the First Secretary and the Ambassador and presented a list of 15 individuals for reconsideration of travel document issuance in furtherance of the bilateral relationship. The Ambassador agreed to present the cases and discuss removals and the MOU during his trip to Conakry in January 2016.
- On February 4, 2016, ICE and Department of State (DOS) representatives, both in Washington, DC, and in Conakry, conducted a teleconference to discuss the overall state of removals to Guinea, including the MOU and the list of 15 individuals provided to the Ambassador on December 22, 2015.
- On February 5, 2016, DOS notified ICE that efforts were underway to schedule meetings with the Ambassador, upon his return from Conakry in late February, to discuss removals and the outcome of his meetings while in country.

Office of the Director

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



**U.S. Immigration
 and Customs
 Enforcement**

MAY 13 2016

The Honorable Michele T. Bond
 Assistant Secretary for Consular Affairs
 Department of State
 2201 C Street, NW
 Washington, DC 20520

Michele

Dear Assistant Secretary Bond:

It has been more than a year since Secretary of Homeland Security Jeh Johnson enlisted the support of Secretary of State John Kerry on a significant immigration enforcement matter regarding recalcitrant countries not cooperating in the timely removal of their nationals. In response to Secretary Johnson's September 19, 2014 letter, Secretary Kerry pledged his and your support in raising this issue to the highest levels with foreign governments.

During this past year, the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) have continued to seek the cooperation of many of these recalcitrant countries through multiple engagements with respective embassy officials, communications with government representatives abroad, and through liaison and coordination with officials from within the Department of State (DOS), Bureau of Consular Affairs. Unfortunately, these efforts have been unsuccessful in soliciting any significant changes to the removal practices of these recalcitrant countries.

At this time, I believe that a more concerted effort is needed from DOS, as existing practices and efforts aimed at garnering cooperation from such countries have been ineffective. DHS and ICE have exhausted available avenues of approach and seek alternative measures that fall within the purview of DOS.

As discussed during our meeting in April 2015, in 2011, ICE and the Bureau of Consular Affairs entered into a Memorandum of Understanding (MOU) concerning measures to take when dealing with countries that refuse to accept the return of their nationals who have been ordered removed from the United States. These measures include:

1. issue a demarche or series of demarches at increasingly higher levels;
2. hold joint meetings with the Ambassador to the United States, DOS Assistant Secretary for Consular Affairs, and the Director of ICE;
3. consider whether to provide notice of the U.S. Government's intent to formally determine that the country is not accepting the return of its nationals and intent to exercise the

The Honorable Michele T. Bond
Page 2

- provisions of Section 243(d) of the Immigration and Nationality Act (INA) to gain compliance;
4. consider visa sanctions under Section 243(d) of the INA; and
 5. call for an interagency meeting to pursue withholding of aid or other funding.

The Republic of Liberia has been identified as one of the more recalcitrant and problematic of these countries. Since 2009, ICE, in conjunction with the Bureau of Consular Affairs, has made considerable efforts to work with the Republic of Liberia to address the matter of cooperation with removals, as outlined in the enclosure.

The steps highlight the major collective efforts of both our Departments to work with the Republic of Liberia since 2009. These combined efforts have failed and are representative of the failures we have experienced when implementing similar actions with other recalcitrant countries. Prior to 2009, ICE had limited success with removals to Liberia. However, even these successes were limited in the number of travel documents issued compared to the subjects ICE released back into our communities.

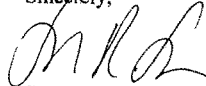
I understand that your Department believes that continued close interagency cooperation and coordinated approaches, both in Washington and at posts overseas, is the recommended course of action; however, these efforts have failed to yield any progress. Consequently, I request your assistance in taking more aggressive actions to address the removal issue.

Specifically, ICE is requesting that DOS initiate actions under Section 4 of the MOU between ICE and the Bureau of Consular Affairs, which includes the temporary discontinuance of visas under Section 243(d) of the INA. The governing statute (8 U.S.C. § 1253(d)) provides that "the Secretary of State shall order consular officers in that foreign country to discontinue" visa issuance upon appropriate notification from DHS. ICE is requesting such specific action as all efforts in the past 6 years have failed to produce any significant change as removals are negligible, detention costs continue to increase, and aggravated felons from Liberia continue to be released into the community.

The removal of aliens subject to final orders of removal remains a significant national security interest for both our Departments, and a more comprehensive and effective approach to address this problem is warranted.

Thank you for your continued support and cooperation in these combined efforts.

Sincerely,



Sarah R. Saldaña
Director

Enclosure

U.S. Immigration and Customs Enforcement and Liberia Address the Matter of Cooperation With Removals

- On October 27, 2009, a delegation traveled to Liberia for a meeting to discuss removals. As a result, two charter flights were conducted, one in January 2010 with 20 Liberian nationals and a second in October 2010 with 16 Liberian nationals. Following the last charter flight in 2010, the Embassy of Liberia submitted a diplomatic note requesting a 1-year moratorium on removals as well as placing a restriction on the number of removals allowed per year.
- In June 2011, the Embassy interviewed 35 individuals and identified all but 3 as Liberian nationals. However, when the findings were forwarded to the Ministry of Justice in Monrovia, they were deemed to have been unsanctioned and therefore invalid.
- On July 27, 2011, a demarche was issued to the Embassy of the Republic of Liberia addressing Liberia's lack of cooperation pertaining to the issuance of travel documents.
- On November 15, 2012, ICE Director John Morton and Deputy Assistant Secretary Janice Jacobs met with Ambassador Jeremiah C. Sulunteh to discuss the removal issues jointly. The Ambassador indicated that the Government of Liberia would conduct quarterly interviews and streamline the process for the issuance of travel documents.
- On September 25, 2013, the U.S. Ambassador met with the Liberian representatives in Monrovia to discuss the failure to issue travel documents.
- On December 10, 2013, officials from the U.S. Embassy in Monrovia also met with the Liberian representatives to again discuss the lack of issuance of travel documents. Discussions continued over the next several months but no change to travel document issuance practices and returns occurred. In May 2014, ICE sponsored the travel for a senior Liberian Immigration Official from Monrovia to conduct personal interviews of 22 subjects in ICE detention. Despite this gesture, travel documents were not issued upon completion of this endeavor.
- On June 17, 2014, the Political Officer from the U.S. Embassy in Monrovia indicated that meetings were held with senior Immigration Officers in Monrovia. In August 2014, the Political Officer indicated that all efforts for removal would be suspended until the Ebola outbreak was under control.
- Since 2011, a total of 8 sets of interviews have been conducted, resulting in over 300 subjects being interviewed with only 30 having been issued travel documents and/or ultimately removed.
- The most recent interviews were conducted from November 18-20, 2015, where a total of 34 subjects were interviewed and all were deemed by Embassy Officials to be Liberian. However, travel documents have yet to be issued and over \$1 million has been incurred on detention of these individuals, mostly aggravated felons, who ultimately were released back into the community.
- ICE has continually engaged the Embassy of Liberia on ways to resolve this problem. All efforts have produced no results.

- ICE has also engaged with DOS, in both Washington, D.C. and in Monrovia, for assistance to find a joint solution with Liberia. To date, this approach has also failed to yield any substantive changes.

Office of the Director

U.S. Department of Homeland Security
500 13th Street, SW
Washington, D.C. 20536

MAY 13 2016



U.S. Immigration
and Customs
Enforcement

The Honorable Michele T. Bond
Assistant Secretary for Consular Affairs
Department of State
2201 C Street, NW
Washington, DC 20520

Dear Assistant Secretary Bond:

It has been more than a year since Secretary of Homeland Security Jeh Johnson enlisted the support of Secretary of State John Kerry on a significant immigration enforcement matter regarding recalcitrant countries not cooperating in the timely removal of their nationals. In response to Secretary Johnson's September 19, 2014 letter, Secretary Kerry pledged his and your support in raising this issue to the highest levels with foreign governments.

During this past year, the U.S. Department of Homeland Security and U.S. Immigration and Customs Enforcement (ICE) have continued to seek the cooperation of many of these recalcitrant countries through multiple engagements with respective embassy officials, communications with government representatives abroad, and through liaison and coordination with officials from within the Department of State (DOS), Bureau of Consular Affairs (CA). Unfortunately, these efforts have been unsuccessful in soliciting any significant changes to the removal practices of these recalcitrant countries.

As discussed during our April 2016 meeting, in 2011, ICE and CA entered into a Memorandum of Understanding outlining measures to take when dealing with countries that refuse to accept the return of their nationals who have been ordered removed from the United States. ICE and CA agreed to pursue the following steps in attempts to gain compliance from countries that systematically refuse or delay repatriation of their nationals:

1. issue a demarche or series of demarches at increasingly higher levels;
2. hold joint meetings with the Ambassador to the United States, DOS Assistant Secretary for CA, and the Director of ICE;
3. consider whether to provide notice of the U.S. Government's intent to formally determine that the country is not accepting the return of its nationals and the intent to exercise the provisions of Section 243(d) of the Immigration and Nationality Act to gain compliance;
4. consider visa sanctions under Section 243(d) of the Immigration and Nationality Act; and;
5. call for an interagency meeting to pursue the withholding of aid or other funding.

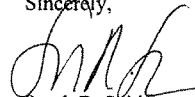
The Honorable Michele T. Bond
Page 2

The People's Republic of China (PRC) has been identified as one of the more recalcitrant and problematic of these countries. Over the past 4 years, ICE, in conjunction with CA, has made considerable efforts to work with the PRC to address the matter of cooperation with removal, as outlined in the enclosure. The steps highlight the major collective efforts of both our departments to work with the PRC since 2011. These combined efforts have failed and are representative of the failures we have experienced when implementing similar actions with other recalcitrant countries. The removal of aliens subject to final orders of removal remains a significant national security interest for both our departments, and a more comprehensive and effective approach to address this problem is warranted.

I understand that continued, close interagency cooperation and coordinated approaches, both in Washington and at posts overseas, is your department's recommended course of action; thus, I would like to propose that you and I hold a joint meeting with the Chinese Ambassador to the United States to discuss China's designation as an uncooperative country.

Thank you for your continued support and cooperation in these combined efforts.

Sincerely,



Sarah R. Saldana
Director

Enclosure

**U.S. Immigration and Customs Enforcement and the Bureau of Consular Affairs'
Engagement with the People's Republic of China Regarding the Removal of Chinese
Nationals**

- From 2011 through 2015, U.S. Immigration and Customs Enforcement (ICE) continued negotiations with the Ministry of Public Security (MPS) on a Memorandum of Understanding (MOU) which would enable Chinese experts to work with ICE in the United States to verify the identities of individuals with final orders of removal.
- On January 11, 2013, the U.S. Embassy in Beijing delivered a non-paper outlining ICE's concerns regarding the failure of the People's Republic of China (PRC) to readily accept the return of its nationals and establishing benchmarks for improvement. The non-paper also outlined a key incentive for walk-in service for Chinese diplomats in exchange for improved cooperation with removals.
- On March 27, 2015, ICE and MPS signed the MOU inviting Chinese experts to the United States to conduct interviews of suspected Chinese nationals ordered removed from the United States.
- In April 2015, Secretary Johnson met with Minister of Public Security Guo Shengkun. During the meeting, the two sides agreed to use charter flights to remove Chinese nationals who cannot be returned via commercial airlines.
- In July 2015, MPS sent experts to the United States, during which time ICE and public security experts verified the identities of 30 Chinese nationals ready for removal. In addition, the experts advised ICE that 43 of those interviewed needed further review for identity verification.
- In early September 2015, only after Secretary Johnson raised the issue with Secretary Meng Jianzhu, did the MPS schedule two charter flights. Secretary Johnson underscored to Secretary Meng that he expects regular use of charter flights for cases that cannot be removed via commercial means; however, the Chinese continue to insist that charter flights are not a standard procedure. The Chinese also consistently assert that their cooperation on removal cases is contingent upon the United States returning fugitives wanted by the Chinese Government.
- On October 22, 2015, ICE met with the Chinese Counselor and Consular General at the PRC Embassy to discuss repatriation and assistance with the 30 travel documents pending from the July 2015 interviews.
- On October 30, 2015, ICE and Department of State's (DOS) Bureau of Consular Affairs (CA) representatives met to discuss the lack of cooperation and feedback from PRC, including the MOU presented in March 2015. ICE discussed facilitating a meeting between ICE, the PRC Ambassador to the United States, and the Assistant Secretary for CA.
- On November 17, 2015, ICE, DHS, and DOS met with the Chinese Counselor and Consul General to discuss continued efforts and cooperation with the issuance of travel documents. All parties agreed to a monthly working group.
- On January 21, 2016, ICE met with MPS to discuss the issuance of travel documents for those individuals interviewed during the experts' trip in July 2015, the scheduling of a second experts' trip, and proposed changes to the MOU, which expired on March 25, 2016. During the meeting, MPS stated the following:

- ICE has misunderstood the MOU. The experts have provided ICE with only their personal opinions regarding the identity of those interviewed and they do not represent the views of the Chinese Government.
- There are different authorities involved in the verification process and it is the Ministry of Foreign Affairs, not MPS, who verifies and issues travel documents.
- The lack of results from the MOU is correlated to the lack of resources within MPS.
- In February 2016, after 8 months of waiting and the release of 22 of the 30 verified Chinese nationals, the travel documents for the 30 Chinese nationals were issued. Travel documents have not been issued for the 43 individuals whose identities needed further review.
- As of May 2016, there are approximately 1,900 travel document requests pending with the Chinese Government dating back to 2008.

Date	Country	Name	Date TD Request Submitted
12/18/2015	Mali	Niang, Ousmane	9/18/2015
12/18/2015	Senegal	Fall, Bala	9/16/2015
12/18/2015	Morocco	Mansouri, Hacane	2/4/2015
12/18/2015	Morocco	Moughanim, Badr	12/26/2013
12/18/2015	Ghana	William Quartey, Nigel	7/28/2015
12/18/2015	Ghana	Achampong, Barimah Otuo	6/23/2015
12/18/2015	Ghana	Ansah-Okwaning, Samuel	6/2/2015
12/18/2015	Ghana	Karimu, Faruk	5/8/2015
12/18/2015	Ghana	Cann, Josheph	4/28/2015
12/18/2015	Ghana	Mohammed, Abdul Fail	5/28/2015
12/18/2015	Ghana	Asomani, Ernest	10/27/2014
12/18/2015	Ghana	Afriyie, Nana	2/26/2015
12/18/2015	Ghana	Asiedu, Edward	12/15/2014
1/7/2016	Senegal	Ndiaye, Same	8/5/2015
1/7/2016	Senegal	Ndiaye, Mouhamet	1/8/2014
1/7/2016	Senegal	Kebe, Djim	7/31/2015
1/7/2016	Ghana	Norgbey, Prosper	5/26/2015
1/7/2016	Ghana	Nuamah, Kojo	7/9/2015
2/22/2016	Guinea	Diallo, Karimou	7/30/2015
2/22/2016	Ghana	Mensah-Yawson, Steven	6/17/2015
2/24/2016	Guinea	Camara, Mamoudou	8/11/2015
2/24/2016	Gambia	Barrow, Lamin Sarjo	9/14/2015
2/24/2016	Gambia	Jaiteh, Alieu	10/29/2015
2/24/2016	Uganda	Nantume, Catherine Leonie	5/20/2014
2/24/2016	Uganda	Mugenzi, Richard Sabune	11/4/2013
3/31/2016	China	Chen, Ying	2/17/2015
3/31/2016	China	Li, Guo Yao	6/30/2015
3/31/2016	China	Chen, Li Ming	10/28/2015
3/31/2016	China	Chi, Shih Luh	9/18/2015
3/31/2016	Jordan	Talafhah, Bassam	1/27/2015
3/8/2016	Jordan	Musa, Shehadeh	7/27/2015
3/15/2016	Liberia	Parker, Emmanuel	7/21/2015
3/15/2016	Liberia	Peal, Augustus	10/13/2015
3/15/2016	Liberia	Johnson, Siabo	9/2/2015
3/15/2016	Liberia	Kerbay, Tonney	7/25/2015
3/15/2016	Eritrea	Gebrekidan, Sebhatu	10/9/2015
3/15/2016	Guinea	Diallo, Nene Safiatou	9/4/2015
3/15/2016	Liberia	Karmee, Aldophus	8/18/2015
3/15/2016	Liberia	Nimpson, Anthony	6/3/2015
3/15/2016	Liberia	Tahmen, Prince	6/10/2015
3/15/2016	Liberia	Green, Alvin	1/11/2010
3/15/2016	Liberia	Whaplo, Edwin	9/4/2015
3/15/2016	Liberia	Karla, Tody	6/5/2015
3/15/2016	Liberia	Bowman, Albert	6/8/2015
3/15/2016	Liberia	Duopu, Guo Moses A	6/1/2015

3/15/2016	Liberia	Gayekpar, Michael	5/27/2015
3/31/2016	China	Wu-Ming	1/30/2015
3/31/2016	China	Jie, Yu	1/22/2015
3/31/2016	China	Zheng-Lin, Qingwang	7/31/2015
3/31/2016	China	Wu, Fu	8/26/2015
3/31/2016	China	Zhang, Shi Zhong	8/18/2015
3/31/2016	China	Shi, Xiaojing	5/14/2015
3/31/2016	China	Han, Zhan	6/12/2015
3/31/2016	China	Lin, Chang	12/8/2014
3/31/2016	China	Sen, Hua	5/19/2014
3/31/2016	China	Lin, Youfeng	2/6/2015
3/31/2016	China	Wu, Guanhua	8/3/2015
3/31/2016	China	Tian, Zong	10/15/2014
3/31/2016	China	Guan-Wang, Haichun	8/4/2015
4/14/2016	Jordan	Tal, Montaser	12/15/2011
4/14/2016	Jordan	Alyazjeen, Ibrahim	8/13/2013
4/14/2016	Jordan	Abu Adas, Akram	7/11/2011
4/14/2016	Jordan	Obaid, Omar	3/18/2013
4/14/2016	Jordan	Ahmad, Basem	9/17/2012

Office of the Director

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



**U.S. Immigration
and Customs
Enforcement**

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

JUN 06 2016

Dear Chairman Chaffetz:

On behalf of Director Saldaña, thank you for the opportunity to testify before the House Oversight and Government Reform Committee on April 28, 2016.

In response to questions raised by members of the Committee during the hearing I am pleased to provide the enclosed responses to those questions for the record.

Thank you again for your courtesy and consideration as we continue our dialogue.

Sincerely,

A handwritten signature in black ink that reads "Jason M. Yanuss". The signature is written in a cursive style.

Jason M. Yanuss
Assistant Director for
Congressional Relations

Enclosure

Cc: Ranking Member Cummings

1) Rep. Mica –

a. **Number of times that ICE appealed a bond determination?**

U.S. Immigration and Customs Enforcement (ICE) requires additional time to formulate a response to this question. The Office of the Principal Legal Advisor's (OPLA) PLANet database is an internal case management system. Data stored in PLANet is input manually and is not verified against EOIR databases, which are the record of proceedings for administrative immigration cases.

ICE estimates that it will provide an updated response in approximately 30 days.

b. **Question about CBP system that controls passport (readers) and its failure rate/history.**

ICE defers to U.S. Customs and Border Protection (CBP). The information provided by Rep. Mica has been shared with CBP.

2) Rep. Walberg –

a. **How many detainees were not honored (when an alien was identified as a result of Secure Communities)?**

There were 17,379 declined detainees between January 2014 and June 2015.¹

b. **How many ignored detainees resulted in aliens subsequently committed crimes after their release?**

Of these 17,379 declined detainees, 7,418 detainees were placed on 6,249 individuals who committed subsequent crimes following their release.

3) Rep. Gosar –

Provide the number of aliens in the U.S. charged with felonies in 2015 and 2016.

As of 05/07/2016, ICE was detaining 8,436 aliens who had been convicted of an aggravated felony and/or two or more felonies.

4) Rep. Grothman –

a. **Of the 32,000 illegal aliens currently detained, how many are being detained due to criminal activity, and how many are recent border entrants? (% breakout of ADP by criminal vs border entrant)**

According to U.S. Immigration and Customs Enforcement records, more than 99 percent of aliens currently detained as of April 16, 2016, fall within the DHS civil immigration enforcement priorities, with a breakdown as follows:

- Priority 1 (national security threats, convicted felons, active criminal gang participants, and illegal entrants apprehended at the border): 82.7 percent

¹ This figure is inclusive of all legacy I-247 declined detainees for all jurisdictions, during the specified timeframe.

- Of these, more than half constituted Priority 1b (aliens apprehended at the border or ports of entry while attempting to unlawfully enter the United States)
 - Priority 2 (significant or multiple misdemeanants, and interior apprehensions who entered or reentered this country unlawfully after January 1, 2014): 15.6 percent
 - Of these, nearly one-quarter constituted Priority 2c (aliens apprehended anywhere in the United States interior apprehensions who entered or reentered this country unlawfully after January 1, 2014)
 - Priority 3 (individuals who have failed to abide by a final order of removal issued on or after January 1, 2014): 0.9 percent
- b. Of the criminals that could be removed, what percentage are being removed?**
 As of April 30, 2016, there are 948,192 aliens with final orders on ICE’s docket, of whom 181,643 are convicted criminals.

Of the 235,413 removals ICE conducted in FY 2015, 59 percent were convicted criminals, reflecting a three percent increase over FY 2014 and a record high percentage for ICE. When we drill down even further and look at interior removals only – those not apprehended at or near the border – the percentage of convicted criminals jumps to 91 percent.

5) Rep. DeSantis

Provide updated FY13 – FY15 Recidivist data

	FY 2013	FY 2014
Criminal Alien Releases	36,007	30,558
Recidivists	1,000 (2.8%)	1,423 (4.7%)

Note: FY 2013 data is as of May 2014, and FY 2014 data is as of May 2015. FY 2015 data is not yet available, but will be provided to the committee at a future date.

6) Rep. Hice –

Provide the number of criminals in the custody of ICE convicted of sex-related offenses in FY15.

Charge Category	Currently Detained Individuals (as of 05/07/2016)
Sex Offense	449
Commercialized Sex Offense	41
Sexual Assault	494
Total	984

Congress of the United States

Washington, DC 20510

November 24, 2015

The Honorable John Roth
Office of the Inspector General/ MAIL STOP 0305
Department of Homeland Security
245 Murray Lane, Southwest
Washington, D.C. 20528-0305

Dear Inspector General Roth:

We write to request an investigation into the Department of Homeland Security's Immigration and Customs Enforcement's (ICE) failure to deport Jean Jacques, a Haitian national currently in prison for the alleged murder of a Connecticut resident. From our own investigation of this matter, it is clear that ICE inexcusably failed to take actions that might have saved the life of one of our constituents. We ask that you thoroughly examine this episode to identify the individuals responsible for this failure and to recommend systemic reforms that can ensure the mistakes made in this case will never be made again.

Jean Jacques was taken into custody by ICE in 2012, after serving fifteen years in prison for a conviction stemming from a 1996 shooting that left one person dead and another injured. ICE secured a final deportation order for Jacques in 2003, but failed to deport him in accordance with that order after three attempts to do so in 2012. He was then released. After violating his parole in 2014, Jacques was held by the Connecticut Department of Corrections for several months. However, ICE made no additional efforts to repatriate Jacques at this time, and he was subsequently released. Tragically, Jacques then allegedly brutally murdered Casey Chadwick, a 25-year-old resident of Norwich, Connecticut.

When Jacques's history with ICE was made public in mid-July, we immediately demanded an explanation. ICE staff met with us and claimed that ICE had done everything in its power to secure travel documents for Jacques so that he could be deported to Haiti. We asked to know what specific actions ICE had taken to deport Jacques and why these actions had proven unsuccessful.

After months of effort to secure critical information from ICE, we ultimately determined that ICE asked the Haitian government to accept Jacques as a deportee three times, but when Haitian officials denied his nationality, ICE repeatedly failed to secure additional documentation. Jacques was never made available to be interviewed by Haitian officials who could have confirmed his background and nationality. ICE officials never communicated with Jacques's friends or relatives in Haiti or otherwise attempted to secure replacement identification documents.

It is unacceptable that ICE failed to remove a convicted attempted murderer subject to a final deportation order. It appears that ICE could and should have taken simple additional steps that might have resulted in Jacques being repatriated and therefore never given the opportunity to murder Casey Chadwick. However, as a result of ICE's lack of cooperation, we still do not feel comfortable that we have the full picture of what ICE did and failed to do in this case, as well as what systemic improvements ICE has made since this episode to improve its repatriation processes.

We ask that you immediately begin an investigation to answer, at the least, the following questions:

- 1) Why did ICE fail to deport Jacques? What additional steps should have been taken at the time to overcome the objections of the Haitian government to the removal of this individual? Which ICE officials should be held responsible and accountable for this failure?
- 2) What changes should ICE make to its repatriation policies and procedures, both with regards to removals to Haiti and more generally, to ensure this failure cannot happen again? Should ICE do more to ensure that deportees are interviewed by their family members in their countries of origin? Should ICE make additional efforts to contact deportees' family members in their countries of origin? Should ICE make additional efforts to secure replacement identification documents from deportees' countries of origin?

We stand ready to work with you to assist in any investigation, and we look forward to your response.

Sincerely,


RICHARD BLUMENTHAL
United States Senate


CHRISTOPHER S. MURPHY
United States Senate


JOE COURTNEY
Member of Congress

CBP SYSTEM DOWN TIMES AT D FIS PASSPORT CONTROL

DATE	PROBLEM	HOUR	DOWN TIME / PROBLEMS IN MINUTES
3/4/2016	System down	1710-2045	95 mins.
3/6/2016	System down	0415-0541	86 mins.
3/8/2016	System down in D and J FIS at approximately 05:08. Operating on back-up as of 05:30. Back up at 0650	0508-0650	102 mins.
3/11/2016	System down	1445-1610	95 mins.
3/18/2016	System down	1351-1430	39 mins.
3/21/2016	System down	1632-1810	98 mins.
3/24/2016	APC's running slow, fingerprint issues. Giving X's both D and J FIS. I-94's being issued.	0530-0920	230 mins.
3/28/2016	System down	1630-1830	120 mins.
3/29/2016	CBP system slow from 0400-0520 at D. From 0455-520 at J.	0400-0520	80 mins.
4/2/2016	CBP system slow at 15:50. Went to back-up at 16:07. QRU at 16:56	1550-1656	66 mins.
4/11/2016	System down, both FIS's. Giving out I-94's.	1802-1835	33 mins.
4/12/2016	System down, both FIS's. Giving out I-94's	1330-1513	103 mins.
4/13/2016	System down.	1800-1830	30 mins.
4/16/2016	17:05, Global machines down. CBP system running slow. Briefly giving out X's to ESTA passports. Global still down at 23:30	Global 17:05-2330	Global 395 mins. plus
4/17/2016	Global and CBP system down at 0922. Went to back up at 0945. no I-94's required. Global back up at approximately 1130 and system up at 1220.	Global 0922-1130, CBP 0922-1220.	Global-68 mins, CBP 118 mins.

System Reported Crashed -

March 4th 2016

April 17 2016

A message from ARLINGTON PUBLIC SCHOOLS
February 2016

Dear APS Families and Staff,

I have been concerned by recent news reports about raids to deport adults and children who have fled violence in Central America and recently migrated to the United States. Because of these actions by members of the Department of Homeland Security and the U.S. Immigration and Customs Enforcement (ICE) agents, Arlington Public Schools' (APS) teachers, administrators and Board members have heard reports that some families in our community are fearful to send their children to school. I want to reassure all of our families that children in our care will be safe.

APS is committed to providing an excellent public education to every school-aged student residing in Arlington County. In 1982, the U.S. Supreme Court ruled that public schools may not deny access to any child, whether present in the United States legally or otherwise. More recently in May 2014, the Secretary of Education and Attorney General reaffirmed this ruling and provided guidance to all public school leaders to ensure public school access for all children, regardless of their immigration status.

As educators, the staff of Arlington Public Schools has always acknowledged our legal and, more importantly, our moral obligations to provide an education to all students who live in our community. The School Board's Vision statement reaffirms our commitment to all children by affirming that we are, "a diverse and inclusive school community, committed to academic excellence and integrity. We provide instruction in a caring, safe and healthy learning environment, responsive to each student, in collaboration with families and the community." In addition, the School Board has adopted as one of our Core Values to "value all students, staff and families in our diverse, inclusive school community."

All of us are deeply committed to providing instruction in a caring, safe and healthy learning environment that is responsive to each student.

We believe that the diversity of Arlington County is one of our community's most significant assets, and we value and will continue to support all of our students and families.

Sincerely,

Dr. Patrick K. Murphy
Superintendent
Arlington Public Schools

APR 6 1 2016



March 21, 2016

Dear Hon. Elijah Cummings,

Re: Families in Fear: The Atlanta Immigration Raids

As you may be aware, Immigration and Customs Enforcement (ICE) has recently conducted raids against immigrants in Georgia, North Carolina, and Texas, as well as other locations, targeting women and children from Central America and Mexico. Many of these women and children have valid claims to asylum or other relief, and have since received stays of deportation after being represented by competent counsel. These raids have had an enormous impact on immigrant communities, leading to widespread fear and panic.

The Southern Poverty Law Center (SPLC) and the Georgia Latino Alliance for Human Rights (GLAHR) have released the enclosed report, *Families in Fear: The Atlanta Immigration Raids*, featuring stories from women swept up in the Atlanta home raids that began on January 2, 2016. The report, along with a Spanish language version, is also available on the SPLC website at <https://www.splcenter.org/20160128/families-fear-atlanta-immigration-raids>.

The report documents how ICE trampled legal rights, subjected mothers and children to terrifying and unnecessary police encounters, and tore families apart. Although the report focuses on Atlanta, the investigation found similar problems with raids in other states.

The report demonstrates why the raids should cease immediately and ICE should close family detention centers. It includes detailed recommendations to the federal government, including the initiation of congressional investigation into the raids and the adoption of a practical, comprehensive response to the Central American refugee crisis. The report also includes practical recommendations for local governments to address these issues.

We note that ICE continues to conduct raids against immigrant families. Most recently, we have confirmed reports that ICE has since conducted several raids of high school students on their way to school throughout the South. ICE has targeted young people who arrived in the United States as unaccompanied minors but have recently turned 18.

We appreciate your consideration of the report. If you have any questions or concerns about the report, its recommendations, or any other matter relating to the raids, please contact Eunice Cho at 404-521-6700, or eunice.cho@splcenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eunice'.

Eunice Cho
Staff Attorney, Southern Poverty Law Center

Fighting Hate
Teaching Tolerance
Seeking Justice

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