



One Hundred Fifteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

February 22, 2017

The Honorable John F. Kelly
Secretary
U.S. Department of Homeland Security
245 Murray Lane S.W.
Washington, D.C. 20528

Dear Secretary Kelly:

We read with great concern your February 20, 2017 memoranda providing implementation guidance for President Trump's Executive Orders, "Border Security and Immigration Enforcement Improvements" and "Enhancing Public Safety in the Interior of the United States." We are writing to obtain information about the Department of Homeland Security's plans for implementing some of the most troubling provisions of these Executive Orders and look forward to regular, ongoing oversight of the Department's implementation of the Executive Orders, which we believe are contrary to good public safety and national security policy and our American values.

Accordingly, pursuant to Rule X and Rule XI of the House of Representatives, please respond to the following questions in writing by March 8, 2017.

Your memoranda require Department personnel to prioritize the removal of anyone who has been convicted of or charged with any criminal offense or has committed acts that constitute any chargeable offense. These criteria could make the vast majority of those in the U.S. without status - perhaps 8 million people - a priority for removal. If everyone is a priority, then no one is a priority and those who pose a public safety or national security threat may be left in our communities while those who do not may be removed.

- Given that U.S. Immigration and Customs Enforcement (ICE) is resourced to remove about 400,000 individuals each year, how will ICE prioritize enforcement actions against the millions who are now a priority pursuant to the Executive Orders?
- How will ICE ensure that those who pose public safety or national security threats are prioritized over those who do not?
- Please provide copies of any guidance documents to officers and agents in the field regarding implementing this provision.

Your memoranda instruct U.S. Customs and Border Protection (CBP) and ICE personnel to release individuals from detention only under certain limited circumstances. However, ICE is currently resourced for only 34,000 detention beds. This is not nearly enough capacity to detain the hundreds of thousands or more who may be implicated by the Executive Orders.

- Pursuant to the Executive Orders and relevant guidance, how many additional detention beds does the Department plan to construct? For how many does the Department plan to contract?
- What is the estimated cost of these additional detention beds?
- Has the Department already begun the process of contracting for additional detention beds? If so, with whom?
- Will vulnerable populations, such as children, the elderly, the sick or disabled be exempt from mandatory detention?
- Will the Department continue to use the Alternatives to Detention program? If so, under what circumstances would an individual be eligible for the program?

Your memoranda direct the hiring of 5,000 additional Border Patrol agents, 500 CBP Air and Marine agents, and 10,000 ICE personnel. We would note that Border Patrol is currently approximately 1,500 agents under its statutory floor and has consistently struggled to hire enough agents even to keep pace with attrition. We would also note that there is no mention of hiring additional CBP officers for our ports of entry. Ports of entry are chronically short thousands of officers, leaving them vulnerable to smuggling of narcotics and other contraband and slowing legitimate commerce and travel.

- What is the Department's plan for hiring the additional 5,500 CBP and 10,000 ICE personnel? Please provide copies of these hiring plans.
- How long will it take to hire, train, and deploy all 15,500 agents and officers?
- Will any hiring standards or training requirements be changed to hire these personnel? If so, please provide a detailed list of any anticipated changes.
- Does the Department plan to hire additional CBP officers as part of this effort? If not, why not?
- What is the cost of hiring, training, and deploying these additional personnel? Please provide a breakdown for Border Patrol, CBP Air and Marine, and ICE.

Additionally, your memoranda instruct ICE and CBP to enter into new and expanded 287(g) agreements with state and local jurisdictions. We would note that the Government Accountability Office (GAO) previously examined the program and found that it lacked documented objectives, that program participants did not use their authority to address serious crime, and that ICE failed to properly supervise program participants or define what data should be reported by program participants. The 287(g) program also prompted serious concerns about racial profiling and intimidation by participating law enforcement agencies and undermining of community policing programs.

- What jurisdictions and law enforcement entities will be eligible to enter into 287(g) agreements with DHS?

- Will states be permitted to use National Guard personnel pursuant to 287(g) agreements?
- What specific authorities will 287(g) program participants have with respect to enforcing immigration law?
- Does DHS have documented objectives for the 287(g) program? If so, please provide a copy of this documentation. If not, when will it be available?
- How will DHS supervise 287(g) program participants to ensure they comply with program requirements and agreements?
- What data will program participants be required to report to ICE? How frequently will reporting be required?
- What is the estimated annual cost of the program?
- Please provide copies of 287(g) agreements for each of the models DHS will offer to program participants.

Furthermore, your memoranda direct the Under Secretary for Management, in consultation with the Commissioner of CBP, to immediately identify and allocate all sources of available funding for the planning, design, construction and maintenance of a border wall. Recent reports estimate the cost of the wall at \$21 billion. Also, GAO recently concluded the Department has no metrics to show whether or how a border wall contributes to border security.

- Has the Department identified areas to begin construction of the wall? If so, please provide the exact locations, mileage, and construction schedule for these segments. What type of wall is planned? What is the estimated cost for this construction?
- When does the Department plan to have a complete list of locations and schedule for wall construction?
- What is the total estimated cost of all wall construction planned by the Department?
- Does the Department plan to conduct outreach to affected states and border communities? If so, how?
- Do you intend to use eminent domain to obtain land for wall construction?
- Do you intend to waive any laws for wall construction?

Lastly, your memoranda direct CBP, ICE, and U.S. Citizenship and Immigration Services to develop written guidance and training for all personnel on the “proper processing” of unaccompanied alien children (UACs) as well as procedures for verifying that these children continue to be without a parent throughout the removal process.

- What constitutes “proper processing” of UACs? Please provide a copy of the relevant guidance to Department personnel.
- What procedures will the Department implement to verify whether UACs are without a parent in the U.S.? Please provide a copy of related guidance to Department personnel.
- In the course of this verification, if the Department determines that a UAC has a parent present in the U.S. without authorization, will the parent be a priority for removal? Under what circumstances will they be referred for criminal prosecution? Please explain how and by whom this determination will be made.
- How will the Department continue to ensure compliance with relevant statutes and the *Flores* settlement agreement as they relate to UACs?

If you have any questions about this request, please contact Hope Goins of my staff at (202) 226-2616. Thank you for your attention to this matter.

Sincerely,



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House Committee on Homeland Security



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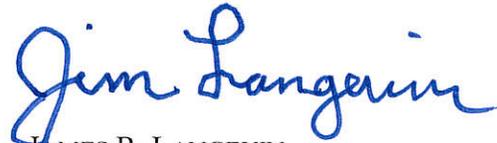
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