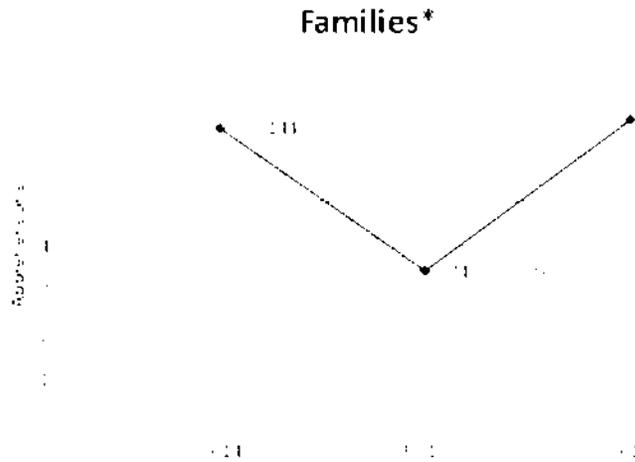


DHS Transition Issue Paper
ICE Enforcement Areas of Focus: Smuggling Networks Exploiting
Our Borders

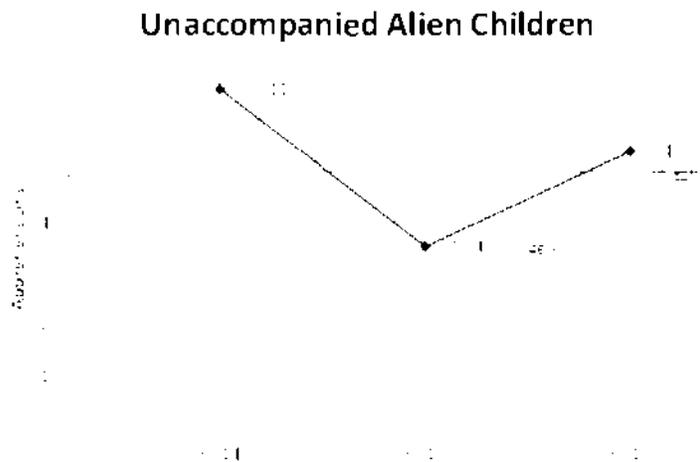
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- Beginning in 2013, there was a massive surge of UAC and family apprehensions. The volume of families and UAC apprehensions at the Southwest Border have fluctuated over the last few years, with Fiscal Year (FY) 2016 apprehensions at the Southwest Border on pace to exceed those of any prior years.



*Represents the number of individuals (either a child under 18 years of age, parent or legal guardian) apprehended with a family member by the U.S. Border Patrol. Statistics as of 8/31/2016. Source: U.S. Border Patrol

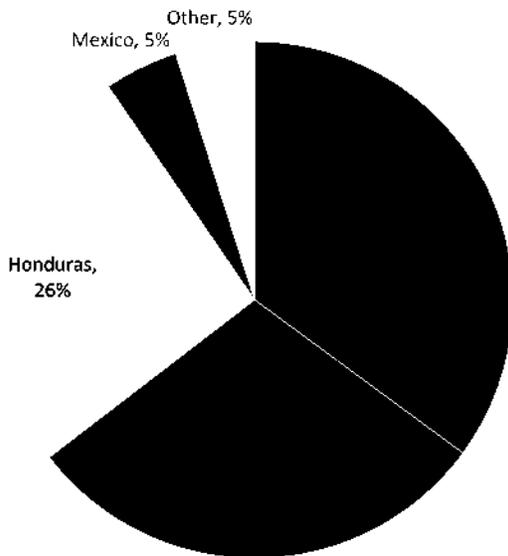


Statistics as of 8/31/2016. Source: U.S. Border Patrol

- Apprehensions of families in FY 2016 have increased 97% over FY 2015 levels. Total family apprehensions in FY 2016 are 68,080.

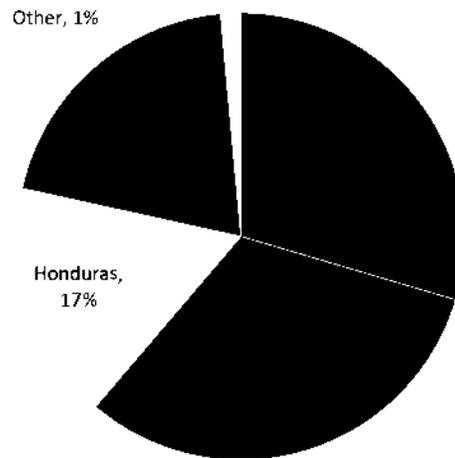
- Apprehensions of UAC in FY 2016 have increased 52% over FY 2015 levels. Total UAC apprehensions this fiscal year are 54,052.
- The U.S. Department of Health and Human Services, which takes custody of UAC within 72 hours, reports shifts in UAC demographics, particularly an increase in minors arriving without family in the United States. Previously most UAC arrived intending to reunite with family members living here.
- The majority of UAC (98%) and families (95%) who are apprehended are nationals of El Salvador, Guatemala, Mexico, and Honduras.

Families FY 16*



*Apprehensions FY 16 through August (% by citizenship)

**Unaccompanied Alien Children
FY 16***



*Apprehensions FY 16 through August (% by citizenship)

Statistics as of 8/31/2016. Source: U.S. Border Patrol

Challenges and Risks

(b)(5);(b)(7)(E)

(b)(5);(b)(7)(E)

DETAILED DISCUSSION

Role of DHS in combating human smuggling, illicit travel, and narcotics smuggling

- Under the Homeland Security Act of 2002, and subsequent amendments and reorganization plans, DHS and ICE have broad legal authority to enforce federal statutes related to cross-border criminal activity and transnational criminal organizations.
- ICE's enforcement efforts in these areas directly support DHS Strategic Goal 2.3 - Disrupt and Dismantle Transnational Criminal Organizations and Other Illicit Actors, and ICE Strategic Goal 1, Counter Terrorism and Protect the Borders. U.S. Customs and Border Protection (CBP) is a partner with ICE in these efforts. The DHS Science and Technology Directorate also works with ICE and CBP to identify and develop technologies to improve surveillance and detection capabilities along our land and maritime borders.

Issue Background

(b)(7)(E)

- Data from the Centers for Disease Control and Prevention (CDC) show that opioids were involved in 28,648 deaths in 2014. Between 2002 and 2013, the number of heroin-related deaths in America nearly quadrupled.
- The heroin threat is particularly high in the Northeast and Midwest areas of the United States. According to the 2016 National Drug Threat Survey, 45% of domestic law enforcement agencies reported heroin was the greatest drug threat in their area.
- Fentanyl and associated derivatives are absorbed through human skin and extremely small dosages can prove fatal, complicating enforcement and interdiction efforts.
- The U.S. heroin crisis is being compounded by the reemergence of fentanyl, a powerful Schedule II synthetic opioid analgesic more potent than morphine or heroin. Fentanyl is extremely dangerous and deadly and is sometimes mixed with powder heroin to increase its effects or mixed with diluents and sold as “synthetic heroin,” with or without the buyers’ knowledge. Fentanyl used for illicit purposes comes from several sources including pharmaceutical fentanyl diverted from legal medical use, which accounts for a small percentage of the fentanyl in the illicit market, and clandestine fentanyl manufactured in Mexico or China and smuggled here through a variety of means.
- Through a whole-of-government approach that includes supply chain disruption, detection, and intelligence, heroin and fentanyl encounters in the United States can be reduced.

Courses of Action (COAs)

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Key Partnerships

- Federal law enforcement and intelligence community, including CBP, ONDCP, Department of Justice, Department of Defense, as well as state and local law enforcement partners.
- The medical community regarding opiate prescriptions which serve as a gateway to illicit drug use.
- International partners.

DHS Transition Issue Paper

Immigration Detention, Bed Space, and Cost

OVERVIEW

- U.S. Immigration and Customs Enforcement's (ICE) Office of Enforcement and Removal Operations (ERO) administers the nation's largest civil detention system with an average of 34,000 detainees in nearly 200 facilities.
- The ERO budget accounts for 55 percent of ICE's \$6 billion annual budget, with Custody Operations being the largest program in the ICE portfolio (40 percent of ICE's annual budget). Over half of the ERO budget is used to purchase adult and family detention beds.
- ICE focuses its detention and removal funds on detaining aliens who fall into priority enforcement categories and those subject to mandatory detention, while placing low-risk, non-mandatory aliens in lower-cost alternatives to detention (ATD) programs.
- Due to factors outside of ICE's control (migration patterns, U.S. Customs and Border Protection border apprehensions, cooperation of local jurisdictions), forecasting and funding ICE's detention requirement year-to-year is challenging.
 - In Fiscal Year (FY) 2014, ICE required reprogrammed funds from other DHS components for detention because of the increase of family units and unaccompanied children crossing the border.
 - In FY 2015, the average daily population (ADP) was lower than projected, which allowed DHS to reprogram funding out of ICE's budget to support other DHS Components.
 - In FY 2016, ICE had to internally reprogram funds to address a budget shortfall due to a higher-than-anticipated ADP and higher-than-budgeted bed rate (cost).
- As a practical strategy, ICE procures a balanced mix of guaranteed beds and flexible beds. Guaranteed beds, known as a Guaranteed Minimum (GM), are dedicated to ICE and are paid for regardless of use. This ensures ICE always has a baseline of capacity available to detain aliens in custody throughout the entire year. Conversely, flexible beds are used and paid for on an as-needed basis. These beds support any fluctuations in the illegal alien population.
- Beginning in FY 2009, Congress has mandated a minimum level of detention beds that ICE is required to maintain. Initially the mandate was 33,400 beds and in FY 2012, it was raised to 34,000 beds. The exact appropriations language states: *"That funding made available under this heading shall maintain a level of not less than 34,000 detention beds . . ."* ICE sends weekly reports to Congress on the status of ADP relative to the 34,000 target.
- The House and Senate Appropriations Committees closely monitor ICE's detention costs, and have expressed displeasure in the past with how ICE manages its Custody Operations budget. They have also expressed displeasure that DHS does not request the appropriate amount of resources to fund the mandated 34,000 detention beds. This is because, in recent years, the President's Budget has requested resources for less than 34,000 detention beds, while directing more resources to the ATD program.

DETAILED DISCUSSION

Facility Planning and Acquisition

- ICE is responsible for planning and acquisition of civil detention space at strategically located sites to support efficient immigration enforcement and removal operations. These collaborative efforts align with the overarching goals of immigration detention reform, and result in the acquisition of safe and secure detention facilities that comply with applicable detention standards at a fair and reasonable cost to the government.
- ICE principally uses three types of detention facilities: (1) owned by ICE and staffed by a combination of federal and contract employees; (2) owned and operated by private companies that contract with ICE directly; and (3) owned by state and local governments.
- As a result of the Department of Justice announcing that they will cease using private detention facilities, DHS Secretary Jeh Johnson directed the Homeland Security Advisory Council (HSAC) to study whether ICE should also cease utilizing privately owned and operated detention facilities. The HSAC report is due on November 30, 2016.
- ICE's facility contracts generally specify the number of beds available for ICE use, the cost of bed space, the applicable detention standards (see below), and the duration of the contract.
- Facility cost is prescribed in the form of a *per diem* rate, i.e., the cost to house each detainee per day. Because the detention facility's geographic location is one of the primary drivers of pricing and resources, *per diem* rates vary significantly among facilities.
- Of all detention facilities used by ICE, including Family Residential Centers, 27 have a Guaranteed Minimum (GM) pricing structure.
 - GM facilities are the largest facilities in ICE's portfolio and account for approximately 18,000 guaranteed detention beds and approximately 22,000 overall beds.
 - The benefit of a GM contract structure is to ensure the availability of bed space, and tiered pricing. Under tiered pricing, once ICE meets the GM at a facility, beds beyond the GM are at a discounted rate, or in some cases, at no additional cost. Non-GM facilities are "pay as you go," i.e., ICE pays only for beds it uses each day.

Detention Bed Costs

- Detention bed costs have several components, such as expenses incurred for direct detention bed acquisition, detention guard services, meals, healthcare, and indirect costs (e.g., overhead, facility maintenance).
- Multiple variables throughout the year affect ICE's use of various facilities and therefore the detention bed cost. These variables include migration patterns, detainee demographics, utilization of GM facilities, criminality of detainees, and court rulings.
- The fluidity of these variables makes estimating detention bed costs difficult. ICE monitors costs daily, calculates the average bed cost monthly, and reports an official bed rate quarterly.
- Adult Bed Rates: All except three ICE facilities are used to detain adult, non-family detainees. As of the end of the third quarter of FY 2016, the average adult bed rate was \$127.37 per day. The average adult bed rate proposed in the FY 2017 President's Budget is \$126.46 per day,

slightly less than the FY 2016 average. ICE is currently working with DHS to update detention bed requirements for FY 2017.

- Family Detention Bed Rates: ICE uses three Family Residential Centers (FRCs) to detain “family units.”¹ The facilities are located in Berks County, Pennsylvania; Karnes City, Texas; and Dilley, Texas. The FRCs have a collective capacity of 3,326 beds but do not house that many people due to family size, demographics, and licensure guidelines. Family detention costs are higher than adult bed costs due to the services required for families, such as education, recreation, and childcare.
 - In FY 2016, the average bed rate at FRCs was \$342.73 per day. The FY 2017 President’s Budget proposes an average family bed rate of \$161.36 per day. This decrease is due to the fact that the contract for the Dilley facility is up for renewal at the end of FY 2016 and ICE expects to be able to achieve significant savings in FY 2017.
 - ICE is considering procurements to identify vendors that can provide family detention space at a lower cost. ICE is also in discussions with current vendors to decrease costs.

Detention Standards and Facility Compliance

- Adult Detention Standards: ICE detention standards establish consistent conditions of confinement, program operations, and management expectations across ICE detention facilities. Over time ICE has promulgated three different sets of standards governing adult detention facilities, which apply to facilities through individual contracts or agreements.²
 - The most recent detention standards, the 2011 Performance-Based National Detention Standards (PBNDS 2011), were intended to better address the unique needs of ICE’s detainee population. These standards enhance medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with limited English proficiency, improve reporting and responding to complaints, and increase recreation and visitation.
 - PBNDS 2011 currently applies to detention facilities housing approximately 60% of ICE’s ADP. ICE continues to pursue incorporation of the revised standards into facility agreements wherever contracting opportunities allow, prioritizing those facilities housing the largest populations of ICE detainees.
- Family Detention Standards: ICE’s Family Residential Standards apply to ICE’s three FRCs and were crafted to bolster best practices in family detention. The standards were reviewed by various non-governmental organizations during their development in 2007. In April 2007, ICE also established the Juvenile and Family Residential Management Unit to manage ICE’s

¹ A family unit is narrowly defined. It must include a non-United States citizen child or children under the age of eighteen accompanied by his/her/their non-United States citizen parent(s) or legal guardian(s). Unaccompanied alien children are not held in ICE detention, but are transferred to the custody of the Office of Refugee Resettlement at the U.S. Department of Health and Human Services, as required by law.

² The first set of detention standards, known as the National Detention Standards (NDS), was issued in 2000. NDS cover approximately 20% of the ICE ADP, and are most frequently applicable at county or city jails ICE uses pursuant to an intergovernmental service agreement (IGSA). ICE’s 2008 Performance-Based National Detention Standards (PBNDS 2008) revised these standards to more clearly delineate the results or outcomes to be achieved, and to improve safety, security, and conditions of confinement for detainees. PBNDS 2008 covers approximately 10% of the ICE ADP.

immigration policy affecting alien juveniles and families. The Unit consists of specialized federal staff and contract subject-matter experts in the fields of youth-centered programming, child psychology, child development, education, medicine, and conditions of confinement.

- Compliance: ICE ensures detention facilities comply with detention standards through an aggressive annual inspections program operated through an independent contractor. ICE also deploys on-site monitors to oversee daily facility operations, and to ensure compliance with detention standards and that detainee needs are being met.

Detention Reform Initiatives

ICE has a number of innovative policies and programs to promote detainee safety and welfare while adhering to the ERO mission. Below are examples of the agency's reform efforts:

- Detainee Transfer Policy (January 2012) – This policy minimizes the long-distance transfer of detainees within ICE's detention system, which aims to reduce the transfer of detainees who have family members in the area, local attorneys, or pending immigration proceedings.
- Parental Rights Policy (August 2013) – This policy ensures ICE immigration enforcement efforts do not unnecessarily undermine the rights of parents or legal guardians of U.S. citizen or legal permanent resident minor children, or of parents who are primary caretakers of minor children without regard to the dependent's citizenship.
- Segregation Policy (September 2013) – The ICE directive "Review of the Use of Segregation for ICE Detainees" establishes requirements for ICE review and oversight of facility decisions to place detainees in segregated housing. ICE subsequently launched a database that tracks all reported segregation placements, enhancing the agency's ability to review cases immediately and consider any potential housing or custodial alternatives.
- Sexual Abuse and Assault Protections (May 2012 to present) - In May of 2012 ICE issued a Directive "Sexual Abuse and Assault Prevention and Intervention," which establishes a zero-tolerance policy with respect to sexual abuse or assault of individuals in ICE custody, and delineates duties of agency employees for timely reporting and coordinated response and investigation of all incidents of sexual abuse or assault of individuals in ICE custody. The policy was revised in May 2014 to incorporate additional requirements contained in DHS regulations implementing the Prison Rape Elimination Act (PREA).
- ERO Detention Reporting and Information Line (DRIL) (September 2012) – The DRIL is a toll-free service that provides a direct channel for the public and detainees to communicate with ERO to answer questions and resolve concerns.

U.S. Immigration and Customs Enforcement



ICE Enforcement and Removal Operations (ERO)

U.S. Immigration and Customs Enforcement (ICE) was originally established as the Bureau of Immigration and Customs Enforcement by the *Homeland Security Act of 2002*. ICE's approximately 20,000 agents and employees protect the homeland through criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. ICE agents are located in more than 400 offices in the United States and 46 foreign countries. ICE is comprised of two operational



ICE Office of the Principal Legal Advisor lawyers work on cases. ICE photo.

directorates: Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI). Supporting ERO and HSI is the Management and Administration directorate, the Office of the Principal Legal Advisor, and the Office of Professional Responsibility who provide critical budget, procurement, human resource, facilities, information technology, and legal support services, as well as enforcement of ICE's standards for integrity and professionalism.

ERO enforces the nation's immigration laws including identifying, apprehending, detaining when necessary, and removing illegal aliens from the United States. ERO

prioritizes the apprehension, arrest, and removal of convicted criminals, those who pose a threat to national security, fugitives, and recent border entrants. ERO also works with individuals seeking asylum, manages the alternatives to detention program, provides access to legal resources and representatives of advocacy groups, and removes individuals subject to orders of removal or deportation.

HSI has broad legal authority to enforce federal statutes related to cross-border criminal activity and transnational criminal organizations. Using these authorities, HSI conducts criminal investigations related to financial crimes, commercial fraud, intellectual property theft, cybercrimes, human rights violations, human smuggling and trafficking, immigration document and benefit fraud, narcotics, weapons, transnational gang activity, export enforcement, and international art and antiquity theft.

Average ICE Day

- Initiates 8 sensitive technology investigations
- Arrests 7 child predators
- Completes 3 removal flights
- Seizes \$1.4 million worth of illicit currency and assets
- Arrests 279 criminal aliens
- Performs 545 medical screenings
- Closes 168 criminal alien cases
- Completes training for 773 employees
- Forensically processes more than 17 terabytes of data
- Arrests 4 human/sex traffickers
- Responsible for 5 convictions for human smuggling
- Handles 6,582 active legal cases
- Blocks 3,055 malware attacks
- Receives 623 employment applications
- Seizes 2,973 pounds of illegal narcotics
- Responsible for 24 visas refused due to terrorist connections or derogatory information
- Enters 842 aliens into detention
- Removes 645 aliens



An ICE HSI Special Agent inspects a seized counterfeit item at the Intellectual Property Rights Coordination Center in Crystal City, Virginia. ICE photo.



ICE ERO Officers conduct a training operation in Miami, Florida. ICE photo.

Mission

To enforce United States laws governing border control, customs, trade and immigration to promote homeland security and public safety. ICE carries out this mission by investigating individuals and organizations illegally exploiting America's travel, trade, financial and immigration systems, and through the arrest and removal of aliens who present a danger to national security or are a risk to public safety, as well as those who enter the United States illegally or otherwise undermine the integrity of our immigration laws and our border control efforts.



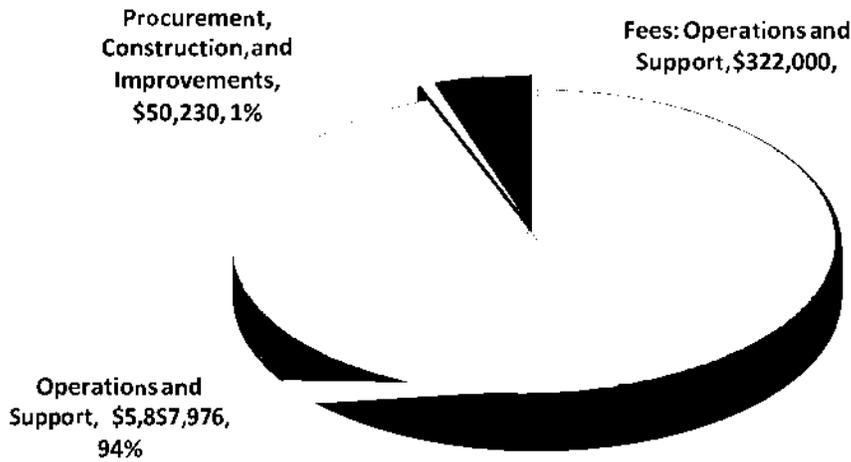
ICE ERO Special Response Team Officer conducts surveillance training in New York City, New York. ICE photo.

Budget

ICE - Total Budget Authority		
\$6,154,041,000	\$6,230,206,000	\$76,165,000

FY17 President's Budget

Dollars in thousands



ICE - 5-year Funding Trend

Dollars in thousands

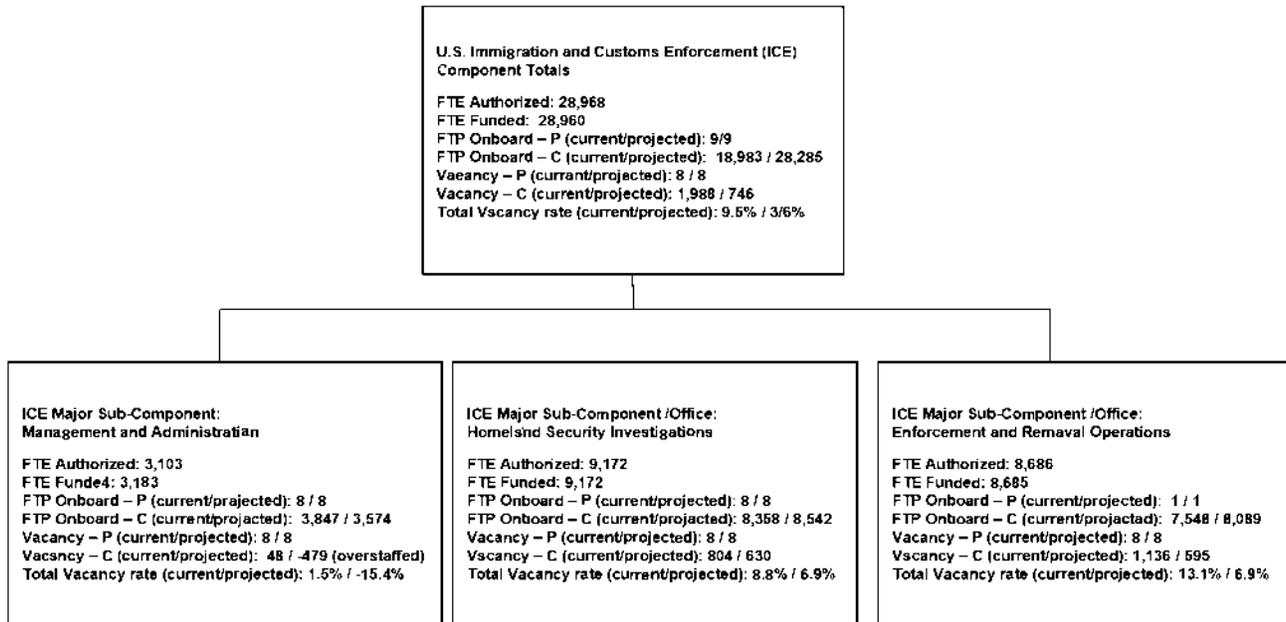


Workforce

20,960	19,069	1882/9.0%
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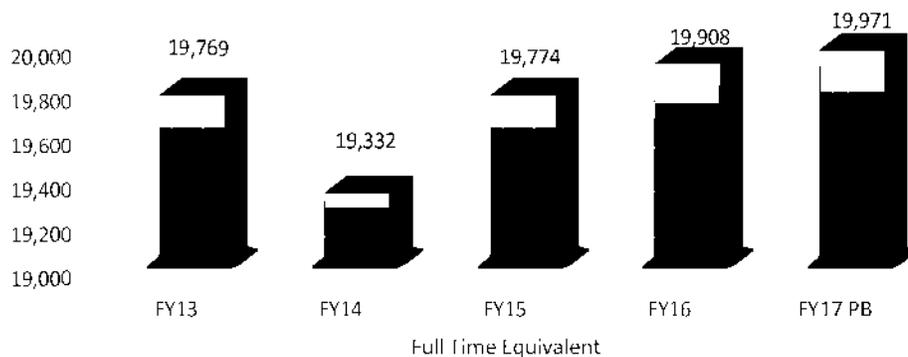
* FY 2016. Does not include reimbursable, working capital, or revolving account employees

Workforce Chart



NOTES:
 1) Reflects FTE authorizations and TOPS / NFC data as of 5/14/2016, and hiring estimates as of 6/7/2016
 2) Positions are based on lines of funding, and in some cases may not align by position within the organization.

ICE - 5-year Workforce Trend



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Strategic Priorities

- Expanding Domestic Partnerships to Further Enforcement Priorities - ICE will continue to emphasize building public and private-sector partnerships to advance its enforcement goals,



ICE HSI Special Agents provide assistance and security at the National Football League's Super Bowl. ICE photo.

such as the apprehension of criminal and fugitive aliens and the fight against intellectual property theft and trade fraud. To that end, ICE will continue to focus on the Priority Enforcement Program, which prioritizes enforcement efforts on the most dangerous aliens, by improving partnerships with those state and local jurisdictions that do not honor ICE detainers or requests for advance notice of an alien's release. ICE will also build upon the already stellar collaborative efforts of its National Intellectual Property Rights Coordination Center, an interagency

center that combats intellectual property crime, by growing the number of domestic agencies participating in the Center, and increasing coordination with the U.S. Intelligence Community and certain private sector organizations.

- Workforce Management - ICE is focusing on several workforce initiatives related to hiring, improving employee morale, updating equipment and information technology (IT) systems, implementing employee development and leadership training programs, expanding ICE's international footprint, and increasing workforce diversity.

These efforts include hiring over 2,000 personnel this year, implementing targeted recruitment strategies, and establishing leadership training targets for managers and supervisors to not only increase professional development

opportunities, but improve employee engagement and retention. ICE will also modernize facilities, deploy mobile IT devices for law enforcement officers, and upgrade and replace information and financial management systems.



A U.S. Immigration and Customs Enforcement (ICE) employee conducts Supervisory Leadership Training course instruction in Dallas, Texas. ICE photo.

- Priority Enforcement Areas of Focus** - To combat the dramatic rise in heroin and fentanyl smuggling, ICE identifies, targets, and exploits heroin and fentanyl manufacturing, shipping, smuggling, and distribution routes domestically and abroad, while examining financial data to develop actionable investigative leads on domestic targets. ICE will also prioritize its efforts to deter, interdict, and dismantle human smuggling networks and prevent illicit travel into the United States by vulnerable foreign populations, such as unaccompanied minors and families, as well as dangerous aliens with criminal histories or terrorist connections. ICE will continue to prioritize the investigation of cybercrime, including online child pornography, money laundering, and digital theft of intellectual property or export controlled data, by using innovative investigative strategies and evolving technology to disrupt and dismantle malicious cyber actors, in continuing partnerships with other state, local, and foreign agencies.



ICE Homeland Security Investigations (HSI) Special Response Team Special Agents train during a security scenario. ICE photo.

- Tailoring the Immigration Detention Environment to Individual Needs** - ICE faces a number of challenges in tailoring the detention environment to the unique needs of its detained population, including safe and secure civil detention suited for the diverse demographics of ICE detainees. ICE has worked aggressively on detention reform initiatives, such as establishing model facilities, improving conditions of detention through updated detention standards, and implementing protections against sexual abuse and assault. ICE continues to look for opportunities to identify new facilities, improve its current facilities, and to establish new benchmarks for best practices in immigration detention.



ICE Health Service Corps employees perform dental work on a detainee. ICE photo.

- Immigration Data Modernization and Governance** - Due to aging information technology (IT) systems, evolving scrutiny of the ICE mission, and the challenge of integrating and coordinating immigration data with ICE's partners both internal and external to the Department of Homeland Security (DHS), ICE is challenged to provide consistent and reliable immigration enforcement statistics in response to numerous and increasingly complex and nuanced information requests. The Senate FY 2017 Appropriations Committee Report recently directed ICE to create an immigration data

improvement plan in order to improve the agency's ability to report immigration statistics to oversight bodies. This risk area is decreasing due to the recent creation of the ICE Office of Information Governance and Privacy, which will appoint an ICE Chief Data Officer and initiate data governance to improve the trustworthiness of both ICE data and immigration data across the DHS enterprise; however, success is highly dependent on the availability of IT Automation Modernization funding to support this effort.

Key Partnerships / Stakeholders

Interagency	
Partner	Description
White House Policy Councils, especially the National Security Council (NSC) and Council on Environmental Quality (CEQ)	There is regular engagement in FEMA's mission space among the various White House Policy Councils, especially the NSC and CEQ. FEMA preparedness, response, recovery, and mitigation policy issues and operations have been regular topics among interagency bodies convened at all levels (i.e., Principals, Deputies, and Assistant Secretary-level Interagency Policy Committees).
National Intellectual Property Rights (IPR) Center Partnerships: Federal Partners, Industry Supporters, and International Partners	Various federal agencies, industry, and foreign governments serve as partners in the ICE-led National Intellectual Property Rights (IPR) Coordination Center. The IPR Center combats global intellectual property theft and seeks to enforce U.S. trade laws. The Center ensures national security by protecting public health and safety, the U.S. economy, and our warfighters. It also seeks to stop predatory and unfair trade practices that threaten the global economy.
U.S. Department of Justice, Offices of the U.S. Attorney	The United States Attorney's Offices (USAOs) serves as the principal litigators for ICE. All criminal cases brought by ICE for violation of federal laws are presented for prosecution through the USAO. The USAO also assists ICE with the defense of civil cases brought against ICE and/or its employees.

Interagency	
Partner	Description
U.S. Department of Justice, Executive Office for Immigration Review (EOIR)	DOJ's EOIR operates the nation's immigration courts, in which ICE litigates exclusion, deportation, and removal cases against aliens who are inadmissible or deportable from the United States. ICE's relationship with EOIR includes data sharing arrangements to facilitate the flow of immigration case information between the two agencies. EOIR also operates a Legal Orientation Program for aliens in ICE custody to improve their understanding of the immigration removal process.
U.S. Department of Justice, Federal Bureau of Investigation (FBI)	ICE details criminal investigators to FBI-led Joint Terrorism Task Force (JTTF) offices around the country. JTTFs are responsible for the investigation of terrorist suspects and terrorism crimes. ICE coordinates routinely with the FBI on other federal criminal investigations and matters such as Intellectual Property crimes. ICE also works extensively with the FBI's Criminal Justice Information Services (CJIS) division on data sharing issues related to criminal justice information.
U.S. Department of State (DoS)	ICE's Visa Security Program supports counterterrorism screening of visa applications in coordination with the DoS (Consular Affairs). DoS is ICE's primary resource for expertise in cultural property and heritage, art, and antiquities, and supports ICE's cultural property, art, and antiquities investigations. DoS provides litigation support with asylum/refugee processing and supports ICE's mission to repatriate aliens who have been ordered removed from the United States.

Stakeholder Groups and Federal Advisory Committees (FACA)	
Partner	Description
287(g) Partners (various state and local law enforcement agencies that signed 287(g) agreement)	The 287(g) program, one of ICE's top immigration enforcement initiatives, allows a state and local law enforcement entity to enter into a partnership with ICE. This program delegates to specially trained state and local law enforcement officers the authority to enforce immigration law (investigate, apprehend, and detain) within their jurisdictions.
Immigration and human rights non-governmental organization (NGO) working groups	ICE works with various non-governmental and faith-based organizations that are interested in immigration and human rights issues to address concerns about immigration detention and the enforcement of immigration laws.
National Center for Missing and Exploited Children (NCMEC)	NCMEC is a Congressionally-authorized, non-profit organization that serves as the national clearinghouse on issues relating to missing and sexually exploited children. ICE and other law enforcement agencies submit exploitative images and video files to NCMEC for review against the Child Recognition Identification System database for proof of "real" child for prosecution purposes. NCMEC manages the Cybertipline where Internet and Electronic Service Providers are mandated by law to report potential child exploitive material. ICE facilitates the referral of all international Cybertip leads via ICE Attaché offices at U.S. Embassies and consulates abroad.

International Engagements	
Partner	Description
Five Country Conference Working Group	The Five Country Conference is comprised of the United States, Canada, Australia, New Zealand, and the United Kingdom. The FCC works together to promote international data sharing arrangements among the members and technologies in various mission areas, including ICE's mission area of criminal law enforcement and immigration.

Organized Labor / Advocacy Groups	
Partner	Description
ICE Unions: American Federation of Government Employees (AFGE) Local 511 and Council 118	Currently there are two Collective Bargaining Agreements that are both under renegotiation. AFGE 511 has approximately 700 members from ICE and is the Union for professional employees, including attorneys and accountants. AFGE 118 has approximately 5000 members from ICE and is the Union for non-professional employees, including the 1801 law enforcement series employees, legal assistants, and certain mission support employees.

Legislative Priorities

- **ICE Authorization Bill** - Section 442 of the *Homeland Security Act of 2002* originally created the “Bureau of Border Security” to be led by an Assistant Secretary. The President’s DHS Reorganization Plan (2002) transitioned the Bureau of Border Security entity into the “Bureau of Immigration and Customs Enforcement”; however, unlike other DHS component agencies, there is no statute codifying the creation and structure of ICE. Although, ICE has been referred to in various statutes (most recently in H.R. 644: *Trade Facilitation and Trade Enforcement Act of 2015*), it would be beneficial for ICE’s responsibilities and authorities to be clearly codified in an organic statute. This would reinforce ICE’s role within DHS and the Federal Government as a whole, reduce the need for current and future ad hoc delegation orders, and give the public a better understanding of the agency’s mission and significance.
- **Premium Pay Reform** - ICE seeks legislation to convert approximately 6,200 officers to the same type of premium pay, referred to as Law Enforcement Availability Pay, to which ICE’s criminal investigators are entitled. Currently, these officers are eligible for a different type of premium pay called Administratively Uncontrollable Overtime, which fails to provide the flexibility needed to support the ICE enforcement mission. This legislative proposal creates pay parity among all ICE law enforcement personnel, provides management with better control and flexibility to respond to fluid operational needs, and results in a small savings to ICE.
- **ICE Danger Pay Authority** - ICE seeks legislation authorizing the ICE Director to approve danger pay for employees assigned to specific overseas offices. This authority would be independent of the U.S. Department of State’s designation for a specific overseas post, and consistent with the same authority the heads of the Drug Enforcement Administration and Federal Bureau of Investigation (FBI) have to authorize danger pay for their employees assigned overseas. This authority will address a pay parity issue for ICE personnel who do not receive danger pay at a particular overseas location when their colleagues from other law enforcement agencies do, although they perform the same job function and are exposed to the same dangers and threats.

- Flexible Hiring Authorities - ICE seeks legislation authorizing it to use excepted service hiring authorities and direct hiring authorities as alternatives to the traditional competitive examining process. The traditional competitive examining process is not used by other law enforcement agencies such as the FBI, and creates unacceptable delays in the filling of key law enforcement positions. It can also interfere with the agency's ability to meet diversity targets in its law enforcement workforce. With these additional authorities it is anticipated that ICE will focus its hiring efforts expeditiously towards special skill sets and assist in creating a diverse workforce.
- Immigration Detainer Reform - ICE's use of immigration detainers to apprehend removable aliens has become problematic as a result of the passage of state and local legislation, executive orders, and policies that now limit or prohibit cooperation with immigration detainers. Recent federal court decisions have called into question the authority of state and local law enforcement agencies to hold an alien subject to a detainer beyond the time the individual would normally have been released from criminal custody. Legislation to clarify ICE's detainer authority would affirm the lawful basis for states and localities to maintain custody in cases in which a detainer has been issued.

**Government Accountability Office / Office of the Inspector General
Audits**

GAO Audits			
Title	Report Number	Description	Final Report Due
STUDENT AND EXCHANGE VISITOR PROGRAM: DIIS Needs to Assess Risks and Strengthen Oversight Functions	GAO-12-572	GAO examined the extent of fraud prevention risks and detection procedures in ICE's Student and Exchange Visitor Program (SEVP). SEVP monitors international students and their dependents who are admitted to the United States under F and M classes of admission to ensure that they comply with the terms of their admission, such as remaining enrolled in a qualified school. SEVP also certifies schools to allow them to enroll F or M students. International students studying in the United States can only attend a SEVP-certified school. This audit provided a roadmap to address program risks, consistently implement procedures on school eligibility, and notifying flight schools that lack FAA certification.	June 18, 2012

GAO Audits			
Title	Report Number	Description	Final Report Due
STUDENT AND EXCHANGE VISITOR PROGRAM: DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization	GAO-14-129SU	<p>GAO examined the extent of SEVP's use of a risk-based approach to managing the Optional Practical Training program (OPT). OPT is an employment benefit that allows approved foreign students to remain in the country even after they complete their training and gain work experience related to their field of study. Because GAO found that SEVP did not consistently collect or monitor students for compliance with OPT requirements, GAO made seven recommendations including that ICE identify and assess OPT-related risks, require additional employment information from students and schools, and develop a process to inform U.S. Citizenship and Immigration Services (USCIS) when a student transfers to another school.</p> <p>Using the risk tools developed after the previous GAO audit, ICE was able to develop risk factors for OPT.</p> <p>This audit is considered high-risk/high-profile because it concerns a national security program and because of high Congressional interest.</p>	January 23, 2014

OIG Audits			
Title	Report Number	Description	Final Report Due
Review of ICE's Deportation and Repatriation Policies and Procedures	Project 16-044-ISP-ICE	This is an ongoing review of a detainee who was released and subsequently committed a homicide (the Jean Jacques case). This audit will probably lead to substantial policy changes.	December 31, 2016
ICE's Screening of Special Interest Aliens	Project 16-020-AUD-ICE	This is an ongoing audit of the effectiveness of ICE's screening of aliens who pose a threat to national security.	TBD
Evaluation of the Cybersecurity Act of 2015	Project 16-063-ITA-DHS	This audit will identify logical access policies and controls implemented at the Department of Homeland Security, as required by the <i>Cybersecurity Act of 2015</i> . The review will focus on the Department's national security systems, or systems that provide access to personally identifiable information.	TBD

Immigration and Customs Enforcement Presidential Transition Office

Response to the President-Elect's Transition Team (PETT) Request for Information

RFI 002: Please provide the number and status of denaturalization cases being process as a result of incomplete finger print information.

Transition Materials: Warning! This document, along with any attachments, contains NON-PUBLIC INFORMATION exempt from release to the public by federal law. It may contain Law Enforcement Sensitive, confidential, legally privileged, proprietary or deliberative process inter-agency/intra-agency material. You are hereby notified that any dissemination, copying, or further distribution of this information to unauthorized individuals (including unauthorized members of the President-elect Transition Team) is strictly prohibited. Unauthorized disclosure or release of this information may result in loss of access to information, and civil and/or criminal fines and penalties.

Immigration and Customs Enforcement Presidential Transition Office

Response to the President-Elect's Transition Team (PETT) Request for Information

RFI 003: Please provide the information/statistics used to identify recalcitrant countries.

Transition Materials: Warning! This document, along with any attachments, contains NON-PUBLIC INFORMATION exempt from release to the public by federal law. It may contain Law Enforcement Sensitive, confidential, legally privileged, proprietary or deliberative process inter-agency intra-agency material. You are hereby notified that any dissemination, copying, or further distribution of this information to unauthorized individuals (including unauthorized members of the President-elect Transition Team) is strictly prohibited. Unauthorized disclosure or release of this information may result in loss of access to information, and civil and/or criminal fines and penalties.

(b)(5):(b)(7)(E)

Attachment: Removal Cooperative Initiative, ERO Removal Division, October 2015 – Pilot Guidance

Immigration and Customs Enforcement Presidential Transition Office

(b)(5);(b)(7)(E)

ICE Subject Matter Experts Cleared by: Matthew T. Albence, ERO Assistant Director for Enforcement. Thomas Homan, Executive Associate Director for ERO

OPLA POC and Cleared By: OPLA POC, Adam V. Loiacono, (A) Director of Enforcement and Litigation. Cleared by Michael P. Davis, Deputy Principal Legal Advisor

ICE Approving Official: Deputy Director Daniel Ragsdale

OGC Cleared By:

Requirements to Reestablish 287(g) Task Force Model Agreements

- The Office of Enforcement and Removal Operations (ERO) estimates that it would take approximately one year to reestablish Task Forces pursuant to section 287(g) of the Immigration and Nationality Act (INA) on the scale that existed prior to the discontinuance of the 287(g) Task Force Model in 2012. This estimate and the related costs assume the creation of 24 new Task Forces, with 5 officers assigned to each. Requirements to stand up each Task Force include:
 - Identification of law enforcement agencies (LEAs) with which to partner. Of note, the specific task force arrangements that existed in 2012 *could not* be automatically reinitiated, given expiration of the prior Memoranda of Agreement (MOAs) between ICE and the LEAs and staffing and leadership turnover (including among state/local elected and politically appointed officials). A first step in bringing the 287(g) Task Force Model back online would be to assess the efficacy of reestablishing former Task Forces in light of current operational needs.
 - Negotiating and obtaining clearance, including legal review by ICE and the LEA, of a new MOA for each participating LEA.
 - Conducting background investigations and suitability reviews for selected Task Force Officers.
 - Training for Task Force Officers, taking into account the availability of training staff and academy scheduling.
- The partial year cost (assuming implementation beginning in April 2017) would be approximately \$7 million, with a Fiscal Year 2018 cost of \$11 million. This includes all relevant expenses, to include additional Headquarters and field ERO staffing, information technology infrastructure, and legal support to provide oversight and management of the Task Force Officers.

Immigration and Customs Enforcement Presidential Transition Office

RFI 081: Provide a breakdown of removal orders by Secretary's priorities, criminal and non-criminal.

Breakdown of Removal Orders by Secretary's Priorities

- There are currently 517,587 open active ICE fugitives, of whom 77,175 fall within Secretary Johnson's November 20, 2014 civil immigration enforcement priorities (CIEP).
 - An ICE fugitive is an alien who has failed to leave the United States after he or she received a final order of removal, deportation, or exclusion, or who has failed to report to ICE after receiving notice to do so.
- Of the 517,587 open active ICE fugitive cases, 440,412 fall outside the current priorities.
- The table below represents the entire ICE Fugitive backlog, broken down by current CIEP.

	Fugitives
CIEP1	7,529
CIEP2	15,359
CIEP3	54,287
Non-Priority	440,412
Total	517,587

Immigration and Customs Enforcement Presidential Transition Office

(b)(5)

ICE Subject Matter Experts Cleared by: Thomas Homan, Executive Associate Director for ERO

OPLA POC and Cleared By: OPLA POC, Adam V. Loiacono, (A) Director of Enforcement and Litigation. Cleared by Michael P. Davis, Deputy Principal Legal Advisor

ICE Approving Official: Deputy Director Daniel Ragsdale

OGC Cleared By:

ERO Criminal Enforcement Activities

Prosecutions Summary:

Category	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16
Initiated	13,787	14,848	13,933	11,471	10,075	8,540	7,444	5,720
Accepted	9,598	10,248	10,931	9,245	8,604	7,143	6,587	5,086
Indictment	6,848	8,233	9,453	8,761	7,650	6,253	5,343	3,950
Arrests	7,694	8,831	9,818	8,855	7,817	6,553	5,631	4,806
Convictions	6,482	8,101	9,730	9,103	7,893	6,881	5,671	4,436
Declined	5,124	4,517	2,668	2,073	1,419	1,325	828	924

*ERO prosecutions include criminal violations of Title 8 and Title 18 of the U.S. Code. Convictions in a given year may be higher than indictments for the same year as a conviction may be a result of indictment in prior years. Prior to June 25, 2016, Prosecutions data was pulled from TECS via COGNOS. As of June 25, 2016, prosecutions data is manually tracked while ERO develops a computer based case tracking system.

ERO Administrative Enforcement Activities

Detainers:

Fiscal Year	Number of Detainers
FY2009	228,993
FY2010	290,847
FY2011	316,170
FY2012	282,541
FY2013	212,455
FY2014	161,322
FY2015	96,892
FY2016	86,026

*ERO Detainer metrics are provided by LESA/STU and reported from ICE ERO systems of record.

Charging Documents Issued:

Fiscal Year	Charging Documents Issued (CDIs)
FY2009	283,180
FY2010	276,571
FY2011	275,665
FY2012	249,575
FY2013	194,861
FY2014	145,188
FY2015	84,362
FY2016	81,982

*ERO Charging Documents Issued metrics are provided by LESA/STU and reported from ICE ERO systems of record.

Criminal Alien Program Arrests:

Fiscal Year	CAP Arrests		
	Criminal Aliens	Non-Criminal Aliens	Total
FY 2009	7,699	5,287	12,986
FY 2010	114,834	66,356	181,190
FY 2011	148,818	73,015	221,833
FY 2012	142,968	56,452	199,420
FY 2013	127,772	40,231	168,003
FY 2014	103,749	31,785	135,534
FY 2015	77,704	11,364	89,068
FY 2016	71,186	7,577	78,763

*ERO Criminal Alien Program Arrest metrics are provided by LESA/STU and reported from ICE ERO systems of record.

ERO At-large Arrests:

ERO At-large Arrests			
Fiscal Year	Criminal Aliens	Non-Criminal Aliens	Total
FY 2009	19,149	34,184	53,333
FY 2010	22,743	26,222	48,965
FY 2011	19,655	21,837	41,492
FY 2012	24,390	16,632	41,022
FY 2013	26,540	11,365	37,905
FY 2014	23,793	9,095	32,888
FY 2015	25,661	4,674	30,335
FY 2016	24,850	5,498	30,348

*ERO At-large arrest metrics are provided by LESA/STU and reported from ICE ERO systems of record.

287(g) Program Encounters:

Fiscal Year	287(g) Encounters
2009	62,999
2010	56,548
2011	54,921
2012	46,030
2013	37,228
2014	32,657
2015	28,280
2016	28,367

*ERO 287(g) Program Encounter metrics are provided by LESA/STU and reported from ICE ERO systems of record.

Foreign Alien Removal (FAR) Program Arrests:

Fiscal Year	FAR Arrests*
FY 2011	74
FY 2012	155
FY 2013	250
FY 2014	288
FY 2015	345
FY 2016	406

*FAR arrests refer to the administrative arrest of a "foreign fugitive", defined as a removable alien with an arrest warrant from a foreign country for an offense which is also considered a crime in the United States. Many of these cases are generated through liaison with INTERPOL.

Fugitive Operations Teams Arrests:

Fiscal Year	Fugitive Operation Team Arrests	Convicted Criminal Aliens
FY 2008	34,155	23%
FY 2009	35,094	45%
FY 2010	35,774	51%
FY 2011	40,102	54%
FY 2012	37,371	65%
FY 2013	31,222	75%
FY 2014	27,062	79%
FY 2015	23,641	89%
FY 2016	21,635	88%

*Statistics for FY 2008 – FY 2013 are from the Fugitive Case Management System (FCMS). Statistics for FY 2014 – FY 2016 are from the Operation Management Module (OM²).

Probation and Parole Arrests:

Fiscal Year	Probation & Parole Arrests*
FY2014	2,052
FY2015	3,496
FY2016	4,634

*ERO Probation and Parole Arrest metrics are provided by LESA/STU and reported from ICE ERO systems of record. ERO began tracking P&P arrests as a unique metric in 2014. Prior to that time, P&P arrest were not tracked as a unique metric.



ICE OPERATIONAL OVERVIEW

Total Budget Authority		
FY16 Enacted	FY17 President's Budget	+/-
\$6,154,041,000	\$6,230,206,000	\$76,165,000

(b)(5);(b)(7)(E)

ICE Core Mission Offices

Office of Homeland
Security
Investigations (HSI)

Office of
Enforcement and
Removal Operations
(ERO)

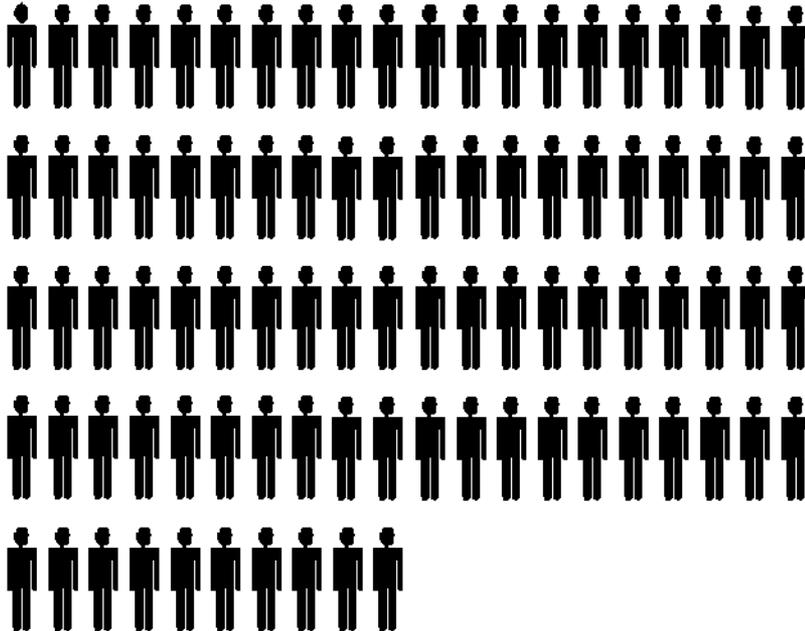
Office of Principal
Legal Advisor
(OPLA)



HOMELAND SECURITY INVESTIGATIONS



HSI: A YEAR PROTECTING THE HOMELAND



HSI: A YEAR PROTECTING THE HOMELAND



20,221



15,922



HSI FY16 INVESTIGATIVE CASE HOURS

10,572,644
Total Investigative Case Hours



HSI STRATEGIC MISSION PRIORITIES



30
2.25 million

25

2,203

8,599



HSI STRATEGIC MISSION PRIORITIES



24



239

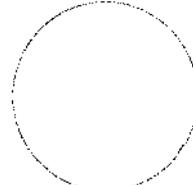
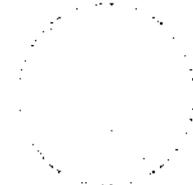


10



HSI STRATEGIC MISSION PRIORITIES

820



6.3 petabytes

81 years



HSI STRATEGIC MISSION PRIORITIES



435



1,522



HSI STRATEGIC MISSION PRIORITIES



1.5 million

5,987

501

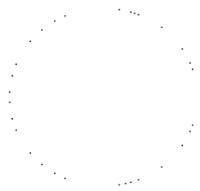
269,310



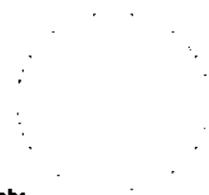
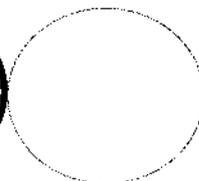
4,606



HSI STRATEGIC MISSION PRIORITIES



\$473 Million



ENFORCEMENT & REMOVAL OPERATIONS



A DAY IN THE LIFE OF ERO



FY16 ERO ENFORCEMENT ACTIVITIES



FY16 ERO ENFORCEMENT ACTIVITIES



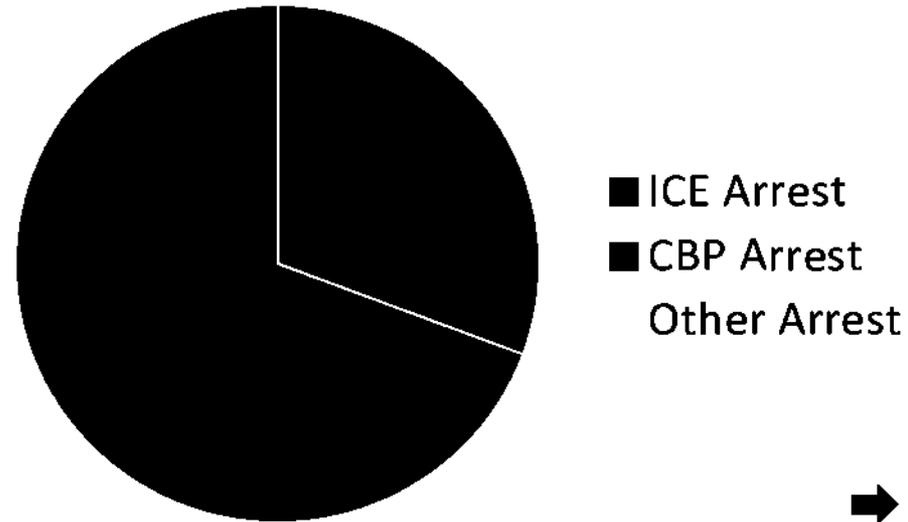
FY16 ALIEN INTAKE

Non-Criminal	210,816	60%
Convicted Criminal	142,066	40%

Non-Criminal
Criminal

By Arresting Agency

ICE Arrest	108,342	31%
CBP Arrest	244,510	69%
Other Arrest	30	<1%

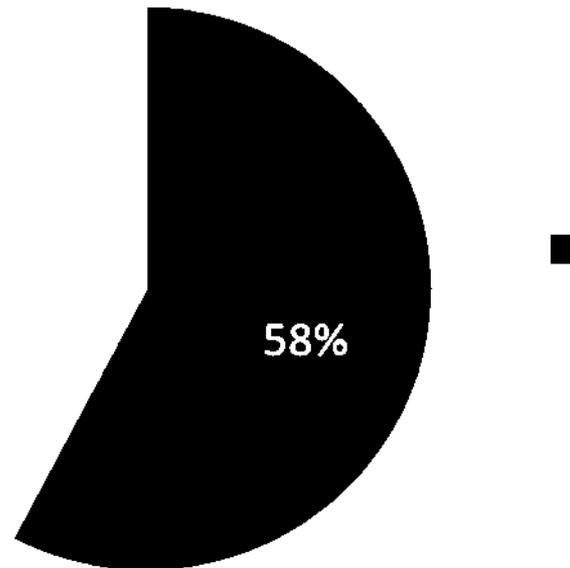


AVERAGE DAILY POPULATION (ADP) IN IC DETENTION



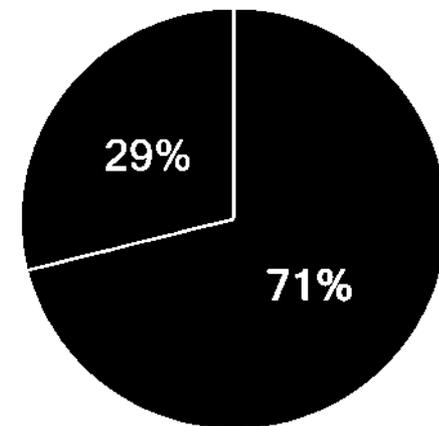
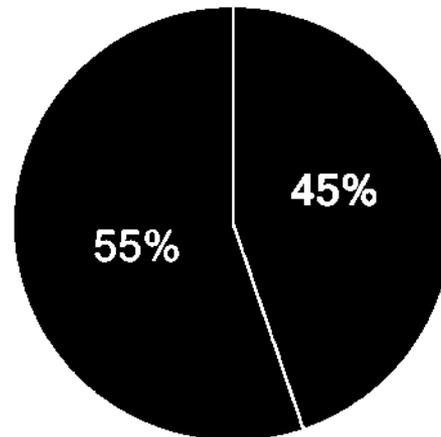
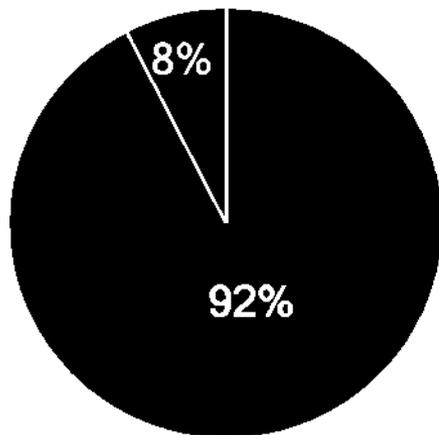
FY16 REMOVALS & RETURNS

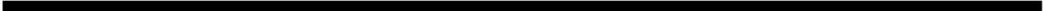
Departure Type*	Criminal	Non-Criminal	Total
ICE Removals	134,449	98,023	232,472
ICE Returns	4,220	3,563	7,783
Total	138,669	101,586	240,255



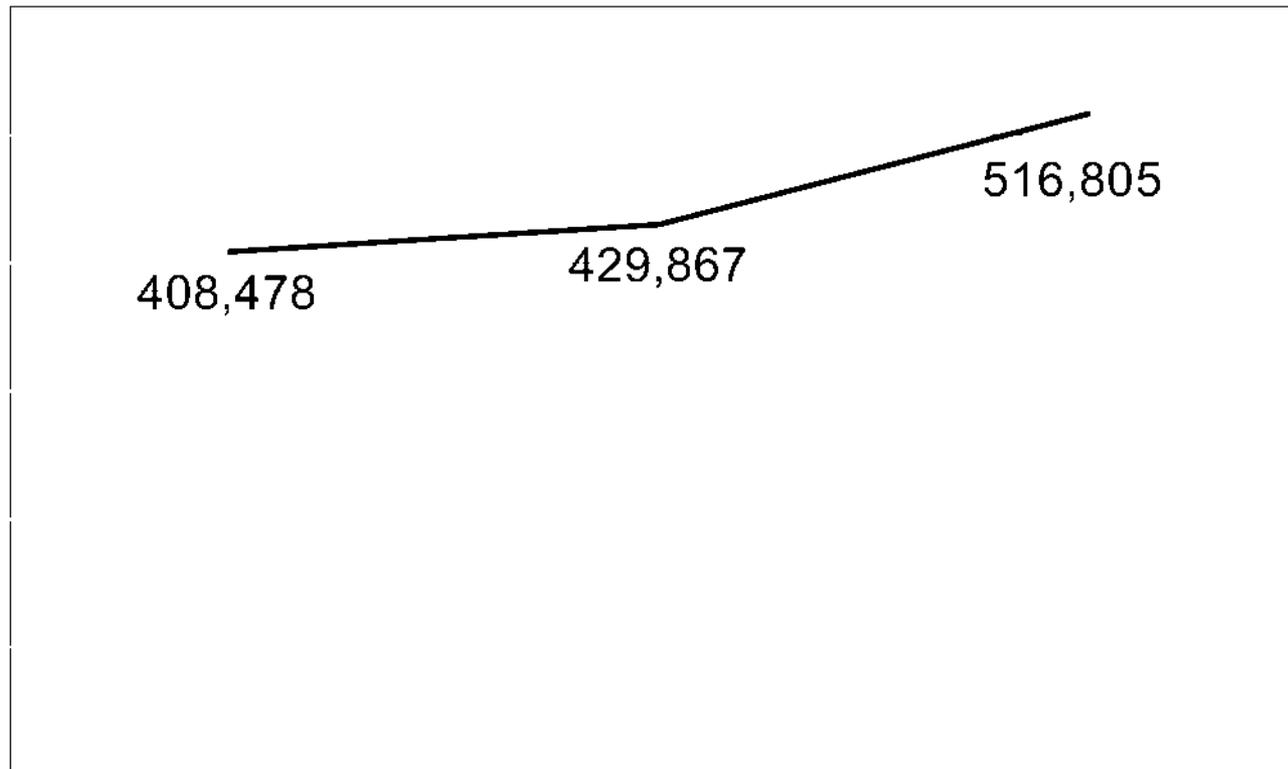
FY16 REMOVALS & RETURNS

ICE Removals & Returns*	Arresting Agency		
Criminal	60,055	78,351	263
Non-Criminal	4,907	96,572	107
Total	64,962	174,923	370

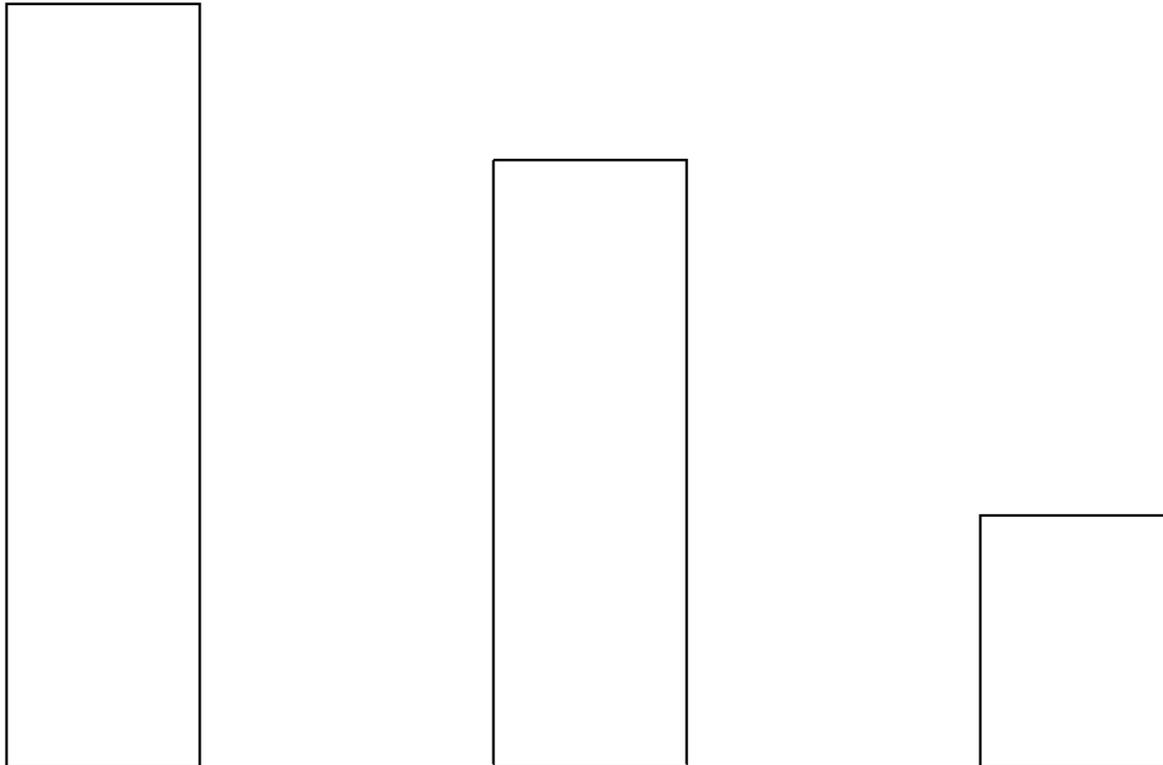




EOIR PENDING IMMIGRATION CASES



FY16 IMMIGRATION CASE DISPOSITIONS



DHS Transition Issue Paper

Trade Security, Facilitation, and Enforcement

I. Overview

With the creation of the U.S. Department of Homeland Security (DHS) by the Homeland Security Act of 2002, U.S. Customs and Border Protection (CBP) assumed responsibility for enabling legitimate trade and enforcing trade laws at the United States border, including its Ports of Entry (POEs). Additionally, U.S. Immigration and Customs Enforcement (ICE) assumed responsibility for the investigation of U.S. importers, companies, and other entities that attempt to circumvent lawful trade mechanisms, including payment of required duties. Finally, the U.S. Coast Guard (USCG) assumed responsibility for ensuring a secure international supply chain by performing security assessments of anti-terrorism measures at the ports of approximately 150 countries that conduct maritime trade with the United States.

CBP is the primary U.S. Government component charged with monitoring, facilitating, and regulating the flow of goods imported through coordinated border management at our 328 POEs. Key challenges that CBP faces with the 21st century global supply chain include the exponential increase in use of e-commerce, the next generation of just-in-time delivery capabilities, and the ever-increasing complexity of the international trade environment. As the volume of international trade increases and technology advances, CBP must accommodate this growth while continuing to facilitate safe and legitimate trade in a timely manner. CBP meets these challenges through the following three distinct but interrelated efforts: *Trade Security, Trade Facilitation, and Trade Enforcement*.



ICE is the largest investigative component within DHS, with an extensive portfolio of enforcement authorities, including those related to commercial fraud. ICE aggressively pursues crimes and investigations related to dumping and countervailing duty evasion schemes, pharmaceutical smuggling, tobacco smuggling, and other border related trade crimes. Additionally, ICE investigates intellectual property violations involving the illegal importation and exportation of counterfeit merchandise and pirated works, as well as associated money laundering violations.

Recognizing the need to work with other law enforcement, as well as stakeholders, ICE leads various coordination efforts, such as the National Intellectual Property Rights Coordination Center (IPR Center), which brings together 23 partners in a task force setting. CBP holds a Deputy Assistant Director position at the IPR Center, and together, the two components work to enhance economic competitiveness, protect American consumers and the U.S. economy, and enforce laws and regulations against trade fraud in an increasingly complex international trade environment.

Customs laws and recent legislative developments, namely the enactment of the **Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA)**, enhance DHS' authorities and impact the balance of trade security, facilitation, and enforcement. TFTEA, enacted on February 24, 2016, is the first comprehensive authorization of CBP since DHS was created in 2003. TFTEA strengthens CBP's ability to protect Intellectual Property Rights and Antidumping and Countervailing Duty laws through improved enforcement capabilities, prohibits the import of products made by forced labor, and supports CBP's facilitation and enforcement initiatives such as the establishment of the Centers of Excellence and Expertise and the implementation of the Automated Commercial Environment (ACE). TFTEA supports DHS' efforts to *protect U.S. economic security* through trade enforcement; *collaborate with the private sector* through direct industry engagement; and *streamline and modernize processes* through business transformation initiatives to meet the demands and complexities of a rapidly evolving global supply chain.

II. Detailed Discussion

Where do DHS missions align with or impact this issue? DHS Mission Two (2), as defined in the *DHS FY 2014-2018 Strategic Plan*, outlines the following three goals, which directly align with the issue of this paper, *Security, Facilitation, and Enforcement of Trade*.

DHS Mission 2 Goals	CBP, ICE, and USCG Action
Goal 1: Secure U.S. air, land, and sea borders and approaches.	Trade Security: <ul style="list-style-type: none"> • CBP protects the American consumer from illegal goods to safeguard the nation from threats to economic security and public safety. • ICE contributes to the security of the air, land, and sea borders by conducting criminal investigations that prevent fraudulent trade practices and the importation of counterfeit goods. • USCG enhances the security of the international supply chain through its foreign port assessments and through identification of potential offshore risk and implementation of security measures to reduce those risks.
Goal 2: Safeguard and expedite lawful trade and travel.	Trade Facilitation: <ul style="list-style-type: none"> • CBP facilitates the smooth flow of safe and legitimate trade in a complex global trade environment. • ICE safeguards lawful trade by working with law enforcement partners and industry to stop activities that undermine legitimate trade.
Goal 3: Disrupt and dismantle transnational criminal organizations and other illicit actors.	Trade Enforcement: <ul style="list-style-type: none"> • CBP enforces and sanctions bad trade actors and safeguards the safety of the American people. • ICE, through its criminal investigations, disrupts and dismantles transnational criminal organizations and illicit actors.

1. Trade Security – Protecting the American People and Borders from Illegal Import and Entry of Goods

Each year, approximately 25 million cargo containers arrive at U.S. POEs. DHS works closely with the trade community through its security efforts to ensure that the contents of each container do not pose risk to the health and safety of the American people and economy.

All cargo that enters into the United States from any foreign territory may be subject to physical examination by the U.S. Government to verify its admissibility. DHS protects the United States against terrorists, weapons of mass destruction, and products that may harm the American consumer. For example, DHS uses an intelligence assessment to determine if a foreign country has effective anti-terrorism measures at their ports, and in cases where DHS determines that the international security standard is not met, the USCG makes a public notification through a Port Security Advisory and a Federal Register Notice and imposes Conditions of Entry on vessels arriving from those ports, requiring those vessels to take additional security measures to prevent them from bringing potential terrorists or weapons of mass destruction into the United States. All cargo flown on passenger aircraft is subjected to screening for explosives in accordance with a



U.S. Immigration and Customs Enforcement

Daniel H. Ragsdale

Daniel H. Ragsdale is the Acting Director for the principal investigative agency of the Department of Homeland Security. He was appointed Deputy Director in May 2012 and became Acting Director on January 20, 2017.

In his capacity as Acting Director, Mr. Ragsdale advances ICE's mission to promote homeland security and public safety through the criminal and civil enforcement of approximately 400 federal laws governing border control, customs, trade and immigration.

Prior to his tenure as Deputy Director, Mr. Ragsdale served as the Executive Associate Director for Management and Administration. As ICE's chief management officer, he was responsible for assisting ICE's Director and Deputy Director in the effective and efficient management of the business operations of the agency.

Mr. Ragsdale joined the former U.S. Immigration and Naturalization Service's General Counsel's Office in 1996 and served as an attorney in New York, N.Y., as well as Tucson and Phoenix, Arizona. He also served as a special assistant U.S. Attorney in the Criminal Division of the U.S. Attorney's Office for the District of Arizona. Mr. Ragsdale joined ICE's headquarters legal team in 2006 as chief of the Enforcement Law Division where he was responsible for providing legal advice to ICE's law enforcement programs. In 2008, he moved to the Office of the Director as a counselor to the ICE Director.

He received an undergraduate degree from Franklin and Marshall College and a J.D. from Fordham University School of Law. Mr. Ragsdale is a member of the New York and New Jersey Bars. He is also a member of the Senior Executive Service.





U.S. Immigration and Customs Enforcement

Peter T. Edge

Peter T. Edge is the Acting Deputy Director for U.S. Immigration and Customs Enforcement. He was appointed Executive Associate Director (EAD) for Homeland Security Investigations (HSI) in May 2014 and became Acting Deputy Director on January 20, 2017.

In his capacity as Acting Deputy Director, Mr. Edge serves as the chief operating officer for ICE and executes oversight of ICE's day-to-day operations, leading approximately 20,000 employees including 7,000 criminal investigators in HSI and 6,000 officers in the Office of Enforcement and Removal Operations. Mr. Edge administers operational and mission support personnel assigned to more than 400 domestic and international offices and oversees an annual budget of almost \$6 billion.



Mr. Edge is a 30-year law enforcement veteran who began his career as an investigator in the Essex County Prosecutor's Office in New Jersey. Prior to his tenure as the EAD for HSI, Mr. Edge served as the Deputy EAD for HSI. Other previous positions include the special agent in charge in the HSI Newark office, acting director of the ICE Office of Congressional Relations, and acting Deputy Special Agent in Charge of the HSI New York office, where he oversaw the El Dorado Task Force and the New York High Intensity Financial Crimes Area in New York. He also served as the Assistant Special Agent in Charge of the Immigration Division and Acting Deputy Special Agent in Charge at John F. Kennedy (JFK) International Airport while in New York.

Prior to being assigned to the New York office in 2005, Mr. Edge served as a national program manager and Department of Defense liaison in the Strategic Investigations Division at ICE headquarters. He was also assigned as a congressional fellow with the Senate Appropriations Committee and served as a congressional liaison within the ICE Office of Congressional Relations.

Mr. Edge is a member of the Senior Executive Service.



U.S. Immigration and Customs Enforcement

James C. Spero

Mr. Spero is the Acting Chief of Staff at U.S. Immigration and Customs Enforcement. He is on detail to Washington, D.C. from his position as the Homeland Security Investigations (HSI) Special Agent in Charge for the Buffalo, New York area of responsibility, where he has direct oversight of all immigration and customs related investigations within the northern and western districts of New York.

Mr. Spero previously served as the Deputy Assistant Director of the HSI Transnational Crime and Public Safety Division. In this position, he had programmatic and operational oversight of the human smuggling and trafficking, immigration identity and benefit fraud, worksite enforcement, and commercial fraud and intellectual property rights programs within HSI. Mr. Spero began his Headquarters tour as Unit Chief for the Identity and Benefit Fraud Unit at ICE Headquarters. In that capacity, he had programmatic and operational oversight of all of ICE's document and immigration benefit fraud related investigations throughout the United States.



Before being promoted to ICE Headquarters, Mr. Spero was an Acting Assistant Special Agent in Charge for the ICE Special Agent in Charge, District of Columbia (SAC DC). Mr. Spero had programmatic and operational oversight of the identity and benefit fraud, worksite and compliance enforcement, human rights violators and public safety (gangs) programs within the SAC DC. The SAC DC is responsible for all criminal investigations of violations of U.S. immigration and customs laws in the Commonwealth of Virginia and the District of Columbia.

Prior to this assignment, Mr. Spero served as a Supervisory Special Agent in the SAC DC for the Identity and Benefit Fraud group. That unit is responsible for all immigration-related benefit fraud and counterfeit document investigations in the SAC DC. Mr. Spero also served as a Supervisory Special Agent on the Joint Terrorism Task Force. Before that, Mr. Spero was a U.S. Immigration and Naturalization Service Special Agent and Senior Special Agent in the Washington District Office.

Mr. Spero has a Bachelor of Arts degree in economics from St. John's University in New York, New York. He is a member of the Senior Executive Service.



U.S. Immigration and Customs Enforcement

Thomas D. Homan

Thomas D. Homan is the Executive Associate Director (EAD) for Enforcement and Removal Operations (ERO) at U.S. Immigration and Customs Enforcement. As the EAD, he leads ERO in its mission to identify, arrest, and remove aliens who present a danger to national security or are a risk to public safety, as well as those who enter the United States illegally or otherwise undermine the integrity of our immigration laws and our border control efforts.

Mr. Homan leads an organization of more than 7,600 employees, which includes more than 5,700 Deportation Officers assigned to 24 ERO field offices, and overseas locations in 19 countries. ERO enforces the nation's immigration laws in a fair and effective manner. It identifies and apprehends removable aliens, detains those individuals when necessary, and removes illegal aliens from the United States.



Mr. Homan is a 30-year veteran of law enforcement and has 27 years of immigration experience. With a Bachelor's Degree in Criminal Justice, he began his career as a police officer in New York. In 1984, he became a United States Border Patrol Agent in Campo, Calif., in the San Diego sector. In 1988, he became a Special Agent with the former U.S. Immigration and Naturalization Service in Phoenix, Ariz., and climbed through the ranks of Supervisory Special Agent and Deputy Assistant Director for Investigations.

In 1999, Mr. Homan became the Assistant District Director for Investigations (ADDI) in San Antonio, Texas, and three years later transferred to the ADDI position in Dallas, Texas. Upon the creation of ICE, Mr. Homan was named as the Assistant Special Agent in Charge in Dallas, Texas, and later as the Deputy Special Agent in Charge there.

In March of 2009, Mr. Homan accepted the position of Assistant Director for Enforcement at ICE Headquarters in Washington DC and was subsequently promoted to Deputy Executive Associate Director. In May of 2013, Mr. Homan was promoted to EAD for ERO. Mr. Homan holds a Bachelor's Degree in Criminal Justice and is a member of the Senior Executive Service.



U.S. Immigration and Customs Enforcement

Philip T. Miller

Philip T. Miller is the Deputy Executive Associate Director (EAD) for Enforcement and Removal Operations (ERO) at U.S. Immigration and Customs Enforcement.

Mr. Miller entered on duty with the Immigration and Naturalization Service in August of 1996, as an Immigration Inspector. He worked at both air and sea ports of entry. In February of 1998, he became a Deportation Officer, where he served as juvenile coordinator, NCIC fugitive officer and managed a long-term detention and rehabilitation program.

In July of 2001, Mr. Miller became an ICE Special Agent, conducting administrative and criminal investigations, including alien smuggling, critical infrastructure protection and counterfeit document vending.

In July of 2007, he was promoted to the position of Assistant Field Office Director for ERO New Orleans. In this capacity, Mr. Miller was responsible for managing all mission support functions, fugitive operations and serving as the New Orleans field office's public affairs officer and congressional liaison officer. He served in that capacity until his promotion to Deputy Field Office Director for Detention and Removal Operations in April of 2008. In September of 2009, he was named Field Office Director of the New Orleans field office.

In 2013, Mr. Miller accepted the position of Assistant Director, Field Operations for ERO, overseeing 24 field officer directors nationwide, and their domestic and foreign operations throughout the immigration enforcement life cycle. He was subsequently promoted to Deputy EAD for ERO.

Mr. Miller holds a Bachelor of Arts and a Master's Degree in Political Science. He is a member of the Senior Executive Service.





U.S. Immigration and Customs Enforcement

Tracey Valerio

Tracey Valerio is the Executive Associate Director (EAD) for Management and Administration (M&A) at U.S. Immigration and Customs Enforcement. She was selected for this position in January 2016.

As ICE's chief management officer, Ms. Valerio is responsible for assisting ICE's Acting Director and Deputy Director in effective and efficient management of the business operations of ICE. She leads oversight of ICE's budget, expenditures, accounting and finance, procurement, human resources and personnel, workforce recruitment, equal employment opportunity, information technology systems, facilities, policy, privacy, information governance, Freedom of Information Act, training and property and equipment needs. In addition, her organization identifies and tracks the agency's performance measurements.



Ms. Valerio joined ICE in 2009 as the Special Advisor to the ICE Director on ICE's engagement with Mexico, international strategy, and policy. She held this position until 2011, when she became the Assistant Director for the ICE Office of Policy. In April 2015, she was named the Acting EAD for Management and Administration.

Prior to joining ICE, Ms. Valerio was the U.S. Department of Justice's Resident Legal Advisor to Mexico and an Assistant United States Attorney in Phoenix, Arizona. She also spent several years in the private practice of law and served as a law clerk for state and federal judges.

Ms. Valerio holds a Bachelor of Arts in Spanish literature from Saint Anselm College and a Juris Doctorate from Arizona State University, and is a member of the Arizona and California Bars. Ms. Valerio is a member of the Senior Executive Service.



U.S. Immigration and Customs Enforcement

Derek N. Benner

Derek N. Benner is the Acting Executive Associate Director (EAD) for Homeland Security Investigations (HSI) at U.S. Immigration and Customs Enforcement. He was appointed Deputy Executive Associate Director in April 2015 and became Acting EAD on January 20, 2017.

As Acting EAD for HSI, Mr. Benner leads an organization of more than 9,000 employees, which includes more than 6,000 special agents who are assigned to 26 Special Agent in Charge offices in major cities, 185 other field offices throughout the United States, and 62 overseas locations in 46 countries. HSI's investigative and enforcement initiatives and operations target cross-border criminal organizations that exploit America's legitimate travel, trade, financial and immigration systems for their illicit purposes.

Mr. Benner previously served as the Assistant Director of Domestic Operations with oversight of HSI's 26 domestic field offices. Mr. Benner also served as Special Agent in Charge for ICE HSI in San Diego, California. In this position, he oversaw one of the largest ICE investigative offices in the nation, which includes a diverse cadre of federal agents, intelligence analysts, and professional administrative staff at HSI offices throughout San Diego and Imperial counties. He also oversaw a number of HSI-led multiagency task forces, which include state, local and federal law enforcement members working together to target cross-border criminal organizations that exploit the legitimate travel, commercial trade and financial systems in the California/Mexico border region. Mr. Benner has served in other key leadership positions at ICE headquarters, including Deputy Assistant Director of HSI's Financial, Narcotics and Special Operations Division and chief of staff for HSI.

Mr. Benner began his law enforcement career with the U.S. Customs Service in 1991 as a co-op student. He worked at the San Ysidro Port of Entry as a Customs Inspector for two years before becoming a Marine Enforcement Officer and a Special Agent with the U.S. Customs Service's Office of Investigations in San Diego. In 2002, Benner was promoted to the management ranks where he supervised agents assigned to the local maritime smuggling task force and managed the asset forfeiture, intelligence and administration programs as an assistant special agent in charge in San Diego.

Mr. Benner holds a Bachelor of Arts in Political Science from George Mason University and is a member of the Senior Executive Service.





U.S. Immigration and Customs Enforcement

Timothy M. Moynihan

Timothy M. Moynihan is the Associate Director of the Office of Professional Responsibility (OPR) at U.S. Immigration and Customs Enforcement. OPR is the investigative arm within ICE responsible for identifying and reporting corruption and misconduct, as well as ensuring program and policy compliance, security, and employee suitability.

Mr. Moynihan utilizes a three-tiered approach involving internal investigations, office and program inspections, and background investigations and employment suitability determinations to ensure agency integrity. Additionally, Mr. Moynihan has agency-wide responsibility for protecting against threats to employees, facilities, classified information, and communications systems.



Mr. Moynihan began his law enforcement career as a criminal investigator with the Internal Revenue Service in 1987, assigned to the Internal Affairs Division. In 1991, Mr. Moynihan was selected as a special agent with the U.S. Customs Service in the New York City office. During his eleven years working as a special agent, Mr. Moynihan investigated narcotics smuggling, financial crimes, and internal misconduct allegations. In 2002, Mr. Moynihan was promoted to the Internal Affairs Special Investigations Unit in Washington D.C., responsible for investigating senior management officials, employees stationed abroad, and high profile and significant cases involving congressional or media interest.

Since 2004, Mr. Moynihan has held various key leadership positions within OPR, including Chief of Operational Support, responsible for OPR policy, training, and case management; Chief of Investigative Support, responsible for providing national oversight and guidance for integrity investigations; Chief of Staff; and Deputy Director of OPR.

Mr. Moynihan holds a Bachelor of Science degree with majors in criminal justice and paralegal studies. He is a member of the Senior Executive Service.



U.S. Immigration and Customs Enforcement

Michael P. Davis

Michael P. Davis is the Acting Principal Legal Advisor at U.S. Immigration and Customs Enforcement. He was appointed Deputy Principal Legal Advisor in October 2016 and became Acting Principal Legal Advisor on January 8, 2017.

In his capacity as the Acting Principal Legal Advisor, he leads the largest legal program within DHS, staffed by over 1,000 attorneys and 300 administrative support personnel working in 26 field offices and at ICE's Washington, D.C. headquarters.

OPLA represents the Department of Homeland Security in removal proceedings before the immigration courts and Board of Immigration Appeals, provides legal advice and training to ICE Officers and Special Agents on a myriad of administrative and operational law issues ranging from labor and employment law, to immigration arrest and detention authorities, to Fourth Amendment search and seizure issues, coordinates with the Department of Justice to defend ICE's interests in complex federal litigation and, through its Special Assistant U.S. Attorney program, initiates federal criminal prosecutions.

Mr. Davis began his legal career with the former Immigration and Naturalization Service in Los Angeles in 2000, through the Attorney General's Honors Program. Prior to his promotion to Deputy Principal Legal Advisor in 2016, Mr. Davis served as OPLA's Director of Enforcement and Litigation from 2012 to 2016, and Chief and Deputy Chief of OPLA's Immigration Law and Practice Division from 2007 to 2012.

Mr. Davis is a graduate of Cleveland, Ohio's John Carroll University and the University of Illinois College of Law, and a member of the California State Bar. He is also a member of the Senior Executive Service.





U.S. Immigration and Customs Enforcement

Lyn Rahilly

Lyn Rahilly is the Senior Component Accountable Official at U.S. Immigration and Customs Enforcement, leading the agency's efforts to support the 2017 Presidential Transition. She also serves as the agency's Assistant Director for Information Governance and Privacy.

Ms. Rahilly joined ICE in 2008 as the agency's first Privacy Officer. In 2011 she was given expanded responsibility to also oversee the agency's records management program. In 2016, she was selected to lead the new Information Governance and Privacy Office that consolidates the agency's privacy, records management, and data governance functions.

Before joining ICE, Ms. Rahilly was on a three-year assignment to the FBI, serving as the Privacy and Civil Liberties Officer and Special Assistant to the director of the U.S. Terrorist Screening Center (TSC). Among other responsibilities, she oversaw privacy and civil liberties issues. Ms. Rahilly established TSC's first privacy compliance program and the interagency redress process for persons submitting complaints about the terrorist watch list. She also provided counsel and advice on appropriate collection and use of personal data and responded to public, media and Congressional inquiries pertaining to privacy.

Ms. Rahilly has also served as legal counsel at the Transportation Security Administration, the U.S. Department of the Treasury, and the U.S. Department of Labor.

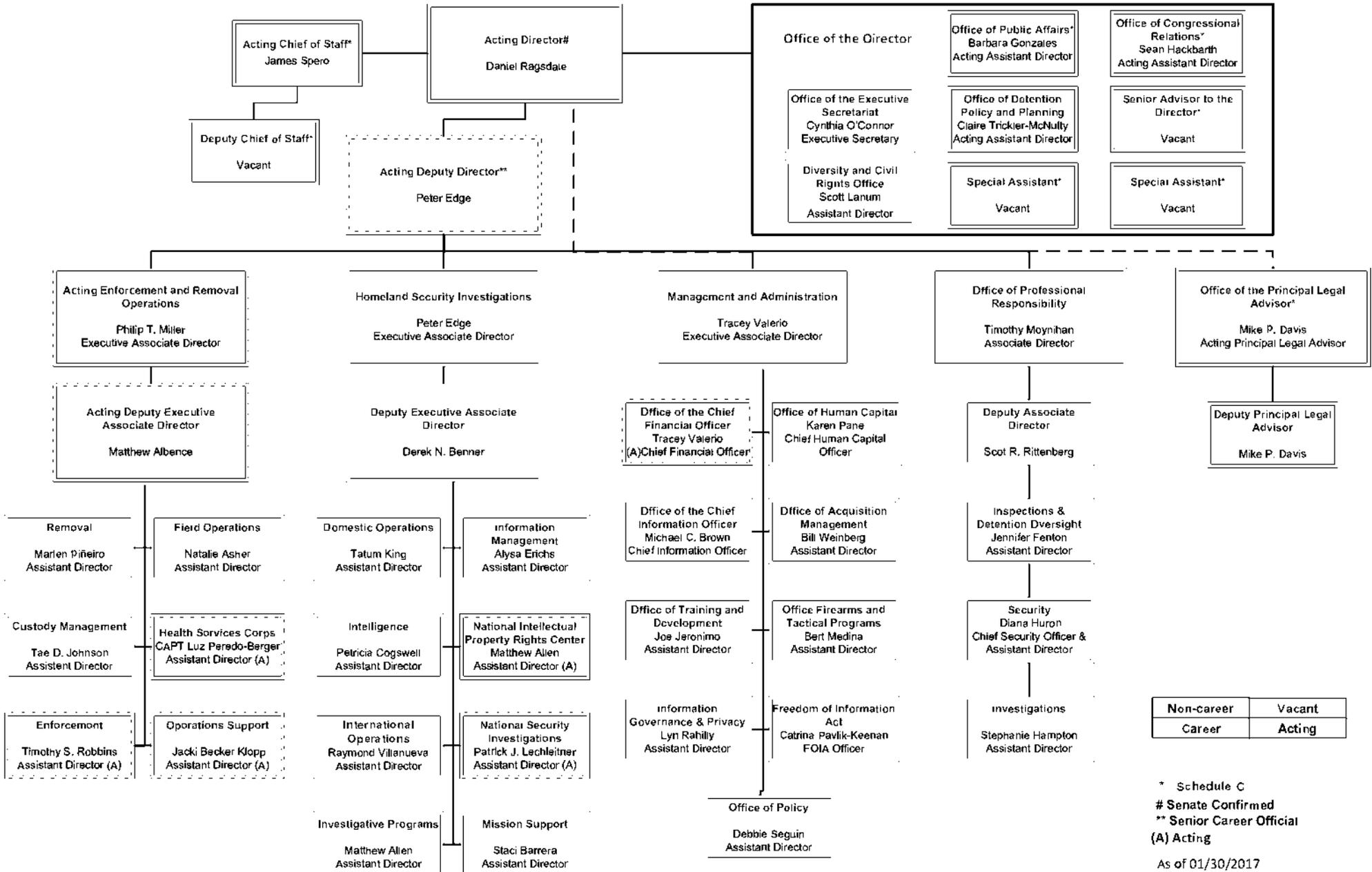
Ms. Rahilly is a graduate of Mary Washington College and the George Washington University Law School, and a member of the Maryland Bar. She is also a member of the Senior Executive Service.





U.S. Immigration and Customs Enforcement Organizational Chart

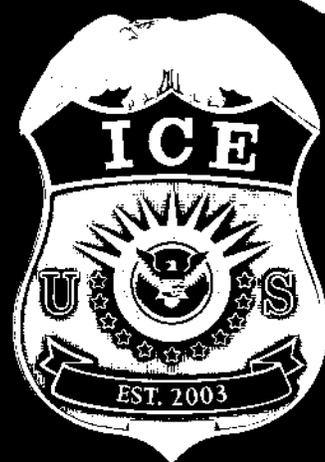
Law Enforcement Sensitive



Non-career	Vacant
Career	Acting

* Schedule C
Senate Confirmed
** Senior Career Official
(A) Acting

As of 01/30/2017



Removal Cooperation Initiative
ERO Removal Division
October 2015 – Pilot Guidance



U.S. Immigration
and Customs
Enforcement

analyze these four metrics over time and identify trends that can assist in timely and efficient removals of illegal aliens.

Depending on the results of the Tool, ICE will consider the individual circumstances of each nation designated “uncooperative” and will take distinct measures to address the problem. The various measures are outlined in detail below.

Removal Cooperation Initiative (RCI) Tool

The RCI Tool was developed as a unified strategic assessment regarding other countries’ levels of cooperation and involves two analytical parts. Part I (Cooperation Assessment) identifies uncooperative countries through statistical analysis and expert analytic feedback, while Part II (Prioritized Country List) ranks the uncooperative countries based on data-based factors collected by ERO.

(b)(7)(E)



(b)(7)(E)

Definitions

The following definitions apply for purposes of this directive only.

Civil Unrest – Recent unrest caused by citizens of that country such as illegal parades; sit-ins and other forms of obstructions; riots; sabotage; and other forms of crime. These public demonstrations could escalate into general chaos causing the country to be deemed unsuitable for removal. Take into consideration the country conditions for a period of time following the unrest to ensure a proper humanitarian review has taken place.

Cooperative Country – A country that accepts charter removal missions, and has both an acceptable ratio of releases when compared to removal and an acceptable average time from executable final order to removal.

Delay in Travel Documents – Generally, any documented denial of a properly submitted request to issue a travel document is evidence of non-cooperation. Evidence of unreasonable delays in removal includes but is not limited to failure to respond agency inquiries or requests, or failure to issue a travel document within 30 days following submission of an Annex 9 letter or submission of an agency provided list. Nations who deny or unreasonably delay the issuance of a travel document will be designated as uncooperative. Regarding the use of Annex 9 letters, renewed travel document requests made in conjunction with an Annex 9 letter must include documented evidence of nationality such as a birth certificate, national ID, passport, etc.

Final Order of Deportation or Removal – The decision of an Immigration Judge, the Board of Immigration Appeals (BIA), a Service Officer, or other judicial authority authorized under the Immigration and Nationality Act, which orders the removal of an alien who is deportable or inadmissible. It occurs when aliens have waived their right to appeal, allowed the time for appeal to expire, or have exhausted administrative appellate rights.

Final Order Docket – The Final Order Docket is considered to be the number of final order encounters under ERO detained or non-detained docket control. Final Order Docket is only decreased by the removal of final order aliens or by the grant of legalization/adjustment of status of final order aliens.

³ The threat/public safety score for each country is captured using the ratio of Level 1, 2, and 3 detainees which are released over the individual country docket size.

Health Epidemic – Recent widespread disease outbreak that deems the country unsuitable for removal. Take into consideration the country conditions for a period of time following the event to ensure a proper humanitarian review has taken place.

Lack of Functioning Government – A country that recently/is currently experiencing a lack of publicly enforced government or violently enforced political authority within. Take into consideration the country conditions for a period of time following the event to ensure a proper humanitarian review has taken place.

Man Made Disaster – A recent disaster that contains an element of human intent, negligence or error; or involving a failure of a human-made system. It results in huge loss of life and property causing the country to be deemed unsuitable for removal. Take into consideration the country conditions for a period of time following the event to ensure a proper humanitarian review has taken place.

Natural Disaster – A recent major adverse event resulting from natural processes of the Earth. A natural disaster can cause loss of life, property damage, and can leave severe economic damage in its wake causing the country to be deemed unsuitable for removal. Take into consideration the country conditions for a period of time following the event to ensure a proper humanitarian review has taken place.

Post Order Custody Review (POCR) Release – POCR Release is calculated based on 90 or more days of elapsed time between the Final Order Date and the Final Book-Out Date. Pursuant to a U.S. Supreme Court decision (*Zadvydas v. Davis*, 533 U.S. 678 (2001)), ICE has the presumptive authority to detain aliens with final orders of removal for up to 180 days. After six months, with limited exceptions, continued detention is no longer presumptively lawful and ICE may extend the detention of aliens with final orders of removal only when their removal is significantly likely in the reasonably foreseeable future.

Refuses Charter Removal Mission – ICE relies on charter removal missions as a last resort to repatriate combative and/or non-compliant aliens who seek to obstruct their removal from the U.S. as well as aliens requiring significant in-flight medical care. Nations who refuse to allow charter missions for medical removals or to remove aliens who fail to comply with their removal, directly affect detention expenses and possibly the release of violent offenders into society. Additionally, exigent circumstances such as national security or lack of acceptable commercial air service may exist that necessitate the use of charter aircraft. Where documented evidence exists that a nation has denied the use of charter aircraft for these classes of removals, ICE will designate the nation as uncooperative.

Removal – The formal enforcement of the departure of an alien from the United States pursuant to a violation of immigration law. An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal. Ineligibility to remain in the United States is based on grounds of inadmissibility (INA § 212) or deportability (INA § 237). Removal is also considered to have occurred when an alien has departed the United States while under legal process seeking removal or deportation from the United States, including removal proceedings under the Immigration and Nationality Act and extradition

proceedings. (Removals include Returns. Returns include Voluntary Returns, Voluntary Departures and Withdrawals under Docket Control.)

Uncooperative Country – A country that refuses charter removal missions, has an unacceptable ratio of releases when compared to removal, and an unacceptable average time from executable final order to removal.

Procedures/Requirements

(b)(7)(E)

⁵ The agency or agencies with which ICE would need to coordinate an agreement are shown in parentheses, e.g., (DHS and DoS).

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⁷ INA 243(d): “Discontinuing Granting Visas to Nationals of Country Denying or Delaying Accepting Alien. On being notified by the Attorney General (NOTE: Secretary of Homeland Security as revised) that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General (NOTE: Secretary of Homeland Security as revised) notifies the Secretary that the country has accepted the alien.”

Immigration and Customs Enforcement Presidential Transition Office

Response to the President-Elect's Transition Team (PETT) Request for Information

RFI 004: Please provide an executive level summary of the RILR v Johnson case and the policy and enforcement impacts of the case.

OPLA POC and Cleared By: Chief, District Court Litigation Division, [REDACTED] and cleared by COS

[REDACTED]

ICE Approving Official: Deputy Director, Daniel Ragsdale

OGC Cleared By: Attorney Advisor, [REDACTED] and Assistant General Counsel Litigation, [REDACTED]

R. I. L-R v. Johnson, No. 15-0011 (D.D.C. filed Jan. 6, 2015)

Background

This class action alleged DHS had a “blanket No-Release Policy” for “mothers and their children who have fled severe violence in their countries - predominantly Honduras, Guatemala, and El Salvador - in order to seek asylum in the United States.” Plaintiffs further alleged this policy was designed to deter others from attempting to enter the United States, and that this policy was implemented without following the notice and comment requirements of the Administrative Procedure Act. Plaintiffs sought class certification, and declaratory and injunctive relief. On February 20, 2015, the Court granted Plaintiffs’ Motion for a Preliminary Injunction and certified a provisional class of Central American women and children who have been or will be determined to have a credible fear, who are eligible for release but have been or will be denied such release after being subject to an ICE custody determination that took deterrence of mass migration into account. The court enjoined DHS from detaining class members for the purpose of deterring future immigration to the United States and from considering deterrence of such immigration as a factor in custody determinations. On March 20, 2015, the Department of Justice (DOJ) filed a motion for reconsideration of the injunction and denial of the Defendants’ Motion to Dismiss.

On May 13, 2015, DHS issued a press release announcing, among other things, that it would “discontinue invoking general deterrence as a factor in custody determinations in all cases involving families.”¹ The same day, DOJ filed an advisory with the district court to inform it of the policy. DOJ also noted that, notwithstanding this policy determination, the Government maintained its position that the court lacked jurisdiction over the claims in this case, and that application of the policy was lawful at the time and would be lawful if reinstated in the future.

At a June 22, 2015 status conference, the court raised the possibility of administratively closing the suit in light of DHS’s May 13, 2015 policy announcement. The parties subsequently met and conferred and filed a joint statement with the court on June 26, 2015 jointly proposing that the court 1) dissolve the preliminary injunction and associated orders and opinions but maintain the provisional class certification, and 2) administratively close the case subject to re-opening if DHS and ICE later “decide to consider deterrence of future immigration as a factor” in custody determinations involving the provisional class members. If such a policy change is made, DHS and ICE must notify the court at least ten (10) days prior to making the policy change and the Plaintiffs can move the court to reinstate the preliminary injunction. No policy change implementation can occur until the court rules on the pending motion. The court entered the order on June 29, 2015 and administratively closed the case.

Policy and enforcement impacts

Because of the need to provide notice to the court of any change in policy and the likelihood that Plaintiffs would swiftly move to reinstate the preliminary injunction, from a practical perspective, any change in policy regarding use of general deterrence as a consideration in future immigration detention decisions involving the provisionally certified class would result in further litigation.

¹ In a 2003 published administrative opinion, Attorney General Ashcroft upheld the use of general deterrence in the context of maritime illegal mass migration on national security grounds. *See Matter of D-J-*, 23 I&N Dec. 572 (A.G. 2003). In that case, the former Immigration and Naturalization Service supported its argument for using general deterrence by submitting declarations from the U.S. Coast Guard, Department of State, and Department of Defense.

Attachments:

- 1) RILR Order.pdf
- 2) DHS Press Release.pdf



Press Office
U.S. Department of Homeland Security

Press Release

May 13, 2015

Contact: DHS Press Office, (202) 282-8010

ICE Announces Enhanced Oversight for Family Residential Centers

WASHINGTON – Today, U.S. Immigration and Customs Enforcement (ICE) announced a series of actions to enhance oversight and accountability, increase access and transparency, and ensure its family residential centers continue to serve as safe and humane facilities for families pending the outcome of their immigration proceedings.

“Following last summer’s unprecedented spike in illegal migration of unaccompanied minors and adults with children at the Rio Grande Valley, we responded with decisive action on a number of fronts. One element of this comprehensive approach was opening additional facilities for adults with children, as they wait for a resolution to their immigration case,” said ICE Director Sarah R. Saldaña. “While we routinely review and evaluate our facilities to ensure that we are providing the level of care required by our Family Residential Standards, we understand the unique and sensitive nature of detaining families and we are committed to maintaining the optimal level of care. The measures ICE is announcing reaffirm that understanding and our commitment, to ensuring all individuals in our custody are held and treated in a safe, secure, and humane manner.”

After undertaking a comprehensive assessment of its family residential centers, ICE is taking the following actions:

First, ICE will create a new Advisory Committee, consistent with the Federal Advisory Committee Act, to advise the Director and the Secretary concerning ICE’s family residential centers. The committee will be comprised of experts in the fields of detention management, public health, children and family services, and mental health.

Second, Director Saldaña has designated a senior ICE official with the responsibility to coordinate and review family residential facility policies. This official will work directly with the facilities and ICE headquarters, while also engaging regularly with key stakeholders. The official will report regularly to the Director and coordinate an ongoing review of the policies and procedures that govern our family residential centers.

Third, building on recent efforts, ICE and the Department will undertake a series of engagements over the next several months with stakeholders to listen and discuss their concerns regarding family

residential centers. When improvements can be made consistent with ICE's public safety mission, every effort will be made to make such adjustments.

Fourth, while ICE's family residential centers currently operate in an open environment that includes play rooms, social workers, educational services, comprehensive medical care, and access to legal counsel, ICE will explore ways to further enhance these conditions. The well-being of detained families, particularly of children, is of paramount importance to ICE. Similarly, ensuring access to counsel continues to be an ICE priority. As such, ICE will take additional measures to promote these values, including addressing language access issues for speakers of indigenous languages, providing dedicated work spaces for pro bono attorneys, and making available additional attorney-client meeting rooms.

Fifth, because of the sensitive and unique nature of detaining adults with children, ICE will also implement a review process for any families detained beyond 90 days, and every 60 days thereafter, to ensure detention or the designated bond amount continues to be appropriate while families await conclusion of their immigration proceedings before the Department of Justice's Executive Office for Immigration Review.

Finally, on February 20, 2015, a federal district court in Washington, D.C. enjoined ICE from invoking general deterrence in custody determinations where an individual from Central America in a family residential center is found to have a credible fear of removal. ICE has complied with that injunction, but has moved for reconsideration of the Court's ruling. Notwithstanding that, ICE has presently determined that it will discontinue invoking general deterrence as a factor in custody determinations in all cases involving families. This would affect not only families covered by the injunction, but also families from non-Central American countries and families who have established either a credible fear or reasonable fear of removal.

Homeland Security Secretary Jeh Johnson has made it clear that our borders are not open to illegal migration, and that individuals apprehended crossing the border illegally are a Department priority and that ICE should allocate enforcement resources accordingly, consistent with our laws and values. As such, ICE is endeavoring to use appropriate prosecutorial discretion and dedicating resources, to the greatest degree possible, to the removal of individuals who are considered enforcement priorities, which include recent border entrants.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

R. I. L-R, *et al.*,

Plaintiffs,

v.

JEH CHARLES JOHNSON, *et al.*,

Defendants.

Civil Action No. 15-11 (JEB)

ORDER

On June 22, 2015, the Court held a status conference with counsel for the parties. At that conference, the Court raised the possibility of administratively closing this case in light of the May 13, 2015, policy announcement by U.S. Immigration and Customs Enforcement that it would no longer invoke general deterrence as a factor in custody decisions involving families. The parties subsequently conferred and submitted a joint proposal for moving forward. Based on agreement of the parties, the Court hereby ORDERS that:

1. The February 20, 2015, preliminary injunction and associated orders are **DISSOLVED**, except the portions of such orders and opinions granting Plaintiffs' Motion for Provisional Class Certification;
2. The case is **ADMINISTRATIVELY CLOSED**, subject to the following conditions:
 - a. Should the Department of Homeland Security and ICE decide to consider deterrence of future immigration as a factor in such custody determinations involving provisional class members, or to detain provisional class members for the purpose of deterring future

immigration to the United States, Defendants will file a notice with the Court at least ten (10) days prior to making any such change to its policy.

- b. Within five (5) days of Defendants' filing of such notification with the Court, if Plaintiffs wish to reinstate the preliminary-injunction order previously entered in this case, Plaintiffs must file a motion with the Court so requesting. While any such motion is pending before the District Court, DHS and ICE will adhere to the policy announced on May 13, 2015, with respect to custody determinations for provisional class members, and will delay implementation of any change to that policy with respect to provisional class members until the District Court rules on the motion.
- c. Within ten (10) days of Plaintiffs' filing of such a motion, Defendants shall file an opposition. Defendants shall bear the burden of showing why the preliminary injunction should not be reinstated either as a matter of fact, law, and/or lack of jurisdiction, subject to the same standard that would have governed Defendants' motion for reconsideration of the preliminary injunction (ECF No. 37).
- d. Plaintiffs shall file their reply, if any, within five (5) days of Defendants' filing of their opposition.
- e. The briefing on the motion to reinstate the preliminary injunction may incorporate by reference the briefing filed earlier in this case, subject to any supplemental information or arguments the parties wish to present.

- f. Upon completion of briefing, the Court will issue its ruling on Plaintiffs' motion to reinstate the preliminary injunction. Either party may request an expedited ruling on the motion, and the Court will endeavor to rule on the motion on an expedited basis.
- g. The parties reserve the right to appeal, pursuant to 28 U.S.C. § 1292(a)(1), from an order granting or denying a motion to reinstate the preliminary injunction.
- h. If a scenario arises in which Defendants have not filed a notice with the Court but Plaintiffs acquire a good-faith basis to conclude that DHS and ICE: a) are detaining provisional class members for the purpose of deterring future immigration to the United States, or b) are using deterrence of future immigration as a factor in custody determinations of provisional class members, Plaintiffs shall notify Defendants of their concerns, and shall give Defendants ten (10) days to try to resolve those concerns. If those concerns cannot be resolved within ten (10) days, or if Plaintiffs earlier conclude after meeting and conferring with Defendants in good faith that further discussion is futile or the situation presents an emergency for provisional class members, Plaintiffs may file a motion with the Court requesting that the preliminary injunction be reinstated, the case be re-opened, and/or other relief be ordered. Such a motion shall include the basis of Plaintiffs' good faith belief regarding Defendants' actions. The same briefing schedule set forth in Paragraphs 3 and 4 shall then apply.

- i. Either party may move to administratively reopen the case upon meeting the following conditions: a) the party seeking reopening has provided the opposing party with ten (10) days' notice of their intent to reopen the case; b) the party seeking reopening has met and conferred in good faith with the opposing party regarding their reason(s) for seeking reopening; and c) the party seeking reopening certifies in good faith that the parties are unable to amicably resolve the issue(s) prompting the motion to reopen the case. Upon the filing of a motion to reopen by either party, the Court will endeavor to promptly schedule a status conference to determine the appropriate next steps in the case.

IT IS SO ORDERED.

/s/ James E. Boasberg
JAMES E. BOASBERG
United States District Judge

Date: June 29, 2015