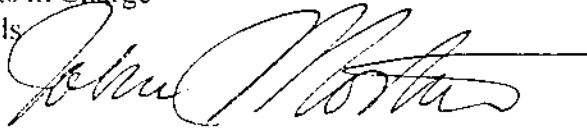




U.S. Immigration
and Customs
Enforcement

NOV 19 2009

MEMORANDUM FOR: Field Office Directors
Special Agents in Charge
Chief Counsels

FROM: John Morton 
Assistant Secretary

SUBJECT: Superseding Guidance on Reporting and Investigating Claims
to United States Citizenship

This memorandum supersedes the guidance issued on November 6, 2008, entitled "Superseding Guidance on Reporting and Investigating Claims to United States Citizenship." This guidance is intended to ensure claims to U.S. citizenship receive immediate and careful investigation and analysis.

While performing their duties, U.S. Immigration and Customs Enforcement (ICE) officers, agents, and attorneys, may encounter aliens who are not certain of their status or claim to be United States citizens (USC). As the Immigration and Nationality Act (INA) provides numerous avenues for a person to derive or acquire U.S. citizenship, ICE officers, agents, and attorneys, should handle these matters with the utmost care and highest priority. While some cases may be easily resolved, because of the complexity of citizenship and nationality law, many may require additional investigation and substantial legal analysis. As a matter of law, ICE cannot assert its civil immigration enforcement authority to arrest and/or detain a USC. Consequently, investigations into an individual's claim to U.S. citizenship should be prioritized and Office of Investigations (OI) and Detention and Removal Operations (DRO) personnel must consult with the Office of the Principal Legal Advisor's (OPLA) local Office of the Chief Counsel (OCC) as discussed below.

Claims at the Time of Encounter

When officers and agents encounter an individual who they suspect is without lawful status but claims to be a USC, the situation will fall into one of three categories: 1) evidence indicates the person is a USC; 2) some evidence indicates that the individual may be a USC but is inconclusive; and 3) no probative evidence indicates the individual is a USC. If evidence indicates the individual is a USC, ICE should neither arrest nor place the individual in removal proceedings. Where there is *some* probative evidence that the individual is a USC, officers and agents should consult with their local OCC as soon as practicable. After evaluating the claim, if the evidence of U.S. citizenship outweighs evidence to the contrary, the individual should not be taken into custody. The person may, however, still be placed in removal proceedings if there is reason to believe the

Subject: Superseding Guidance on Reporting and Investigating Claims to United States
Citizenship

individual is in the United States in violation of law. Finally, where no probative evidence of U.S. citizenship exists and there is reason to believe the individual is in the United States in violation of law, the individual may be arrested and processed for removal. In all cases, any uncertainty about whether the evidence is probative of U.S. citizenship should weigh against detention.

Claims by Individuals Subject to an NTA

Agents and officers must fully investigate the merits of any claim to citizenship made by an individual who is subject to a Notice to Appear (NTA), whether the claim was made before or after the NTA was served on the individual. Such investigations should be prioritized and OI and DRO personnel should consult with their local OCC as soon as practicable when investigating such claims. In addition, OI and DRO, along with their local OCC, must jointly prepare a memorandum examining the claim using the attached template. A notation should be made in the Enforce Alien Removal Module (EARM) and a copy of the memorandum should be placed in the alien's A-file. The memorandum should also be saved in the General Counsel Electronic Management System (GEMS) and notated using the designated GEMS barcode.

Claims by Detained Individuals

If an individual already in custody claims to be a USC, an officer must immediately examine the merits of the claim and notify and consult with his or her local OCC. If the individual is unrepresented, an officer must immediately provide the individual with the local Executive Office for Immigration Review (EOIR) list of pro bono legal service providers, even if one was previously provided.

DRO and OPLA must also jointly prepare and submit a memorandum examining the claim and recommending a course of action to the HQDRO Assistant Director for Operations at the "USC Claims DRO" e-mailbox and to the HQOPLA Director of Field Operations at the "OPLA Field Legal OPS" e-mailbox. Absent extraordinary circumstances, this memorandum should be submitted no more than 24 hours from the time the individual made the claim. HQDRO and HQOPLA will respond to the field with a decision on the recommendation within 24 hours. A notation should be made in EARM and a copy of the memorandum and resulting decision should be placed in the alien's A-file. The memorandum and resulting decision should also be saved in GEMS and notated using the designated GEMS barcode.

If the individual's claim is credible on its face, or if the investigation results in probative evidence that the detained individual is a USC, the individual should be released from detention. Any significant change in circumstances should be reported to the "USC Claims DRO" e-mailbox and the "OPLA Field Legal Ops" e-mailbox.

Examination of the Merits

Interviews with detainees making such claims must be conducted by an officer or agent in the presence of and/or in conjunction with a supervisor. Interviews will be recorded as sworn statements and must include all questions needed to complete all fields on a Record of Deportable

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Citizenship

Alien, Form I-213. In addition, the sworn statement must include additional probative questions designed to elicit information sufficient to allow a thorough investigation of the person's claim of citizenship. Additional steps to be taken may include vital records searches, family interviews, and other appropriate investigative measures. Officers and agents should also work with their local United States Attorney's Office to ensure that any statement includes information sufficient to use in prosecuting appropriate cases under 18 U.S.C. § 911, should it ultimately come to light that the individual intentionally made a false claim to U.S. citizenship.

State and Local Officers with Authority under INA § 287(g)

Field Office Directors (FODs) and Special Agents in Charge (SACs) shall ensure that all state and local officers with delegated immigration authority pursuant to INA § 287(g) within their area of responsibility understand and adhere to this policy. FODs and SACs are expected to thoroughly investigate all USC claims made by individuals encountered by 287(g) designated officers.

ISSUE: WRTV in Indianapolis is doing a story next week on detainees placed on USCs. He is requesting releasable information on a USC female who is complaining that she was held on an ICE detainer after getting arrested in a bar fight in December. Reporter is also requesting a statement on why detainees are important and what they accomplish.

BACKGROUND: The reporter did a previous story on detainees on USCs after the ACLU filed a civil complaint in U.S. District Court in Indianapolis seeking a jury trial and compensatory damages regarding (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) a naturalized USC who was allegedly held on an ICE detainer for 3 days. At that time, ICE declined comment due to pending litigation. The reporter is now doing a story for February Sweeps that also looks at the case of (b)(6),(b)(7)(C) is complaining that she was held on a detainer at the Marion County Jail after being arrested at a bar fight on Dec. 11, 2011.

From ERO: The immigration detainer that had been issued to (b)(6),(b)(7)(C) was cancelled before she even had a bond hearing for the local charge. ICE never took custody of her.

Per the ERO agent: "To my best recollection, (b)(6),(b)(7)(C) was listed as a Mexican National on the Marion County JIMS system on 12/11/2011. (b)(7)(E) databases were negative for (b)(6),(b)(7)(C), (b)(6),(b)(7)(C) DOB (b)(6),(b)(7)(C). I lodged an immigration detainer on (b)(6),(b)(7)(C) on 12/11/2011 in the morning hours. I received a phone message and email from the Marion County Jail concerning (b)(6),(b)(7)(C) claim of United States citizenship within hours of lodging the detainer. I revisited the (b)(6),(b)(7)(C) database and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) was listed as a United States citizen with a place of birth as Indiana. I immediately emailed a cancellation detainer over to Marion County for (b)(6),(b)(7)(C). The detainer was cancelled prior to her posting bond and her initial hearing. Thus, at no time did the ICE detainer restrict her release from local custody.

Timeline:

Booked into the jail on 12/11/2011 @ 4:51 A.M.

Immigration Detainer lodged 12/11/2011 @ 9:12 A.M.

Bond Set on 12/11/2011 @ 11:27 A.M.

Immigration Detainer cancelled 12/11/2011 @ 2:40 P.M.

Criminal Bond Posted 12/11/2011 @ 3:04 P.M.

Initial Court Hearing 12/11/2011 @ 3:30 P.M.

Released 12/11/2011 @ 4:30 P.M.

PROPOSED RESPONSE: "Based on initial information available to U.S. Immigration and Customs Enforcement (ICE), a detainer was placed on (b)(6),(b)(7)(C) at the Marion County Jail during the morning hours of Sunday, Dec. 11, 2011. ICE was subsequently notified by jail officials that (b)(6),(b)(7)(C) was claiming to be a U.S. citizen. Subsequent records checks confirmed this and ICE immediately cancelled the detainer at 2:40pm, prior to her posting bond. At no time was (b)(6),(b)(7)(C) in ICE custody and at no time did the detainer keep her from being released from local custody.

ICE treats all claims of U.S. citizenship with the utmost seriousness. ICE has taken numerous steps to ensure that the detention of U.S. citizens does not occur, including a new detainer form and the launch of a toll-free hotline — (855) 448-6903 — that detained individuals can call if they believe they may be U.S. citizens or victims of a crime.”

On Background: An immigration detainer ([Form I-247](#)) is a notice that DHS issues to federal, state and local LEAs to inform them that ICE intends to assume custody of an individual in the LEA's custody and to request that the LEA notify ICE as soon as possible prior to the time when LEA would otherwise release the individual.

Detainers help ensure that individuals who are convicted of criminal charges or have previously been removed are not released back into the community to potentially commit more crimes. Detainers are critical tools in assisting ICE's identification and removal of criminal aliens, immigration fugitives, illegal re-entrants, recent border crossers and others who have no legal right to remain in the United States.

<http://www.ice.gov/news/library/factsheets/detainer-faqs.htm>

<http://www.ice.gov/news/releases/1112/111229washingtondc.htm>

From: (b)(6),(b)(7)(C),(k)(2)

To:

CC:

Subject: Detainers

Date: 2012/02/16 14:42:48

Priority: Normal

Type: Note

Hi Rafael,

Here is what I can provide:

“Based on initial information available to U.S. Immigration and Customs Enforcement (ICE), a detainer was placed on (b)(6),(b)(7)(C),(k)(2) at the Marion County Jail during the morning hours of Sunday, Dec. 11, 2011. ICE was subsequently notified by jail officials that (b)(6),(b)(7)(C),(k)(2) was claiming to be a U.S. citizen. Subsequent records checks confirmed this and ICE immediately cancelled the detainer at 2:40pm, prior to her posting bond. At no time was (b)(6),(b)(7)(C),(k)(2) in ICE custody and at no time did the detainer keep her from being released from local custody.

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On Background: An immigration detainer (Form I-247) is a notice that DHS issues to federal, state and local LEAs to inform them that ICE intends to assume custody of an individual in the LEA's custody and to request that the LEA notify ICE as soon as possible prior to the time when LEA would otherwise release the individual. Detainers help ensure that individuals who are convicted of criminal charges or have previously been removed are not released back into the community to potentially commit more crimes. Detainers are critical tools in assisting ICE's identification and removal of criminal aliens, immigration fugitives, illegal re-entrants, recent border crossers and others who have no legal right to remain in the United States.

<http://www.ice.gov/news/library/factsheets/detainer-faqs.htm>

<http://www.ice.gov/news/releases/1112/111229washingtondc.htm>

Thanks!

(b)(6),(b)(7)(C),(k)(2)

(b)(6),(b)(7)(C),(k)(2)

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347

(b)(6),(b)(7)(C),(k)(2)

312-446

(b)(6),(b)(7)(C),(k)(2)

From: Sanchez, Rafael

(b)(6),(b)(7)(C)

Sent: Thursday, February 09, 2012 10:20 AM

To: (b)(6),(b)(7)(C),(k)(2)

Subject: FW: Attached Image

(b)(6),(b)(7)(C),(k)(2)

My detainer story will air the week of February 20th.

Beyond the guy who is suing you (b)(6),(b)(7)(C),(k)(2) (see your previous response below),

(b)(6),(b)(7)(C),(k)(2)

is complaining that she was held on a detainer when she was arrested after a bar fight on 12/11/2011.

(b)(6),(b)(7)(C),(k)(2)

was born

(b)(6),(b)(7)(C),(k)(2)

She was held in the Marion County jail. I have attached in the PDF above of her arrest above.

Let me know you find out.

Does ICE want to provide a statement on why it values the detainer process and what it accomplishes ?

Respectfully,

Rafael Sanchez

Reporter

WRTV-6

From: [REDACTED]
Sent: Thursday, December 01, 2011 3:32 PM
To: [REDACTED]
Subject: RE: hola from Indianapolis re: media request

Hey [REDACTED]

Here is what I can provide... which isn't a whole lot...

"U.S. Immigration and Customs Enforcement (ICE) does not comment on matters pending litigation."

As far as deportation stats, for the Chicago ICE office (IL, IN, WI, KY, KS, MO):

FY 2010 10,346 (of those, 5,386 were convicted criminals, and 4,960 were non-criminals)

FY 2011 11,786 (of those, 7,491 were convicted criminals, and 4,295 were non-criminals)

Hope that helps! (b)(6),(b)(7)(C),
(k)(2)

(b)(6),(b)(7)(C),(k)(2)

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347-(b)(6),(b)(7)(C),(k)(2)

312-446-(b)(6),(b)(7)(C),(k)(2)

(b)(6),(b)(7)(C),(k)(2)

From: 6NewsFax [mailto:Newscanon@wrtv.com]
Sent: Thursday, February 09, 2012 11:05 AM
To: Sanchez, Rafael
Subject: Attached Image

Scripps Media, Inc., certifies that its advertising sales agreements do not discriminate on

the basis of race or ethnicity. All advertising sales agreements contain nondiscrimination clauses.

Sender: (b)(6),(b)(7)(C),(K)(2)

Recipient:

Sent Date: 2012/02/16 14:42:47

Delivered Date: 2012/02/16 14:42:48

Generator: Microsoft Word 14 (filtered medium)

From: (b)(6),(b)(7)(C)
To:

Subject: FW: UNIVISION CHI INQUIRY: USC's JAIL STAY EXTENDED FOR DEPORT???

Date: 2012/01/04 17:35:14

Priority: Normal

Type: Note

(b)(6),(b)(7)(C)

Here's the information on the case. Sorry for the delay.

(b)(6),(b)(7)(C) do you want me to forward this on up to HQ or will you?

Thanks

(b)(6),(b)(7)(C),
(k)(2)

On January 2, 2012, a fax was received by ERO Chicago from the Will County Jail advising that (b)(6),(b)(7)(C),(k)(2) was being released to the ICE detainer on file. The detainer had been filed by the IJSC on December 21, 2011. (b)(6),(b)(7)(C),(k)(2) was picked up by a Chicago IEA on January 3, 2012, at approximately 9:45am, and during the transport was advised by (b)(6),(b)(7)(C),(k)(2) that he was born in Puerto Rico. Immediately upon arrival at Broadview (b)(6),(b)(7)(C),(k)(2) was interviewed and advised that he was born in New Jersey and went to school in Puerto Rico. Several checks were immediately made to verify the information and based on these checks the IEA determined (b)(6),(b)(7)(C),(k)(2) was born in the United States. (b)(6),(b)(7)(C),(k)(2) was then allowed access to a phone to contact someone for a ride but he was unable to reach anyone. At approximately 10:30am the IEA drove (b)(6),(b)(7)(C),(k)(2) to his business in Joliet, Illinois and dropped him off. The IEA advised (b)(6),(b)(7)(C),(k)(2) was at Broadview for approximately 30 minutes total time prior to being driven to his business.

ERO Chicago has contacted the Will County Jail for information concerning (b)(6),(b)(7)(C) case but has not received the information yet.

From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 04, 2012 3:09 PM
To: Chandler, Matthew; (b)(6),(b)(7)(C) Sandweg, John; Mead, Gary; Homan, Thomas; Gibson, Beth N; (b)(6),(b)(7)(C) Ramlogan, Riah; Rahilly, Lyn M
Cc: Hale, Brian P; (b)(6),(b)(7)(C)
Subject: FW: UNIVISION CHI INQUIRY: USC's JAIL STAY EXTENDED FOR DEPORT???

Folks - Please see below media query involving a USC. We are researching and working on a response.

From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 04, 2012 3:03 PM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: UNIVISION CHI INQUIRY: USC's JAIL STAY EXTENDED FOR DEPORT???

Thanks, (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) Considering the issues from yesterday, I'm taking no chances. Media are asking about the below **USC from Puerto Rico**, and if his jail stay was extended because he was being considered for deportation to Guatemala.

ERO in CHI is investigating.

(b)(6),(b)(7)(C)
Director of Communications, Central Region (Spokesman)
U.S. Immigration and Customs Enforcement (ICE) www.ice.gov
(b)(6),(b)(7)(C)
214-905 (b)(6),(b)(7)(C) office)
214-850 (b)(6),(b)(7)(C) cell)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 04, 2012 1:52 PM
To: (b)(6),(b)(7)(C)
Subject: Fw: Media Inquiry for 5 p.m.

FYI. I asked ERO to look into it. I just got this and its for 5pm newscast. I told reporter its unlikely iwe can respond by then

From: Paula Gomez (b)(6),(b)(7)(C)
Sent: Wednesday, January 04, 2012 02:44 PM
To: (b)(6),(b)(7)(C)
Subject: Media Inquiry for 5 p.m.

Hello (b)(6),(b)(7)(C)

Happy New Year! Hope all is well.

Can you please give us a statement about this case?

(b)(6),(b)(7)(C) was arrested in Joliet on 12/20/11 due to a “domestic violence” and “obstruct P.O.” incident.

He claims after being detained from 12/20/11-1/3/12 at the Will County Adult Detention Facility, authorities informed him the reason he was detained for so long was because ICE wanted to deport him to Guatemala. He also claims he was driven from Joliet to a Chicago facility where yesterday he was finally able to prove he is a U.S. citizen, born in N.J. and of Puerto Rican origin.

Do you know anything about this case and why was [REDACTED] detained for so long and claims to have had an incident with ICE?

Court case number [REDACTED]

[REDACTED]

His SS is: [REDACTED]

The police report has his name as [REDACTED] as you can see both the last name and ss on the report are not the same.

Thank you,

Paula Gómez

[REDACTED]

[REDACTED]

The information contained in this e-mail and any attached documents may be privileged, confidential and protected from disclosure. If you are not the intended recipient you may not read, copy, distribute or use this information. If you have received this communication in error, please notify the sender immediately by replying to this message and then delete it from your system.

Sender:

(b)(6),(b)(7)(C)

Recipient:

Sent Date: 2012/01/04 17:35:12

Delivered Date: 2012/01/04 17:35:14

Generator: Microsoft Word 14 (filtered medium)

From: (b)(6).(b)(7)(C)
To:

Subject: Guidance on the Revised Detainer Form I-247 - Notifications

Date: 2011/12/28 10:31:03

Priority: Normal

Type: Note

Good afternoon,

The new I-247 detainer has been uploaded into ENFORCE and is available for use as of December 26, 2011; a Word version of Form I-247 is attached. Also attached for your perusal and information only is the Standard Operating Procedures for the Law Enforcement Support Center (LESC) for handling Telephonic Inquiries from Individuals Subject to a Detainer. The Chicago AOR has an Outlook mailbox in place to accept electronic mail referrals from the LESL:

(b)(7)(E)

SM

(b)(7)(E)

Additional guidance is forthcoming regarding the handling of referrals.

The updated FAQs can be provided to your local law enforcement stakeholders. Outreach has been conducted and the local LEAs have been made aware of the new detainer form and the additional procedures now part of the detainer.

Effective immediately, the new Form I-247 (dated 12/11) must be used when placing new detainers. Any questions should be addressed to your first line supervisor.

Thank you

From: ERO Taskings

Sent: Tuesday, December 27, 2011 01:14 PM

Subject: Additional Guidance on the Revised Detainer Form I-247 - Notifications

The following message is being sent on behalf of Gregory J. Archambeault, Assistant Director for Enforcement with approval of David J. Venturella, Assistant Director for Field Operations:

To: Field Office Directors and Deputy Field Office Directors

Subject: Additional Guidance on the Revised Detainer Form I-247 - Notifications

The revised form I-247 provides aliens with contact information for the Law Enforcement Support Center (LESC) and the Joint Intake Center (JIC). The detainer directs aliens to call the LESL if they are a United States citizen or have been the victim of a crime. The form directs aliens to call the JIC if they have a complaint about the detainer or wish to report violations of their civil rights or civil liberties. In addition, the form advises Law Enforcement Agencies (LEAs) to contact the LESL if the alien is a victim of a crime, or if the LEA wants the individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness. The attached document labeled '*Information for Immigration Officers*' has been prepared to advise field officers of these changes and to assist them in the implementing the new requirements.

Please keep in mind that the LEAs are requested to provide a copy of the detainer to the alien. Field Office Directors (FODs) should take into consideration that the alien or family members will have contact information listed on the detainer including names of the issuing officer, LEA information, and contact phone numbers for the LEAs to notify ICE of release of alien.

Additionally, FODs should consider methods to respond to complaints that are referred to the Joint Intake Center.

Guidance:

-

On December 7, 2011, FODs were asked to establish a new email address through which they could maintain a uniform method of receiving and sending information relating to the revised document. When responding to LESC referrals, field officers should adhere to the following requirements:

- When possible, cases in ICE custody should be reviewed prior to issuance of a charging document;
- Interview subject of referral not in ICE custody and attempt to verify claim;
- Treat each referral on a case-by-case basis;
- If favorable exercise of discretion is warranted, ERO should lift the detainer, provide a copy of form I-918, Petition for U Nonimmigrant status to subject, update ENFORCE by entering the Alert Code (b)(7)(E), enter the operational code (b)(7)(E) in the alert comments within ENFORCE; and
- If exercise of discretion is denied and the individual remains detained, ERO should update ENFORCE by entering the Alert Code (b)(7)(E) in the alert comments to flag the case and generate a G-166 in ENFORCE requiring the signature of the FOD describing the circumstances of the decision.

When the field office receives an e-mail from the LESC with the subject line heading "Immediate review needed: USC claim," the field officers must review and refer the claim in accordance with the Assistant Secretary's November 19, 2009 memorandum entitled *Superseding Guidance on Reporting and Investigating Claims to United States Citizenship*.

As there is no right to the favorable exercise of discretion by the agency, nothing in this field distribution should be construed to prohibit the arrest, detention, or removal of any alien unlawfully in the United States or to limit the legal authority of ICE or any of its personnel to enforce federal immigration law.

~~Warning: This document is UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be~~

~~released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this report should be furnished to the media, either in written or verbal form.~~

Sender: (b)(6),(b)(7)(C)

Recipient:

Sent Date: 2011/12/28 10:30:56

Delivered Date: 2011/12/28 10:31:03

Generator: Microsoft Word 14 (filtered medium)

Updated Immigration Detainer Form I-247
Information for Immigration Officers

On December 19, 2011, a revised Immigration Detainer – Notice of Action (Form I-247) will be uploaded into the Enforcement Integrated Database (EID) commonly known as the Enforcement Case Management Tracking System (ENFORCE) along with a standardized Detainer FAX cover sheet. The use of Form I-247 should be consistent with Interim Policy Number 10074.1, entitled *Detainers*, which was signed by U.S. Immigration and Customs Enforcement (ICE) Director John Morton on August 2, 2010, and Policy Number ERO 11 152.1, entitled *Enforcement and Removal Encounters*, which was signed by the Office of Enforcement and Removal Operations (ERO) Executive Associate Director, Gary Mead, on July 29, 2011.

The revised Form I-247 contains several revisions highlighted below. ERO recommends that all issuing offices review the changes to the detainer form and the relevant policies with anyone authorized to issue a detainer and with the LEAs which will maintain custody of aliens for ERO based on a detainer. The issuing office should emphasize the following:

- A detainer notifies an LEA that ICE intends to arrest or remove an alien in the LEA's custody once the alien is no longer subject to the LEA's detention. Immigration Officers shall not issue a detainer unless an LEA has exercised its independent authority to arrest the alien.
- The placement of a detainer on an alien means that the Immigration Officer made a determination that the alien is subject to removable grounds of the INA, and ICE intends to remove the subject or place the subject in removal proceedings. Issuing offices should reinforce this policy to personnel authorized to issue detainers, including at the Law Enforcement Support Center (LESC), Command Centers or Incident Response Centers (IRC) to ensure that detainers are not being placed on subjects that are not removable or Naturalized/Derivative United States Citizens.
- Per Interim Policy Number 10074.1, Immigration Officers shall take particular care when issuing a detainer against a lawful permanent resident (LPR), as some grounds of removability hinge on a conviction, while others do not. Although in certain instances ICE may hold LPRs for up to 48 hours to make charging determinations, immigration officers should exercise such authority judiciously and immediately seek the advice of counsel if the LPR has not been convicted of a removable offense.
- A detainer seeks LEA compliance with federal regulation 8 C.F.R. § 287.7(d), which states that LEAs “shall maintain custody of an alien” for 48 hours, excluding weekends and holidays, once a detainer is issued by DHS.

- Hold Period limited to 48 hours. The revised Form I-247 emphasizes that the authorized hold pursuant to a detainer cannot exceed 48 hours (excluding Saturday, Sundays, and holidays).
 - If ICE does not assume custody after 48 hours, the LEA is required to release the individual. The Form I-247 contains a Notice to the Alien that makes them aware of this requirement.
 - The holding period is not to exceed 48 hours (excluding Saturday, Sundays, and holidays) from the time the LEA would have otherwise released the detainee.
- Conditions of Detention. The revised Form I-247 reminds LEAs that the detainer “does not limit [the LEAs] discretion to make decisions related to [the alien’s] custody classification, work, quarter assignments, or other matters.”
 - The existence of a DHS detainer should not impact or prejudice the alien’s conditions of detention.
- NEW! ICE discourages dismissing criminal charges based on a detainer.
 - Issuing offices are recommended to do outreach to all the agencies to ensure the LEA is advised that once individuals are in ICE custody, they may be removed from the United States. If the LEA or prosecuting office wants an individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness or if they believe that an individual is a victim of a crime, the LEA should contact the LESC at (802) 872-(b)(7)(E)
- NEW! Consider this request for a detainer operative only upon the subject’s conviction.
 - This box may be used for subjects being considered for prosecutorial discretion when the discretion hinges on the conviction of the pending charge.
- Notify this office of the time of release at least 30 days prior to release, or as far in advance as possible.
 - ICE is committed to removing aliens that have been determined to be removable from the United States. Notifying the local ICE office in advance of an alien’s expected release date will assist ICE officers in timely taking custody of an alien.
- Notify this office in the event of the inmate’s death, hospitalization or transfer to another institution.
 - This notification is intended for the issuing office to close any pending investigations initiated and/or reassign the alien’s case to the appropriate ICE office.
- Cancel the detainer previously placed by this office on (date).

- This section should be checked to document lifting the Form I-247 at a facility.
- NEW! Provide a copy to the subject of this detainer.
 - The revised detainer form requests that the LEA provide a copy of the detainer to the alien at no expense to ICE. ICE cannot require the LEA to provide a copy, however DHS anticipates that the LEAs will comply with the detainer and appreciates their assistance in ensuring that a copy is provided to the alien.
 - The revised detainer form also provides notice to the detainee informing the detainee of DHS's interest in assuming custody. The last two pages of the form have been translated into Spanish, Portuguese, French, Chinese and Vietnamese.
 - The revised detainer form includes phone numbers for an alien to call if they have a complaint related to the ICE process or if the person believes they have been the victim of a crime.

Please address any questions regarding this document to the Acting Criminal Alien Program Unit Chief, [REDACTED] at (202) 732-[REDACTED] or via email at

[REDACTED]



**Law Enforcement Support Center
Standard Operating Procedures (SOP)
for Handling Telephonic Inquiries from
Individuals Subject to a Detainer**

**Distributed for adoption by Law Enforcement Support
Center**

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1.0 BACKGROUND FOR THE SPECIALIST ANSWERING THE CALL

This document provides instructions on how to handle telephonic inquiries from individuals subject to a detainer issued by U.S. Immigration and Customs Enforcement (ICE) in light of the newly revised Form I-247, Immigration Detainer – Notice of Action (detainer form). The detainer form now instructs individuals to call the LESC or ICE Joint Intake Center to address specific concerns, such as claims to United States citizenship and if they believe they are the victim or witness of a crime. The revised language appears in the “Notice to Detainee” section at the end of the form and states as follows:

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice from DHS informing law enforcement agencies that DHS intends to assume custody of you after you otherwise would be released from custody. DHS has requested that the law enforcement agency which is currently detaining you maintain custody of you for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) beyond the time when you would have been released by the state or local law enforcement authorities based on your criminal charges or convictions. If DHS does not take you into custody during that additional 48 hour period, not counting weekends or holidays, you should contact your custodian (the law enforcement agency or other entity that is holding you now) to inquire about your release from state or local custody. If you have a complaint regarding this detainer or related to violations of civil rights or civil liberties connected to DHS activities, please contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253). If you believe you **are a United States citizen or the victim of a crime**, please advise DHS by calling the ICE Law Enforcement Support Center at **(855) 448-6903**.

(Emphasis added).

The following script is what an individual will hear when calling the LESC:

LESC voice mail answer script for calls to: 802-872-1310, ESTIMATED TIME 01:37:00

You have reached the Law Enforcement Support Center’s line for individuals subject to an ICE detainer who believe they are a United States citizen or victim or witness of a crime. Your call is very important to ICE. If you are calling as a result of receiving an Immigration Detainer – Notice of Action, DHS Form I-247, and believe you are a United States citizen or witness to or victim of a crime, please hold and the next available operator will assist you momentarily.

If you have a complaint regarding this detainer or related to violations of civil rights or civil liberties connected to DHS activities, please hang up and contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).

If you believe you have been a victim of sexual abuse or violent crime, you also may wish to call the National Domestic Violence Hotline at 800-799-7233 for assistance and support. If you wish

to file a complaint concerning abuses of civil rights, civil liberties you may reach the U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties at 866-644-8360.

This call will be recorded. Thank you and an operator will assist you shortly.

2.0 PROCESSES FOR RESPONDING TO AN INDIVIDUAL'S CALL

Your first action is to determine why the individual is calling and the type of concern:

- If a detained individual calls the law enforcement line (802-872-(b)(7)) tell them this line is for law enforcement only and provide the correct number ((855) 448-6903).
- For all calls received on (855) 448-6903, the LESC's priority is to gather information relevant to the individual's immigration status in order to assist the ERO field office in determining whether the individual is:
 - a United States citizen;
 - a victim or witness to a crime related to his/her current arrest;
 - a victim of a violent crime, sexual abuse, and/or human trafficking; and/or,
 - alleging a violation of his/her civil rights connected to DHS activities.

If the individual is requesting information unrelated to the matters listed above, the individual should be directed to contact the appropriate ERO field office. The ERO field office information should be located on the detainer.

Your next step is to record basic identifying data on the individual. For each caller, ask the following questions and input the information into the ACRIME Call Log. Begin by opening ACRIME and noting the caller's phone number then ask the following:

1. What is your full name?
 - 1a. Are you known by any other names?
2. What is your date of birth?
 - 2a. Have you ever used any other dates of birth?
3. Where were you born?
 - 3a. If in the United States (to include Puerto Rico), in what city and state?
 - 3b. If no, in what country were you born?
4. Do you have an alien registration number (A-number), social security number, or any other identity number?
 - 4a. Include any numbers given in ACRIME summary.
5. Where are you currently being held? (name and location of facility)

After asking these questions and inputting the data into ACRIME, continue to section 2.1 and ask each question in that section.

2.1 United States Citizen Claim

Generally, **no detainer should be issued** if an individual is making a claim to United States citizenship.

Law Enforcement Specialists (Specialists) should closely adhere to the questions below but may ask additional questions as necessary; however, the conversation is not meant to be an assessment of the individual's citizenship claim. Instead, it is meant to provide the ERO field office with sufficient information to initiate an investigation and take appropriate action.

6. Are calling because you believe that you are a United States citizen?

If NO, proceed to Section 2.2.

If YES, then ask the following questions:

6a. Are either of your parents United States Citizens?

If NO, proceed to next question

If YES, were they born in the United States?

6a1. If YES, proceed to the next question.

6a2. If NO, did they apply for and receive citizenship in the United States?

If NO, proceed to next question.

If YES, what year did they become citizens?

6b. Do you now have or have you ever had a passport?

If YES, what county issued the passport?

If NO, proceed to next question.

6c. Do you have any documents to support your claim to United States citizenship?

If YES, what type of documents (e.g. birth certificate)?

Is there any other information you can provide to support your claim?

If the individual is making a claim to United States citizenship, inform the individual that this information will be forwarded to the appropriate ERO field office for further investigation.

After asking these questions and inputting the data into ACRIME, continue to section 2.2 and ask each question in that section.

2.2 Victim/Witness

7. Are you calling because you believe that you are the victim of or witness to the crime for which you are currently being detained?

If NO, but they indicate they may have been a victim or witness of a crime in the past, input that information into the ACRIME Call Log but clearly indicate that the incident was in the past.

If YES, ask the questions below:

7a. Were you the victim or the witness?

- 7b. What is the alleged crime? (DO NOT get in to the specifics of the crime but identify the type of crime such as: murder, robbery, drugs, etc.)

If the individual is making a victim/witness claim, inform the individual that this information will be forwarded to the appropriate ERO field office for further investigation.

After asking these questions and inputting the data into ACRIMe, continue to section 2.3 and ask each question in that section.

2.3 Victim of Sexual Abuse or Violent Crime

8. Have you been the victim of sexual abuse or a violent crime?

If NO, proceed to next question.

If YES, provide the individual with the number for the federally funded National Domestic Violence Hotline: 1-800-799-7233, for further support and assistance.

After asking this question and inputting the data into ACRIMe, continue to section 2.4 and ask each question in that section.

2.4 Victim of Human Trafficking

9. Since entering the United States, have you been forced to work against your will?
Has someone forced you into prostitution against your will?

If NO, proceed to next question.

If YES to either question, inform the individual that this information will be forwarded to the appropriate ERO field office for further investigation.

After asking these questions and inputting the data into ACRIMe, continue to section 2.5 and ask each question in that section.

2.5 Civil Rights/Civil Liberty Violations

10. Do you believe your civil rights or civil liberties have been violated in connection to DHS activities or your detainer?

If YES, refer the individual to the ICE Joint Intake Center at 1-877-246-8253, so they may report their grievance.

After asking all questions contained in Sections 2.1 through 2.5 and inputting the data into ACRIMe, inform the individual that the information from this call will be forwarded to the appropriate ERO field office.

3.0 REPORTS AND NOTIFICATIONS

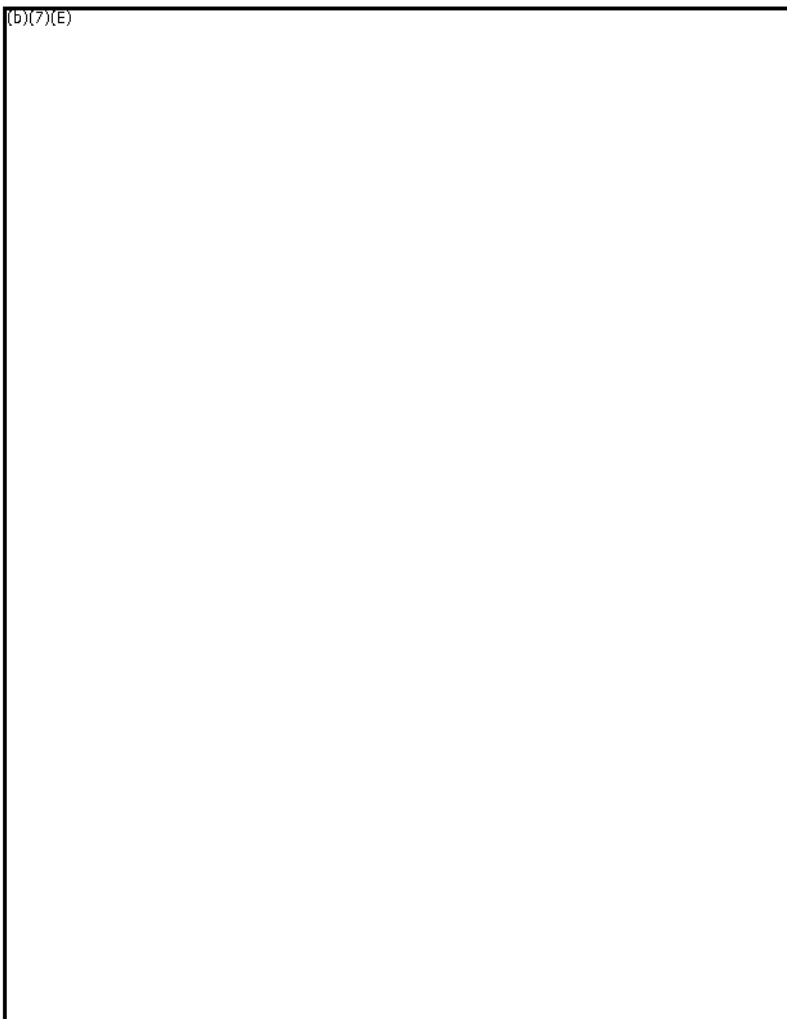
All caller information must be entered into the ACRIME Call Log and a report generated. The report must be emailed to the responsible ERO field office victim/witness email inbox. The information should be clear and concise. Please refer to the attached ERO field office victim/witness email list. Send the email read receipt so that notification is received when the email is read.

If the caller made a United States citizen claim (answered YES to Question 6), the caller's information must be immediately forwarded to the ERO field office victim/witness email inbox with the specific subject heading of "Immediate review needed: USC claim." The email to the ERO field office must indicate that an immediate investigation of the USC claim should be undertaken.

Email List: ERO field office victim/witness email by AOR

ATL
BAL
BOS
BUF

CHI
DAL
DEN
DET
ELP
HOU
LOS
MIA
NEW
NOL
NYC
PHI
PHO
SEA
SFR
SLC
SNA
SND
SPM
WAS



DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID:
Event #:

File No:
Date:

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)

FROM: (Department of Homeland Security Office Address)

MAINTAIN CUSTODY OF ALIEN FOR A PERIOD NOT TO EXCEED 48 HOURS

Name of Alien: _____

Date of Birth: _____ Nationality: _____ Sex: _____

THE U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) HAS TAKEN THE FOLLOWING ACTION RELATED TO THE PERSON IDENTIFIED ABOVE, CURRENTLY IN YOUR CUSTODY:

- Initiated an investigation to determine whether this person is subject to removal from the United States.
- Initiated removal proceedings and served a Notice to Appear or other charging document. A copy of the charging document is attached and was served on _____.
(Date)
- Served a warrant of arrest for removal proceedings. A copy of the warrant is attached and was served on _____.
(Date)
- Obtained an order of deportation or removal from the United States for this person.

This action does not limit your discretion to make decisions related to this person's custody classification, work, quarter assignments, or other matters. DHS discourages dismissing criminal charges based on the existence of a detainer.

IT IS REQUESTED THAT YOU:

- Maintain custody of the subject for a period **NOT TO EXCEED 48 HOURS**, excluding Saturdays, Sundays, and holidays, beyond the time when the subject would have otherwise been released from your custody to allow DHS to take custody of the subject. This request flows from federal regulation 8 C.F.R. § 287.7, which provides that a law enforcement agency "shall maintain custody of an alien" once a detainer has been issued by DHS. **You are not authorized to hold the subject beyond these 48 hours.** As early as possible prior to the time you otherwise would release the subject, please notify the Department by calling _____ during business hours or _____ after hours or in an emergency. If you cannot reach a Department Official at these numbers, please contact the Immigration and Customs Enforcement (ICE) Law Enforcement Support Center in Burlington, Vermont at: (802) 872-6020.
- Provide a copy to the subject of this detainer.
- Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.
- Notify this office in the event of the inmate's death, hospitalization or transfer to another institution.
- Consider this request for a detainer operative only upon the subject's conviction.
- Cancel the detainer previously placed by this Office on _____.
(Date)

(Name and title of Immigration Officer)

(Signature of Immigration Officer)

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to the Department using the envelope enclosed for your convenience or by faxing a copy to _____. You should maintain a copy for your own records so you may track the case and not hold the subject beyond the 48-hour period.

Local Booking or Inmate # _____ Date of latest criminal charge/conviction: _____

Last criminal charge/conviction: _____

Estimated release date: _____

Notice: Once in our custody, the subject of this detainer may be removed from the United States. If the individual may be the victim of a crime, or if you want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, please notify the ICE Law Enforcement Support Center at (802) 872-6020.

(Name and title of Officer)

(Signature of Officer)

NOTICE TO THE DETAINEE

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice from DHS informing law enforcement agencies that DHS intends to assume custody of you after you otherwise would be released from custody. DHS has requested that the law enforcement agency which is currently detaining you maintain custody of you for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) beyond the time when you would have been released by the state or local law enforcement authorities based on your criminal charges or convictions. **If DHS does not take you into custody during that additional 48 hour period, not counting weekends or holidays, you should contact your custodian (the law enforcement agency or other entity that is holding you now) to inquire about your release from state or local custody. If you have a complaint regarding this detainer or related to violations of civil rights or civil liberties connected to DHS activities, please contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253). If you believe you are a United States citizen or the victim of a crime, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.**

NOTIFICACIÓN A LA PERSONA DETENIDA

El Departamento de Seguridad Nacional (DHS) de EE. UU. ha emitido una orden de detención migratoria en su contra. Mediante esta orden, se notifica a los organismos policiales que el DHS pretende arrestarlo cuando usted cumpla su reclusión actual. El DHS ha solicitado que el organismo policial local o estatal a cargo de su actual detención lo mantenga en custodia por un período no mayor a 48 horas (excluyendo sábados, domingos y días festivos) tras el cese de su reclusión penal. **Si el DHS no procede con su arresto migratorio durante este período adicional de 48 horas, excluyendo los fines de semana o días festivos, usted debe comunicarse con la autoridad estatal o local que lo tiene detenido (el organismo policial u otra entidad a cargo de su custodia actual) para obtener mayores detalles sobre el cese de su reclusión. Si tiene alguna queja que se relacione con esta orden de detención o con posibles infracciones a los derechos o libertades civiles en conexión con las actividades del DHS, comuníquese con el Joint Intake Center (Centro de Admisión) del ICE (Servicio de Inmigración y Control de Aduanas) llamando al 1-877-2INTAKE (877-246-8253). Si usted cree que es ciudadano de los Estados Unidos o que ha sido víctima de un delito, infórmele al DHS llamando al Centro de Apoyo a los Organismos Policiales (Law Enforcement Support Center) del ICE, teléfono (855) 448-6903 (llamada gratuita).**

Avis au détenu

Le département de la Sécurité Intérieure [Department of Homeland Security (DHS)] a émis, à votre rencontre, un ordre d'incarcération pour des raisons d'immigration. Un ordre d'incarcération pour des raisons d'immigration est un avis du DHS informant les agences des forces de l'ordre que le DHS a l'intention de vous détenir après la date normale de votre remise en liberté. Le DHS a requis que l'agence des forces de l'ordre, qui vous détient actuellement, vous garde en détention pour une période maximum de 48 heures (excluant les samedis, dimanches et jours fériés) au-delà de la période à la fin de laquelle vous auriez été remis en liberté par les autorités policières de l'État ou locales en fonction des inculpations ou condamnations pénales à votre rencontre. **Si le DHS ne vous détient pas durant cette période supplémentaire de 48 heures, sans compter les fins de semaines et les jours fériés, vous devez contacter votre gardien (l'agence des forces de l'ordre qui vous détient actuellement) pour vous renseigner à propos de votre libération par l'État ou l'autorité locale. Si vous avez une plainte à formuler au sujet de cet ordre d'incarcération ou en rapport avec des violations de vos droits civils liées à des activités du DHS, veuillez contacter le centre commun d'admissions du Service de l'Immigration et des Douanes [ICE - Immigration and Customs Enforcement] [ICE Joint Intake Center] au 1-877-2INTAKE (877-246-8253). Si vous croyez être un citoyen des États-Unis ou la victime d'un crime, veuillez en aviser le DHS en appelant le centre d'assistance des forces de l'ordre de l'ICE [ICE Law Enforcement Support Center] au numéro gratuit (855) 448-6903.**

AVISO AO DETENTO

O Departamento de Segurança Nacional (DHS) emitiu uma ordem de custódia migratória em seu nome. Este documento é um aviso enviado às agências de imposição da lei de que o DHS pretende assumir a custódia da sua pessoa, caso seja liberado. O DHS pediu que a agência de imposição da lei encarregada da sua atual detenção mantenha-o sob custódia durante, no máximo, 48 horas (excluindo-se sábados, domingos e feriados) após o período em que seria liberado pelas autoridades estaduais ou municipais de imposição da lei, de acordo com as respectivas acusações e penas criminais. **Se o DHS não assumir a sua custódia durante essas 48 horas adicionais, excluindo-se os fins de semana e feriados, você deverá entrar em contato com o seu custodiante (a agência de imposição da lei ou qualquer outra entidade que esteja detendo-o no momento) para obter informações sobre sua liberação da custódia estadual ou municipal. Caso você tenha alguma reclamação a fazer sobre esta ordem de custódia migratória ou relacionada a violações dos seus direitos ou liberdades civis decorrente das atividades do DHS, entre em contato com o Centro de Entrada Conjunta da Agência de Controle de Imigração e Alfândega (ICE) pelo telefone 1-877-246-8253. Se você acreditar que é um cidadão dos EUA ou está sendo vítima de um crime, informe o DHS ligando para o Centro de Apoio à Imposição da Lei do ICE pelo telefone de ligação gratuita (855) 448-6903**

THÔNG BÁO CHO NGƯỜI BỊ GIAM GIỮ

Bộ Quốc Phòng (DHS) đã có lệnh giam giữ quý vị vì lý do di trú. Lệnh giam giữ vì lý do di trú là thông báo của DHS cho các cơ quan thi hành luật pháp là DHS có ý định tạm giữ quý vị sau khi quý vị được thả. DHS đã yêu cầu cơ quan thi hành luật pháp hiện đang giữ quý vị phải tiếp tục tạm giữ quý vị trong không quá 48 giờ đồng hồ (không kể thứ Bảy, Chủ nhật, và các ngày nghỉ lễ) ngoài thời gian mà lẽ ra quý vị sẽ được cơ quan thi hành luật pháp của tiểu bang hoặc địa phương thả ra dựa trên các bản án và tội hình sự của quý vị. **Nếu DHS không tạm giam quý vị trong thời gian 48 giờ bổ sung đó, không tính các ngày cuối tuần hoặc ngày lễ, quý vị nên liên lạc với bên giam giữ quý vị** (cơ quan thi hành luật pháp hoặc tổ chức khác hiện đang giam giữ quý vị) để hỏi về việc cơ quan địa phương hoặc liên bang thả quý vị ra. **Nếu quý vị có khiếu nại về lệnh giam giữ này hoặc liên quan tới các trường hợp vi phạm dân quyền hoặc tự do công dân liên quan tới các hoạt động của DHS, vui lòng liên lạc với ICE Joint Intake Center tại số 1-877-2INTAKE (877-246-8253). Nếu quý vị tin rằng quý vị là công dân Hoa Kỳ hoặc nạn nhân tội phạm, vui lòng báo cho DHS biết bằng cách gọi ICE Law Enforcement Support Center tại số điện thoại miễn phí (855) 448-6903.**

对被拘留者的通告

美国国土安全部 (DHS) 已发出对你的移民监禁令。移民监禁令是美国国土安全部用来通告执法当局，表示美国国土安全部意图在你可能从当前的拘留被释放以后继续拘留你的通知单。美国国土安全部已经向当前拘留你的执法当局要求，根据对你的刑事起诉或判罪的基础，在本当由州或地方执法当局释放你时，继续拘留你，为期不超过 48 小时 (星期六、星期天和假日除外)。如果美国国土安全部未在不计周末或假日的额外 48 小时期限内将你拘留，你应该联系你的监管单位 (现在拘留你的执法当局或其他单位)，询问关于你从州或地方执法单位被释放的事宜。如果你对于这项拘留或关于美国国土安全部的行动所涉及的违反民权或公民自由权有任何投诉，请联系美国移民及海关执法局联合接纳中心 (ICE Joint Intake Center)，电话号码是 1-877-2INTAKE (877-246-8253)。如果你相信你是美国公民或犯罪被害人，请联系美国移民及海关执法局的执法支援中心 (ICE Law Enforcement Support Center)，告知美国国土安全部。该执法支援中心的免费电话号码是 (855) 448-6903。



U.S. Immigration and Customs Enforcement

December 2011

ICE Detainers: Frequently Asked Questions

Q1: What is an immigration detainer?

A1: An immigration detainer (Form I-247) is a notice that DHS issues to federal, state and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual in the LEA's custody.

An immigration detainer serves three key functions: 1) to notify an LEA that ICE intends to assume custody of an alien in the LEA's custody once the alien is no longer subject to the LEA's detention; 2) to request information from an LEA about an alien's impending release so ICE may assume custody before the alien is released from the LEA's custody; and 3) to request that the LEA maintain custody of an alien who would otherwise be released for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) to provide ICE time to assume custody.

Q2: Why does ICE issue detainers?

A2: Detainers are critical for ICE to be able to identify and ultimately remove criminal aliens who are currently in federal, state or local custody.

ICE relies on the cooperation of our state and local law enforcement partners in this effort.

Q3: What if the LEA needs the individual to remain in the United States for prosecution or other law enforcement purposes?

A3: Local law enforcement agencies (LEAs) are advised that once individuals are in ICE custody, they may be removed from the United States. If the LEA wants an individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, the agency should notify the local Field Office or the ICE Law Enforcement Support Center at (802) 872-(b)(7)

Q4: Where does ICE's authority to issue a detainer stem from?

A4: By issuing a detainer, ICE requests that a law enforcement agency notify ICE before releasing an alien and maintain custody of the subject for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, to allow ICE to assume custody. This request flows from federal regulations at 8 C.F.R. § 287.7, which arises from the Secretary's power under the Immigration and Nationality Act § 103(a)(3), 8 U.S.C. 1103(a)(3), to issue "regulations . . . necessary to carry out [her] authority" under the INA, and from ICE's general authority to detain individuals who are subject to removal or removal proceedings.

Q6: What has been changed on the I-247 form?

A6: The new I-247 form requests that the **LEA provide to the subject of the detainer a copy of the detainer form and a notice advising him or her that ICE intends to assume custody**. The notice informs these individuals that ICE has requested the LEA to maintain custody beyond the time when they would have been released by the state or local law enforcement authorities based on their criminal charges or convictions. The notice contains translations into Spanish, French, Portuguese, Chinese, and Vietnamese.

The new I-247 form also emphasizes that local law enforcement agencies (LEAs) may only hold an alien for **a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays)**.

Q7: What happens if ICE does not assume custody of the individual after 48 hours?

A7: If ICE does not assume custody after 48 hours (excluding weekends and holidays), the local law enforcement agency (LEA) is required to release the individual. The LEA may not lawfully hold an individual beyond the 48-hour period.

Q8: What if the subject of the detainer believes that he or she has been held beyond the 48 hours, or has a complaint?

A8: The Notice to the Detainee advises individuals that if ICE does not take them into custody during the 48 hours, they should contact the LEA or entity that is holding them to inquire about their release from state or local custody.

If the individual has a complaint regarding the detainer or violations of civil rights or civil liberties connected to DHS activities, he or she should contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).

Q9: What happens if a detainer is placed on a victim of a crime or a U.S. citizen?

A9: If the local law enforcement agency (LEA) believes the individual may be the victim of a crime or a U.S. citizen, the LEA should notify the ICE Law Enforcement Support Center at (802) 872-(b)(6),(b)(7)
C

If the subject of the detainer believes that he or she is a victim of a crime or a U.S. citizen, that individual should advise DHS by calling the ICE Law Enforcement Support Center at the following toll-free number (855) 448-6903.

ICE

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security. ICE is a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit: www.ICE.gov. To report suspicious activity, call 1-866-347-2423.

From: (b)(6),(b)(7)(C)
To:
CC:

Subject: ICE announces Public Advocate position

Date: 2012/02/02 15:15:30

Priority: Normal

Type: Note

Hey Team –

Just wanted to let everyone know that tomorrow we will be announcing the creation of a new position here at ICE – the position of Public Advocate.

Though we are still awaiting final White House clearance, we have a media teleconference scheduled for tomorrow morning at 11 a.m., along with a news release (attached). If all goes according to plan, we'll issue the attached media advisory tonight and send out the attached release tomorrow at 11.

Please keep in mind that the attached are draft materials and the final, WH-approved release may differ from what is attached.

Also, depending upon the RSVPs we receive, I may ask folks to pitch the advisory to their top 3 or 4 local outlets in the morning.

Please let me know if you have any questions.

Thanks guys!

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Deputy Press Secretary

U.S. Immigration and Customs Enforcement

202.732 (b)(6),(b)(7)(C)
202.615

(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)

Recipient:

Sent Date: 2012/02/02 15:15:27

Delivered Date: 2012/02/02 15:15:30

Generator: Microsoft Word 11 (filtered medium)



U.S. Immigration
and Customs
Enforcement

Feb. 2, 2012

Contact: (b)(6),(b)(7)(C)
Phone: (202) 732- (b)(6),(b)(7)(C)

ICE announces creation of Public Advocate position

WASHINGTON—U.S. Immigration and Customs Enforcement (ICE) Director John Morton will announce the creation of a new senior leadership position within the agency and will introduce ICE's first Public Advocate Andrew Lorenzen-Strait.

- WHAT:** Media teleconference call
- WHO:** ICE Director John Morton
Public Advocate Andrew Lorenzen-Strait
- HOW:** For call-in number and pass code, please RSVP to (b)(6),(b)(7)(C) by emailing (b)(6),(b)(7)(C) no later than 10:00 a.m. EDT
- WHEN:** Friday, Feb. 3, 2012
11:00 a.m. EDT

ICE

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Office of Public Affairs

Briefing Book



BACKGROUND:

You and new ICE Public Advocate Andrew Lorenzen-Strait will participate in a media teleconference call with immigration beat reporters to announce the creation of the new ICE Public Advocate position, the fact that Andrew was selected for the position and what his role and responsibilities will be.

DETAILS:

Time: Friday, Feb. 3 at 11:00 a.m.

Where: Your office

Who: You, Andrew Strait, EAD Mead

GOALS OF MEDIA (I.E. STRATEGIC MESSAGING):

- Announce that ICE's Public Advocate will work to expand and enhance ICE's dialogue with the community.
- Demonstrate leadership support and backing for the new position and the desire for the agency to receive meaningful feedback from the public.
- Highlight the fact that ICE wants the public to know that they have a representative at this agency whose sole duty is to ensure their voice is heard and their interests are recognized.
- Explain that over the course of the next few months, the Public Advocate and his team will be traveling around the country to engage with communities, listen to their concerns and propose a concrete way forward in terms of how individuals, NGOs and communities will be able to interact with the Public Advocate (for instance: do we initiate a web-based complaint system, etc.)
- Reinforce that the creation of this position is another milestone in ICE's ongoing work to enact significant policy changes and improvements to focus the agency's immigration enforcement resources on sensible priorities that promote public safety, border security and the integrity of the immigration system.

KEY MESSAGES:

- The creation of this position illustrates the agency's recognition that there is a need for greater interaction with the public on immigration enforcement issues to encourage dialogue and help resolve issues.
- The Public Advocate will help facilitate the resolution of issues or complaints from individuals and NGOs.
- The Public Advocate will also have a seat at the policy-making table to bring the concerns of the community to bear on important issues.

WHAT WILL THE PUBLIC ADVOCATE DO?

- Assist individuals and community stakeholders in addressing and resolving complaints and concerns in accordance with agency policies and operations, particularly concerns related to ICE enforcement actions involving U.S. citizens;
- Educate stakeholders on ERO policies, programs, and initiatives and enhance understanding of ERO's mission and core values;

11/12/2014 2:50 PM

1

Prepared by: [REDACTED]
Telephone Number: 202-732-[REDACTED]
Email: [REDACTED]



- Engage stakeholders and build partnerships to facilitate communication, foster collaboration, and solicit input on immigration enforcement initiatives and operations; and
- Advise ICE leadership on stakeholder findings, concerns, recommendations, and priorities as they relate to improving immigration enforcement efforts and activities.

ANTICIPATED QUESTIONS:

Q: What is the purpose/role of the new Public Advocate?

A: The role of the Public Advocate is to foster dialogue between ICE and the community, to help facilitate the resolution of issues or complaints from individuals and NGOs as they relate to immigration enforcement issues and to also have a seat at the policy-making table to bring the concerns of the community to bear on important issues.

Q: Is the new role similar to that of an ombudsman?

A: Yes and no. Like an ombudsman, the Public Advocate will help facilitate the resolution of issues between the agency and members of the general public. However, the Public Advocate's role and responsibilities will be somewhat broader in the fact the Public Advocate will also work closely with agency leadership on immigration enforcement-related policy issues.

Q: Who will the Public Advocate report to? Why not directly to the ICE Director?

A: The Public Advocate will report directly to the Office of Enforcement and Removal Operations (ERO) Director Gary Mead. Why not to the director?

Q: Will the Public Advocate have a staff? How many?

A: Right now, the Public Advocate has an acting deputy from the DHS Office of Civil Rights and Civil Liberties who, until three months ago, was the Deputy Director of the American Bar Association's Commission on Immigration. The Office of the Public Advocate also has a Spanish-speaking ERO officer and an outreach assistant assigned to the staff. How and when this staff may expand will be decided upon in the future.

Q: Will the general public have a direct line (phone number or email) to the Public Advocate?

A: The creation of this position is the first step in our ongoing work to expand and enhance our dialogue with the community. Over the course of the next few months, the Public Advocate and his team will be traveling around the country to engage with communities, listen to their concerns and propose a concrete way forward in terms of how individuals, NGOs and communities will be able to interact with the Public Advocate (for instance: Do we initiate a web-based complaint system, etc.)

Q: What makes Mr. Lorenzen-Strait the right person for this job?

A: Lorenzen-Strait has served with ICE since 2008, first as an advisor and analyst on policies related to immigration enforcement, detention and juveniles and most recently, as the senior advisor for Enforcement and Removal Operation's (ERO) detention management division. In 2007, Lorenzen-Strait was named the Maryland Attorney of the Year for Pro Bono Service for his work with Community Legal Services of Prince George's County. Lorenzen-Strait has a law degree specialized in child advocacy and public interest law. As an attorney, he worked with victims of crime on the LA District Attorney's Office of Family Violence Division.

He has a passion for working with children and immigrants and ensuring that their voices are heard.



News Release:

ICE announces creation of Public Advocate position

WASHINGTON – As part of the agency’s ongoing detention reform initiative and other enforcement-related initiatives, U.S. Immigration and Customs Enforcement (ICE) today announced its first Public Advocate, ICE Senior Advisor Andrew Lorenzen-Strait. Lorenzen-Strait will serve as a point of contact for individuals, including U.S. citizens and those in immigration proceedings, NGOs and other community and advocacy groups, who have concerns, questions, recommendations or other issues they would like to raise.

“As our first Public Advocate, Andrew Lorenzen-Strait will work to expand and enhance our dialogue with the stakeholder community,” said ICE Director John Morton. “We want the public to know that they have a representative at this agency whose sole duty is to ensure their voice is heard and their interests are recognized, and I’m confident Andrew will serve the community well in this capacity.”

Lorenzen-Strait has served with ICE since 2008, first as an advisor and analyst on policies related to immigration enforcement, detention and juveniles and most recently, as the senior advisor for Enforcement and Removal Operations’s (ERO) detention management division. In 2007, Lorenzen-Strait was named the Maryland Attorney of the Year for Pro Bono Service for his work with Community Legal Services of Prince George’s County.

In his new role as public advocate, Lorenzen-Strait will report directly to the Office of Enforcement and Removal Operations (ERO) Director Gary Mead and will be responsible for:

- Assisting individuals and community stakeholders in addressing and resolving complaints and concerns in accordance with agency policies and operations, particularly concerns related to ICE enforcement actions involving U.S. citizens;
- Informing stakeholders on ERO policies, programs, and initiatives and enhance understanding of ERO’s mission and core values;
- Engaging stakeholders and building partnerships to facilitate communication, foster collaboration, and solicit input on immigration enforcement initiatives and operations; and
- Advising ICE leadership on stakeholder findings, concerns, recommendations, and priorities as they relate to improving immigration enforcement efforts and activities.

The creation of the Public Advocate position is another milestone in ICE’s ongoing work to enact significant policy changes and improvements to focus the agency’s immigration enforcement resources on sensible priorities that promote public safety, border security and the integrity of the immigration system. In addition to implementing policies and processes that ensure discretion is used in deciding the types of individuals ICE prioritizes for removal from the country, the agency has also embarked upon a long-term detention reform initiative. These reform efforts are focused on prioritizing the health and safety of detainees in our custody while increasing federal oversight and improving the conditions of confinement within the detention system.

ICE will continue to analyze its policies and the results of its programs, making improvements where necessary to meet our priorities

Learn more about the [public advocate position](#).

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Learn more about the [public advocate position](#).

From: (b)(6),(b)(7)(C)
To:
Subject: ICE establishes hotline for detained individuals, issues new detainer form
Date: 2011/12/29 12:48:20
Type: Note

ICE establishes hotline for detained individuals, issues new detainer form



Having trouble viewing this email? [View it as a Web page.](#)

WASHINGTON — As part of a broader effort to improve our immigration enforcement process and prioritize resources to focus on threats to public safety, repeat immigration law violators, recent border entrants, and immigration fugitives while continuing to strengthen oversight of the nation's immigration detention system and facilitate legal immigration, U.S. Immigration and Customs Enforcement (ICE) today announced new measures to ensure that individuals being held by state or local law enforcement on immigration detainers are properly notified about their potential removal from the country and are made aware of their rights.



The new measures include a new detainer form and the launch of a toll-free hotline — (855) 448-6903 — that detained individuals can call if they believe they may be U.S. citizens or victims of a crime. The hotline will be staffed 24 hours a day, seven days a week by ICE personnel at the Law Enforcement Support Center. Translation services will be available in several languages from 7 a.m. until midnight (Eastern) seven days a week. ICE personnel will collect information from the individual and refer it to the relevant ICE Enforcement and Removal Operations (ERO) Field Office for immediate action.

The new form also includes:

- A request that the law enforcement agency (LEA) provide the subject of the detainer a copy of the detainer form and includes a notice advising the subject that ICE intends to assume custody. The notice informs these individuals that ICE has requested the LEA maintain custody beyond the time when they would have otherwise been released by the state or local law enforcement authorities based on their criminal charges or convictions. The notice also includes Spanish, French, Portuguese, Chinese and Vietnamese translations.
- Further emphasis that LEAs may only hold an individual for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays). It also advises individuals that if ICE does not take them into custody within the 48 hours, they should contact the LEA or entity that is holding them to inquire about their release from state or local custody.
- Directions for individuals who may have a civil rights or civil liberties complaint regarding ICE activities.
- The new form allows ICE to make the detainer operative only upon the individual's conviction of the offense for which he or she was arrested.
- The new form makes clear that the existence of a detainer should not impact or prejudice the individual's conditions of detention, including matters related to the individual's custody classification, work or quarter assignments.

An immigration detainer (Form I-247) is a notice that DHS issues to federal, state and local LEAs to inform them that ICE intends to assume custody of an individual in the LEA's custody and to request that the LEA notify ICE as soon as possible prior to the time when LEA would otherwise release the individual.




Detainers help ensure that individuals who are convicted of criminal charges or have previously been removed are not released back into the community to potentially commit more crimes. Detainers are critical tools in assisting ICE's identification and removal of criminal aliens, immigration fugitives, illegal re-entrants, recent border crossers and others who have no legal right to remain in the United States.

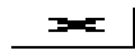
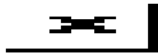
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U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security.

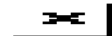
ICE is a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit www.ice.gov. To report suspicious activity, call 1-866-347-2423 or complete our [tip form](#)

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(b)(6),(b)(7)(C)

(b)(6),
(b)(7)(C)

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Sender: (b)(6),(b)(7)(C)
Recipient: [Redacted]
Sent Date: 2011/12/29 12:48:20

From: (b)(6),(b)(7)(C)
To: [Redacted]

Subject: Latest cleared statement on detention and removal of USCs

Date: 2013/05/13 14:20:16

Priority: Normal

Type: Note

[Redacted]

Public Affairs

U.S. Immigration and Customs Enforcement (ICE)

[Redacted]

202-732-[Redacted] office

813-230-[Redacted] cell

Sender: (b)(6),(b)(7)(C)
Recipient: [Redacted]

Sent Date: 2013/05/13 14:20:16

Generator: Microsoft Word 14 (filtered medium)



U.S. Immigration and Customs Enforcement

April 2013
Contact: ICE Public Affairs
202-732-4242

Detention and Removal of USC's (New Yorker)

STATEMENT

"ICE takes very seriously claims of U.S. citizens being improperly detained for immigration enforcement purposes. In the years since the cases highlighted by The New Yorker were completed, U.S. Immigration and Customs Enforcement (ICE) has implemented stringent safeguards to protect against the possibility that a U.S. citizen is detained or removed. The cases discussed by The New Yorker are anomalies that are not representative of the agency's record. In fact, cases and instances highlighted in the story are several years old and predate reforms instituted by the agency."

BACKGROUND

ICE processes an individual for removal only when all available information indicates that the individual is a foreign national.

This week, ICE and DOJ announced a new nationwide policy that will help ensure that unrepresented detainees with mental conditions or disorders that render them incompetent to represent themselves will be appointed a qualified representative to represent them in removal proceedings. When fully implemented, this policy will provide a critical safeguard to help prevent cases like those in the New Yorker story from occurring.

In 2011, ICE revised its detainer form to include the number for a 24-hour, multi-lingual, toll-free hotline, which detained individuals can call if they believe that an immigration detainer may have been inappropriately lodged against them, including in the cases of individuals who claim they are U.S. citizens.

In addition to the hotline, ICE also maintains a community and detainee helpline to address problems and concerns of the public. The helpline is also toll-free and is available from 8 am to 8pm, Eastern Time, Monday through Friday. ICE has responded to more than 11,000 phone calls from detainees and the general public on this helpline.

ICE

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security. ICE is a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit: www.ICE.gov. To report suspicious activity, call 1-866-347-2423.

From: (b)(6),(b)(7)(C)
To:
CC: "Montenegro, Gail R </O=IRMMAIL/OU=MBX Servers - CHI/cn=Recipients/cn=grmonten>"
Subject: (b)(6),(b)(7)(C)
Date: 2012/07/16 08:02:13
Priority: Normal
Type: Note

(b)(6),(b)(7)(C)

Below is my draft Issue Paper on (b)(6),(b)(7)(C) My Proposed Response below is what I will be releasing to the reporter if it gets approved by the ICE Privacy Office today. I wanted you to be aware... Thanks!

ISSUE: The Illinois Times, a liberal weekly alternative newspaper in Springfield, Ill., is requesting ICE comment on the case of (b)(6),(b)(7)(C), a USC who says he was detained for a week last spring by ICE before being released.
<http://stateswithoutnations.blogspot.com/2012/06/ice-kidnaps-another-us-citizen-in.html>
The article indicates (b)(6),(b)(7)(C) will be filing a lawsuit and has retained an attorney. PAO could not meet reporter's deadline of COB July 13. However, he may still be able to use it today. PAO is also vetting this response is for any future inquiries.

INTERNAL BACKGROUND: Per HSI and ERO, the subject was listed in CIS as an LPR IR2 (child of a USC). His multiple convictions made him eligible for deportation based on information initially available, and he was arrested May 4, 2012 by HSI Springfield. However, he had derived U.S. citizenship from his parents who had both naturalized before Ocampo turned 18. Once he presented evidence of his US citizenship to ICE, he was immediately released by ERO Chicago on May 10, 2012.

I-213 Narrative

In March 2012, HSI RAC Springfield received information regarding (b)(6),(b)(7)(C) A referral was sent from CIS BFU as the subject had been issued an LPR card by CIS, even though the subject had multiple felony convictions, and numerous felony and misdemeanor arrests. The reported address for (b)(6),(b)(7)(C) was a Springfield, Ill., address. Multiple attempts were made to request the A file from CIS Chicago for (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

but the file was not sent to RAC Springfield. **Records checks** indicated that the subject is an LPR from Colombia, with multiple felony convictions which rendered him amenable to removal. On May 4, 2012, ICE RAC Springfield located (b)(6),(b)(7)(C) at (b)(6),(b)(7)(C) Springfield, Ill.

Criminal History:

- • • * On June (b) 2009, (b)(6),(b)(7)(C) was convicted in the Sangamon County Court at Springfield, Ill., for the offense of Aggravated Battery. The sentence imposed is unknown at this time.
- • • * On June (b) 2009, (b)(6),(b)(7)(C) was convicted in the Sangamon County Court at Springfield, Ill., for the offense of Felony Auto theft. He was sentenced to 3 years in prison.
- • • * On August (b) 2004, (b)(6),(b)(7)(C) was convicted in the Coles County Court at Charleston, Ill., for the offense of Possession of Stolen Property. He was sentenced to 3 years in prison.
- • • * On May (b) 2006, (b)(6),(b)(7)(C) was convicted in the Naussau County District Court at Hempstead, New York for the offense of Assault in the 3rd with intent to cause injury. The sentence imposed is unknown at this time.
- • • * On February (b) 2006, (b)(6),(b)(7)(C) was convicted in the Naussau County District Court at Hempstead, New York for the offense of Criminal Possession of Stolen Property. The sentence imposed is unknown at this time.

Per OCC: (b)(6),(b)(7)(C) was admitted to the United States on May 21, 1995 as a Lawful Permanent Resident. Although his parents were never married, both his mother and father became naturalized US citizens when (b)(6),(b)(7)(C) was under the age of 18. Therefore, under INA § 320(a), (b)(6),(b)(7)(C) is a U.S. citizen. The NTA was cancelled and (b)(6),(b)(7)(C) was released. **Unfortunately, the USCIS system will never be updated unless (b)(6),(b)(7)(C) affirmatively files an N-600 and USCIS adjudicates it in his favor.** OCC tries to work with these aliens and their attorneys to file this application so that the systems are clear.

PROPOSED ICE RESPONSE: (Pursuant to Appendix A II C 2)

(b)(5)

ICE treats all claims of U.S. citizenship with the utmost seriousness. ICE has taken numerous steps to ensure that the detention of U.S. citizens does not occur, including a new detainer form and the launch of a toll-free hotline — (855) 448-6903 — that detained individuals can call if they believe they may be U.S. citizens or victims of a crime.”

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)

Recipient:

Sent Date: 2012/07/16 08:02:12

Delivered Date: 2012/07/16 08:02:13

Generator: Microsoft Word 14 (filtered medium)

From: (b)(6),(b)(7)(C)
To:
CC:

Subject: OPA: UNIVISION CHI INQUIRY ON USC JAIL STAY EXTENEO

Date: 2012/01/04 18:55:42

Importance: High

Priority: Urgent

Type: Note

(b)(6),(b)(7)(C) Please review this for accuracy. (b)(5)
(b)(5)

After you OK, then I have to send to Privacy – then to HQ.

Thanks. Give my best to your wife. She sounds charming.

ISSUE: Univision Chicago was informed that a USC raised in Puerto Rico was detained for an extended time because ICE planned to deport him to Guatemala.

PROPOSED ICE RESPONSE:

(b)(5)

(b)(5)

BACKGROUND:

On Jan. 2, 2012, a fax was received by ERO Chicago from the Will County Jail advising that (b)(6),(b)(7)(C) was being released to the ICE detainer on file. The detainer had been filed by the (b)(7)(E) on Dec. 21, 2011. (b)(6),(b)(7)(C) was picked up by a Chicago IEA on Jan. 3 at about 9:45am. During the transport, (b)(6),(b)(7)(C) stated that he was born in Puerto Rico. Immediately upon arrival at Broadview (b)(6),(b)(7)(C) **was interviewed and advised that he was born in New Jersey and went to school in Puerto Rico.** Several checks were immediately made to verify the information and based on these checks the IEA determined (b)(6),(b)(7)(C) was born in the United States. (b)(6),(b)(7)(C) was then allowed access to a phone to contact someone for a ride but he was unable to reach anyone. At about 10:30 am, the IEA drove (b)(6),(b)(7)(C) to his business in Joliet, Ill., and dropped him off. The IEA stated (b)(6),(b)(7)(C) was at Broadview for about 30 minutes total time prior to being driven to his business.

ERO Chicago has contacted the Will County Jail for information concerning (b)(6),(b)(7)(C) case, but has not received the information yet.

(b)(6),(b)(7)(C)

Director of Communications, Central Region (Spokesman)
U.S. Immigration and Customs Enforcement (ICE) www.ice.gov

(b)(6),(b)(7)(C)

214-905-(b)(6),(b)(7)(C) (office)
214-850-(b)(6),(b)(7)(C) (cell)

From: Paula Gomez (b)(6),(b)(7)(C)

Sent: Wednesday, January 04, 2012 02:44 PM

To: (b)(6),(b)(7)(C)

Subject: Media Inquiry for 5 p.m.

Hello [redacted]

Happy New Year! Hope all is well.

Can you please give us a statement about this case?

[redacted] was arrested in Joliet on 12/20/11 due to a "domestic violence" and "obstruct P.O." incident.

He claims after being detained from 12/20/11-1/3/12 at the Will County Adult Detention Facility, authorities informed him the reason he was detained for so long was because ICE wanted to deport him to Guatemala. He also claims he was driven from Joliet to a Chicago facility where yesterday he was finally able to prove he is a U.S. citizen, born in N.J. and of Puerto Rican origin.

Do you know anything about this case and why was Caraballo detained for so long and claims to have had an incident with ICE?

Court case number [redacted]

[redacted]

His SS is: [redacted]

The police report has his name as [REDACTED] as you can see both the last name and ss on the report are not the same.

Thank you,

Paula Gómez

[REDACTED]

[REDACTED]

[REDACTED]

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Sender: [REDACTED]
Recipient: [REDACTED]

Sent Date: 2012/01/04 18:55:42

Generator: Microsoft Word 11 (filtered medium)

From: (b)(6),(b)(7)(C)
To:
CC:

Subject: OPA: ACLU claim filed in federal court re: detainee on USC

Date: 2011/12/01 14:12:12

Priority: Normal

Type: Note

Beth, Brian and (b)(6).

ISSUE: ABC Indianapolis is requesting comment on a **civil complaint filed in U.S. District Court by the ACLU seeking a jury trial and compensatory damages regarding a naturalized USC who was allegedly held on an ICE detainer** for 3 days. ACLU issued the news release below. A copy of the complaint is attached. Reporter is also requesting removal statistics. Deadline: 3pm CST

BACKGROUND: According to ERO, OPLA has issued a preservation notice in this case. **Per OPLA,** (b)(5)

ERO Case summary: (b)(6),(b)(7)(C) appeared on the Foreign Born list provided by Marion County on Sunday, August 29, 2010. (b)(6),(b)(7)(C) was arrested for Operating While Intoxicated charges on August (b) 2010. Immigration queries revealed multiple possible matches for (b)(6),(b)(7)(C) in CIS. Due to the fact that (b)(6),(b)(7)(C) was not booked in with his second last name and (b)(6),(b)(7)(C) being a common name, it could not be immediately verified that the person who was arrested for OWI and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) (Naturalized United States Citizen, (b)(6),(b)(7)(C)) were the same person. An immigration detainer was lodged on (b)(6),(b)(7)(C) on August 29, 2010. (b)(6),(b)(7)(C) posted bond on his criminal charges on August 31, 2010. ERO was notified in the early morning hours of the following day, September 1, 2010, concerning his release to ICE. At approximately 8:00 A.M., on September 1, 2010, (b)(6),(b)(7)(C) and other Marion County ICE releases were transported to the Indianapolis, Indiana, ICE Office. It should be noted that (b)(6),(b)(7)(C) **was never booked into ICE custody, nor was the**

Marion County Jail issued an I-203 as he was picked up the same day Marion County sent an email concerning his release. While driving the 1.3 miles from the Marion County Jail to the Indianapolis, Indiana ICE Office, (b)(6),(b)(7)(C) inquired as to what was going to happen to him. During this time (b)(6),(b)(7)(C) stated he had naturalized as a United States Citizen. (b)(6),(b)(7)(C) was told that once we got to the ICE Office, the computer would be checked concerning his claim. He arrived at the ICE Office approximately 10 minutes after leaving the Marion County Jail. Once at the office, the other Marion County ICE releases were put in the holding cell. (b)(6),(b)(7)(C) remained out on the processing floor. **Once (b)(6),(b)(7)(C) full name was queried, and verified the first names of his parents, it was concluded that (b)(6),(b)(7)(C) was a Naturalized United States Citizen.** (b)(6),(b)(7)(C) was immediately told that he was free to go. He was also advised that if he should ever get arrested again, he should provide his full name to avoid any further confusion. (b)(6),(b)(7)(C) was cordial and very grateful during the whole 30 minutes encounter between transporting him and releasing him out of the ICE Office.

ACLU NEWS RELEASE:

Wed., Nov. 30, 2011

ACLU Indiana Defends U.S. Citizen Illegally Detained in Anticipation of Possible Deportation

Indianapolis - The ACLU of Indiana today filed a complaint on behalf of a United States citizen who was erroneously and unconstitutionally detained at the direction of federal agents in anticipation of possible deportation.

(b)(6),(b)(7)(C) is a naturalized United States citizen. After being arrested late in the evening on August (b)(6),(b)(7)(C) 2010, for a violation of Indiana law (b)(6),(b)(7)(C) was taken into custody in Indianapolis. He was eligible for bail almost immediately, but he could not be released, because on Aug. 29, federal immigration agents from Immigration and Customs Enforcement (ICE) issued an immigration detainer, which had the effect of requiring that (b)(6),(b)(7)(C) be held pending possible immigration proceedings and deportation.

The detainer was issued without probable cause or reasonable suspicion that (b)(6),(b)(7)(C) was in the U.S. illegally. Of course, a U.S. citizen cannot be deported (b)(6),(b)(7)(C), a U.S. citizen since 2000 residing in Marion County, had provided arresting officers with his Indiana driver's license, but found himself held for three days without bail at the Marion County

Jail because of the ICE detainer. He was never given the opportunity to prove his U.S. citizenship to the ICE agents who were responsible for his continued detention.

As a result of his unlawful imprisonment, [REDACTED] a married father of four, missed two days of work for which he was not paid, and was unable to accompany his wife, who was six months pregnant, to her medical appointment.

"The current political climate regarding immigration issues has created an environment where these situations occur all too often," said Gilbert Holmes, Executive Director of the ACLU of Indiana. "We don't want a repeat in Indiana of what's happening in some states, where they've passed laws allowing people to be stopped on the basis of looks, and where you're considered guilty until proven innocent."

"We are concerned about the lack of any procedures here to safeguard against what appears to be the clear deprivation of [REDACTED] basic constitutional rights. No citizen, naturalized or otherwise, should have to worry about being deported," said Ken Falk, the ACLU of Indiana's Legal Director.

ICE is part of the U.S. Department of Homeland Security. Illegal detention violates a U.S. citizen's rights under the Fourth Amendment of the Constitution of the United States. The ACLU of Indiana is requesting a jury trial on behalf of [REDACTED]. The case was filed in the United States District Court for the Southern District of Indiana under cause number [REDACTED] and is captioned [REDACTED].

PROPOSED STATEMENT: [REDACTED]
[REDACTED]

[REDACTED]

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347-[REDACTED] office)

312-446-(b)(6),
(b)(7)(C) (cell)

(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)

Recipient:

Sent Date: 2011/12/01 14:12:11

Delivered Date: 2011/12/01 14:12:12

Generator: Microsoft Word 14 (filtered medium)

From: (b)(6),(b)(7)(C)
To:
CC:

Subject: RE: ACLU ANNOUNCES LAWSUIT AGAINST ICE--OBTAINING USC

Date: 2011/12/01 11:44:34

Type: Note

I have a call in to my Chief Counsel and am waiting to hear back. My guess is OPLA will

(b)(5)

(b)(6),(b)(7)(C)

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347 (b)(6),(b)(7)(C) (office)

312-446 (b)(6),(b)(7)(C) (cell)

(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Thursday, December 01, 2011 10:39 AM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: RE: ACLU ANNOUNCES LAWSUIT AGAINST ICE--DETAINING USC

(b)(6),(b)(7)(C) wants to know if OPLA has cleared, because of the pending litigation. (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, November 30, 2011 6:55 PM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: OPA: ACLU ANNOUNCES LAWSUIT AGAINST ICE--DETAINING USC
Importance: High

(b)(6),(b)(7)(C) Please vet the below draft response through Privacy.

(b)(5)

Note that the AP deadline has passed, but they may be able to make modifications if we hurry.

Thanks!!

(b)(6),(b)(7)(C)
Director of Communications, Central Region (Spokesman)
U.S. Immigration and Customs Enforcement (ICE) www.ice.gov
(b)(6),(b)(7)(C)

214-905 (b)(6),(b)(7)(C) (office)
214-850 (b)(6),(b)(7)(C) (cell)

ISSUE: AP Indianapolis is requesting comment on a complaint filed in federal court by the ACLU regarding a naturalized USC who was allegedly detained by ICE for 3 days. ACLU just issued the news release below. A brief AP article went out (see below) but reporter will include an ICE comment if we provide it tonight.

PROPOSED STATEMENT: (b)(5)

(b)(5)

BACKGROUND: According to ERO, OPLA has issued a preservation notice in this case.

ERO Case summary: (b)(6),(b)(7)(C) appeared on the Foreign Born list provided by Marion County on Sunday, August 29, 2010. (b)(6),(b)(7)(C) was arrested for Operating While Intoxicated charges on August (b) 2010. Immigration queries revealed multiple possible matches for (b)(6),(b)(7)(C) in CIS. Due to the fact that (b)(6),(b)(7)(C) was not booked in with his second last name and (b)(6),(b)(7)(C) being a common name, it could not be immediately verified that the person who was arrested for OWI and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) (Naturalized United States Citizen, (b)(6),(b)(7)(C)) were the same person. An immigration detainer was lodged on (b)(6),(b)(7)(C) on August 29, 2010.

(b)(6),(b)(7)(C) posted bond on his criminal charges on August 31, 2010. ERO was notified in the early morning hours of the following day, September 1, 2010, concerning his release to ICE. At approximately 8:00 A.M., on September 1, 2010, (b)(6),(b)(7)(C) and other Marion County ICE releases were transported to the Indianapolis, Indiana, ICE Office. It should be noted that (b)(6),(b)(7)(C) **was never booked into ICE custody, nor was the Marion County Jail issued an I-203 as he was picked up the same day Marion County sent an email concerning his release.** While driving the 1.3 miles from the Marion County Jail to the Indianapolis, Indiana ICE Office, (b)(6),(b)(7)(C) inquired as to what was going to happen to him. During this time, (b)(6),(b)(7)(C) stated he had naturalized as a United States Citizen. (b)(6),(b)(7)(C) was told that once we got to the ICE Office, the computer would be checked concerning his claim. He arrived at the ICE Office approximately 10 minutes after leaving the Marion County Jail. Once at the office, the other Marion County ICE releases were put in the holding cell. (b)(6),(b)(7)(C) remained out on the processing floor. **Once (b)(6),(b)(7)(C) full name was queried, and verified the first names of his parents, it was concluded that (b)(6),(b)(7)(C) was a Naturalized United States Citizen.** (b)(6),(b)(7)(C) was immediately told that he was free to go. He was also advised that if he should ever get arrested again, he should provide his full name to avoid any further confusion. (b)(6),(b)(7)(C) was cordial and very grateful during the whole 30 minutes encounter between transporting him and releasing him out of the ICE Office.

ACLU NEWS RELEASE:

Wed., Nov. 30, 2011

Contact: Kelly Jones Sharp

Director of Communications & Education

P: 317-635-4059 Ext. 122 | M: 317-490-5310

ACLU Indiana Defends U.S. Citizen Illegally Detained in Anticipation of Possible Deportation

Indianapolis - The ACLU of Indiana today filed a complaint on behalf of a United States citizen who was erroneously and unconstitutionally detained at the direction of federal agents in anticipation of possible deportation.

Victor Jimenez is a naturalized United States citizen. After being arrested late in the evening on August 28, 2010, for a violation of Indiana law, Jimenez was taken into custody in Indianapolis. He was eligible for bail almost immediately, but he could not be released, because on Aug. 29, federal immigration agents from Immigration and Customs Enforcement (ICE) issued an immigration detainer, which had the effect of requiring that Jimenez be held pending possible immigration proceedings and deportation.

The detainer was issued without probable cause or reasonable suspicion that Jimenez was in the U.S. illegally. Of course, a U.S. citizen cannot be deported. Jimenez, a U.S. citizen since 2000 residing in Marion County, had provided arresting officers with his Indiana driver's license, but found himself held for three days without bail at the Marion County Jail because of the ICE detainer. He was never given the opportunity to prove his U.S. citizenship to the ICE agents who were responsible for his continued detention.

As a result of his unlawful imprisonment, Jimenez, a married father of four, missed two days of work for which he was not paid, and was unable to accompany his wife, who was six months pregnant, to her medical appointment.

"The current political climate regarding immigration issues has created an environment where these situations occur all too often," said Gilbert Holmes, Executive Director of the ACLU of Indiana. "We don't want a repeat in Indiana of what's happening in some states, where they've passed laws allowing people to be stopped on the basis of looks, and where you're considered guilty until proven innocent."

"We are concerned about the lack of any procedures here to safeguard against what appears to be the clear deprivation of Mr. Jimenez's basic constitutional rights. No citizen, naturalized or otherwise, should have to worry about being deported," said Ken Falk, the ACLU of Indiana's Legal Director.

ICE is part of the U.S. Department of Homeland Security. Illegal detention violates a U.S. citizen's rights under the Fourth Amendment of the Constitution of the United States. The ACLU of Indiana is requesting a jury trial on behalf of Jimenez. The case was filed in the United States District Court for the Southern District of Indiana under cause number 1:11-cv-1582, and is captioned *Jimenez v. United States*.

AP STORY: ACLU sues ICE over citizen's detainment in Indy

INDIANAPOLIS (AP) — The American Civil Liberties Union of Indiana says a naturalized U.S. citizen was illegally detained for three days in Indianapolis for possible deportation.

The ACLU filed a lawsuit against unknown agents of U.S. Immigration and Customs Enforcement on behalf of Victor Jimenez on Wednesday in U.S. District Court in Indianapolis. The suit alleges the agency violated his Fourth Amendment rights against unreasonable search and seizure.

The ACLU says Jimenez was arrested on Aug. 28 and was eligible for bail but couldn't be released because of an ICE immigration detainer that required he be held pending possible immigration proceedings. The ACLU says Jimenez has been a U.S. citizen since 2000, and U.S. citizens can't be deported.

A spokeswoman for ICE didn't have any immediate comment concerning the case.

Sender: (b)(6),(b)(7)(C)

Recipient:

Sent Date: 2011/12/01 11:44:34

Generator: Microsoft Word 14 (filtered medium)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

VICTOR JIMENEZ,)
)
Plaintiff,)
)
v.) No.
)
UNITED STATES OF AMERICA,)
UNKNOWN AGENT(S) OF)
IMMIGRATION AND CUSTOMS)
ENFORCEMENT, in their individual)
capacities;)
)
Defendants.)

COMPLAINT

Introduction

1. Plaintiff Victor Jimenez is a United States Citizen who was naturalized more than ten years ago. Unknown Immigration and Customs Enforcement (“ICE”) Agent(s) nonetheless issued an immigration detainer against Mr. Jimenez without any cause whatsoever on the negligently erroneous belief that he was an undocumented and deportable alien. As a result, Mr. Jimenez, who had been arrested, was held on an immigration hold, rather than being released. The actions of the Unknown ICE Agent(s) violated Mr. Jimenez’s rights under the Fourth Amendment. Additionally, under the Federal Tort Claims Act, the United States is liable for the negligence, false imprisonment, and other torts of its employees.

Jurisdiction, Venue, and Cause of Action

2. This Court has jurisdiction of this cause pursuant to 28 U.S.C. § 1331 and § 1346.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.
4. This action is brought pursuant to the Fourth Amendment of the U.S. Constitution and

pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.*

5. Plaintiff has complied with all pre-requisites for claims under the Federal Tort Claims Act. Pursuant to 28 U.S.C. § 2675, Mr. Jimenez sent his administrative claim to the Department of Homeland Security on April 13, 2011. There has been no reply and therefore, with the passage of six months, Mr. Jimenez is deeming the claim to be denied pursuant to 28 U.S.C. § 2675(a).

Parties

6. Plaintiff Victor Jimenez is a naturalized citizen of the United States and resides in Marion County, Indiana. He is married and has four children...

7. Defendant ICE agent(s) are one or more individuals whose identities are not currently known to the plaintiff. Upon information and belief, they were, at all times relevant to this Complaint, agents, employees, officers or otherwise representatives ICE, the investigative arm of the U.S. Department of Homeland Security. ICE agents have the responsibility of investigating, arresting, and detaining undocumented aliens subject to deportation.

8. ICE is part of the U.S. Department of Homeland Security, an agency of the United States.

Factual Allegations

9. ICE agents issue immigration detainer requests to local law enforcement agencies, pursuant to 8 C.F.R. § 287.7 for the purpose of “arresting and removing” aliens. *See* 8 C.F.R. § 287.7(a)...

10. Upon receiving an immigration detainer notice, the local law enforcement agency is required to “maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays” past the time the detainee would normally be released. . 8

C.F.R. § 287.7(d).

11. However, a detainer may only be issued if the ICE official has probable cause that the alien is not lawfully admitted or present in the United States. *See* 8 U.S.C. § 1357(d)(1).

12. Furthermore, ICE agents have been specifically informed of the need to ensure that American citizens are not impermissibly detained on immigration detainers. On November 19, 2009, Assistant Secretary John Morton issued the second of two memorandums emphasizing that “ICE cannot assert its civil immigration enforcement authority to arrest and/or to detain a USC [United States citizen] and that “[i]f evidence indicates the individual is a USC [United States citizen], ICE should neither arrest nor place the individual in removal proceedings.” John Morton, *Superseding Guidance on Reporting and Investigating Claims to United States Citizenship*, at 1. The memorandum is attached to this Complaint...

13. Upon information and belief, when a person is processed into the Marion County Jail, his or her information is entered into the Jail Information Management System, including, among other things, his or her name, date of birth, place of birth, and social security number. .

14. Upon information and belief, ICE agents have constant access to Marion County Jail’s Jail Information Management System and regularly review the records of new detainees. .

15. Mr. Jimenez was born in Mexico, but was naturalized as an American citizen in 2000.

16. He has an American passport and a Social Security number. Both documents state his name as “Victor Manuel Jimenez.”

17. Mr. Jimencz also has an Indiana driver’s license. The name on his license is “Victor Manuel Jimenez.”

18. At or around 11:30 pm on Saturday, August 28, 2010, Mr. Jimenez was stopped in his vehicle and detained by an unknown police officer from the Indianapolis Metropolitan Police

Department (IMPD) on the suspicion that Mr. Jimenez had been driving under the influence of alcohol.

19. At that time, Mr. Jimenez gave the police officer his Indiana driver's license and the police officer kept it.

20. Under Indiana law, only citizens of the United States or person's with lawful immigration status may obtain a driver's license.

21. Mr. Jimenez was then taken briefly to the Shelby Street police station in Indianapolis, Indiana and then to the Arrestee Processing Center where he was processed.

22. While he was being processed, Mr. Jimenez provided his name, address, and other identifying information.

23. Upon information and belief, early the next morning on Sunday, August 29, 2010, defendant Unknown ICE Agent(s) issued an immigration detainer that required that Mr. Jimenez be held for up to 48 hours from when he would otherwise be released.

24. At no point prior to the issuance of the immigration detainer was Mr. Jimenez interviewed by anyone from ICE regarding his citizenship or his immigration status. In fact, from his name, date of birth, social security number, and other information contained in the Marion County Jail's Jail Information Management System, an employee of ICE could easily verify that Mr. Jimenez was an American citizen.

25. At no point did the defendant Unknown ICE Agent(s) have probable cause or reasonable suspicion that Mr. Jimenez was in this country illegally.

26. The morning of Sunday, August 29, 2010, Mr. Jimenez had his bail hearing and his bail was set for \$150.

27. At approximately 10:00 am, Mr. Jimenez's brother-in-law and father-in-law attempted to

pay bail at the Arrestee Processing Center. However, they were told that Mr. Jimenez had.

28. On Monday, August 30, 2010, Mr. Jimenez's wife again attempted to post bail. At that time, she was told that ICE had issued an immigration detainer on Mr. Jimenez and that there was no bail to be paid since Mr. Jimenez was in the hands of ICE.

29. Eventually, Mr. Jimenez was taken to the Marion County Jail. Worried about his continued detention, Mr. Jimenez asked an employee of the Marion County Jail why he was still not being released on bail. He was told that ICE had issued an immigration detainer and that he would be held pending deportation proceedings.

30. Fearing an erroneous deportation, Mr. Jimenez adamantly protested to the correctional officer that he was an American citizen and that there had been a mistake. Mr. Jimenez, however, was never given an opportunity to prove his U.S. citizenship to the Unknown ICE Agent(s) who issued his detainer and therefore his erroneous detention continued.

31. On Tuesday, August 31, 2010, Mr. Jimenez was taken back to court where he obtained a continuance for the hearing on his driving charge.

32. At 11:04 am, with the help of Mr. Jimenez's public defender, Mr. Jimenez's wife was finally able to post bail.

33. However, Mr. Jimenez was still not released because of the hold erroneously imposed by the Unknown ICE Agent(s).

34. That same day, Mr. Jimenez was transferred to a new cell block at the Marion County Jail where there were other persons of Hispanic descent.

35. Worried that a terrible mistake had been made, Mr. Jimenez continued to protest to the correctional officers, employees of the jail, and other detainees that he was an American citizen. Again, the Unknown ICE Agent(s) did nothing to verify Mr. Jimenez's citizenship and Mr.

Jimenez never had the opportunity to prove his citizenship to the Unknown ICE Agent(s).

36. On Wednesday, September 1, 2010, Mr. Jimenez had his clothing returned and was taken to another cell where three Hispanic men were being detained for various immigration-related offenses.

37. On Wednesday, September 1, 2010, Mr. Jimenez was taken from the Marion County Jail and loaded into a van driven by an employee of ICE. Mr. Jimenez recognized the employee as someone who on occasion visited the restaurant where Mr. Jimenez worked. Mr. Jimenez does not know his name.

38. Mr. Jimenez was told by the ICE employee that he was going to be taken to Chicago, Illinois to face deportation proceedings. Mr. Jimenez again protested that a mistake had been made and that he was a naturalized U.S. citizen.

39. Before departing for Chicago, the ICE agent stopped at the local ICE office in Indianapolis to verify Mr. Jimenez's immigration status. The officer requested Mr. Jimenez's name and birth date and was able to verify that Mr. Jimenez was in fact an American citizen and that he should be released.

40. Finally, more than three days after he would have been able to be released on bail, but for the hold erroneously imposed by the Unknown ICE Agent(s), Mr. Jimenez was released from custody.

41. The Unknown ICE Agent(s) owed Mr. Jimenez a duty of care to prevent his imprisonment without cause and legal authority and breached that duty, leading to Mr. Jimenez's continued imprisonment past the time that he would otherwise have been released on bail.

42. As a direct and proximate result of the defendant Unknown ICE Agent(s) unlawful and erroneous issuance of an immigration detainer, Mr. Jimenez suffered substantial damages,

including physical pain and suffering, emotional distress and harm, humiliation, lost wages, and loss of liberty.

43. Among other things, Mr. Jimenez missed two days of work and was not paid for the days he missed.

44. At the time of his unlawful detention, Mr. Jimenez's wife was six months pregnant and was scheduled for a doctor's visit to receive an ultrasound to discover the gender of his baby. As a result of his erroneous detention, Mr. Jimenez was not able to accompany his wife on this momentous occasion in his family's life and he feared for the health of his wife and unborn child.

45. Mr. Jimenez also experienced extreme anxiety from the prospect of being erroneously deported, being separated from his pregnant wife and three children, and the humiliation of being labeled an unlawful alien.

46. Mr. Jimenez also experienced physical discomforts and anxiety caused by his improper imprisonment for three days.

47. Defendant Unknown ICE Agent(s)' issuance of the detainer, without probable cause, was the direct and proximate cause of Mr. Jimenez being detained for three days past the date he should have been released.

48. At all times Defendant Unknown ICE Agent(s) failed to exercise reasonable care with regard to the initial and continued detention of Mr. Jimenez.

49. At all times, the defendant ICE agent(s) acted under the color of federal law and within the scope of the agent(s) employment.

Request for jury trial

50. Plaintiff requests a jury trial on all claims in this case that may, pursuant to federal law,

be tried to a jury.

Cause of Action

51. Defendant Unknown ICE Agent(s)' issuance of an immigration detainer against Mr. Jimenez without probable cause or reasonable suspicion to believe that he was an alien subject to detention and removal constitutes an unreasonable seizure in violation of the Fourth Amendment. This claim is made pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

52. The actions of the Defendant Unknown ICE Agent(s), resulting in the erroneous detention of, and injury to, Mr. Jimenez, represent negligence and caused plaintiff false imprisonment and the United States is therefore liable under the Federal Tort Claims Act.

Request for relief

WHEREFORE, Plaintiff respectfully requests that this Court:

- a. Accept jurisdiction of this case.
- b. Award plaintiff his compensatory damages.
- c. Award all other proper relief.

Kenneth J. Falk
No. 6777-49
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
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fax: 317/635-4105
kfalk@aclu-in.org

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Indianapolis, IN 46202
317/635-4059
fax: 317/635-4105
grose@aclu-in.org

Attorneys for Plaintiff

From: (b)(6),(b)(7)(C)
To:

Subject: RE: Attached Image
Date: 2012/02/09 15:36:09
Priority: Normal
Type: Note

(b)(6),(b)(7)(C) forwarded the following information to me regarding this case. The immigration detainer that had been issued was cancelled before she even had a bond hearing for the local charge. ICE never took custody of her. See timeline below.

Thanks

(b)(6),(b)(7)(C)

Based on information from the Marion County Jail and record checks of ICE indices, Agent (b)(6),(b)(7)(C) believed (b)(6),(b)(7)(C) to be a foreign born national who was possibly unlawfully present in the United States, prompting him to lodge a detainer (DIIS Form I-247) indicating that he had initiated an investigation to determine whether she was subject to removal. Subsequently, agent (b)(6),(b)(7)(C) was informed by IMPD that (b)(6),(b)(7)(C) asserted that she was a US citizen, after which he canceled the detainer prior to her posting bond and her initial hearing. Thus, at no time did the ICE detainer restrict her release from local custody.

From: (b)(6),(b)(7)(C)
Sent: Thursday, February 09, 2012 1:32 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(6),(b)(7)(C)

To my best recollection, (b)(6),(b)(7)(C) was listed as a Mexican National on the Marion County JIMS system on 12/11/2011. (b)(7)(C) and (b)(7)(E) databases were negative for (b)(6),(b)(7)(C). I lodged an immigration detainer on (b)(6),(b)(7)(C) on 12/11/2011 in the morning hours. I received a phone message and email from the Marion County Jail concerning (b)(6),(b)(7)(C) claim of United States citizenship

within hours of lodging the detainer. I revisited the (b)(7)(E) database and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) was listed as an United States citizen with a place of birth as Indiana. I immediately emailed a cancellation detainer over to Marion County for (b)(6),(b)(7)(C) On February 9, 2012, I contacted Marion County Inmate Records concerning (b)(6),(b)(7)(C) Marion County stated the following:

Booked into the Jail on 12/11/2011 @ 4:51 A.M.

Immigration Detainer lodged 12/11/2011 @ 9:12 A.M.

Bond Set on 12/11/2011 @ 11:27 A.M.

Immigration Detainer cancelled 12/11/2011 @ 2:40 P.M.

Criminal Bond Posted 12/11/2011 @ 3:04 P.M.

Initial Court Hearing 12/11/2011 @ 3:30 P.M.

Released 12/11/2011 @ 4:30 P.M.

(b)(6),(b)(7)(C)

Assistant Field Office Director

DHS/ICE/ERO

Chicago Field Office

(312) 347-(b)(6),(b)(7)(C) desk)

(312) 735-(b)(6),
(b)(7) (cell)

~~Warning: This document is UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this report should be furnished to the media, either in written or verbal form.~~

From: (b)(6),(b)(7)(C)
Sent: Thursday, February 09, 2012 10:34 AM
To: (b)(6),(b)(7)(C)
Subject: FW: Attached Image

All,

The ABC station in Indianapolis is doing another story on a USC held in Marion County Jail on an immigration detainer. What can you tell me about the woman referenced below?

Thanks, (b)(6),(b)(7)
(C)

(b)(6),(b)(7)(C)

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347-(b)(6),
(b)(7)(C) (office)

312-446-(b)(6),
(b)(7)(C) (cell)

(b)(6),(b)(7)(C)

From: Sanchez, Rafael (b)(6),(b)(7)(C)
Sent: Thursday, February 09, 2012 10:20 AM

To: [REDACTED]
Subject: FW: Attached Image

[REDACTED]

My detainer story will air the week of February 20th.

Beyond the guy who is suing you [REDACTED] (see your previous response below), [REDACTED] is complaining that she was held on a detainer when she was arrested after a bar fight on 12/11/2011.

[REDACTED] was born 12/6/1985. She was held in the Marion County jail. I have attached in the PDF above of her arrest above.

Let me know you find out.

Does ICE want to provide a statement on why it values the detainer process and what it accomplishes ?

Respectfully,

[REDACTED]

Reporter

WRTV-6

From: (b)(6),(b)(7)(C)
Sent: Thursday, December 01, 2011 3:32 PM
To: (b)(6),(b)(7)(C)
Subject: RE: hola from Indianapolis re: media request

Hey Rafael,

Here is what I can provide... which isn't a whole lot...

"U.S. Immigration and Customs Enforcement (ICE) does not comment on matters pending litigation."

As far as deportation stats. for the Chicago ICE office (IL, IN, WI, KY, KS, MO):

FY 2010 10,346 (of those, 5,386 were convicted criminals, and 4,960 were non-criminals)

FY 2011 11,786 (of those, 7,491 were convicted criminals, and 4,295 were non-criminals)

Hope that helps! (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347-(b)(6),(b)(7)(C) (office)

312-446- (cell)

(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Thursday, February 09, 2012 11:05 AM
To: (b)(6),(b)(7)(C)
Subject: Attached Image

Scripps Media, Inc., certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity. All advertising sales agreements contain nondiscrimination clauses.

Sender: (b)(6),(b)(7)(C)
Recipient:

Sent Date: 2012/02/09 15:36:08

Delivered Date: 2012/02/09 15:36:09

Generator: Microsoft Word 14 (filtered medium)

From: (b)(6),(b)(7)(C)
To: [Redacted]
Subject: RE: OCC Review - Detention of USC
Date: 2012/07/13 16:47:31
Priority: Normal
Type: Note

Please keep close hold. not sure if HQ wants these disseminated. We send these to HQ whenever we have a USC claim of an alien in ICE custody.

(b)(6),(b)(7)(C) | (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) | (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Friday, July 13, 2012 3:43 PM
To: (b)(6),(b)(7)(C)
Subject: RE: OCC Review - Detention of USC

Could I possible get a copy of that memo? That would help me for background.

(b)(6),(b)(7)(C) | (b)(6),(b)(7)(C) | (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Friday, July 13, 2012 3:41 PM
To: (b)(6),(b)(7)(C)
Subject: RE: OCC Review - Detention of USC

Looks good. We prepared a USC memo on May 10, 2012, that concluded (b)(6),(b)(7)(C) derived citizenship from his mother and that the NTA should be cancelled and (b)(6),(b)(7)(C) released. Unfortunately, the USCIS system will never be updated unless (b)(6),(b)(7)(C) affirmatively files an N-600 and USCIS adjudicates it in his favor. When we have these cases we try to work with the alien and their attorney to file this application so that the systems are clear.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C),(k)(2)

(b)(6),
(b)(7)(C)

(b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Friday, July 13, 2012 12:06 PM
To: (b)(6),(b)(7)(C)
Cc: [Redacted]
Subject: OCC Review - Detention of USC

(b)(6),(b)(7)(C)

I'm trying to figure out what transpired in the case of (b)(6),(b)(7)(C). Are you familiar with this case?

Please review my Issue/Privacy paper below. HSI and ERO have signed off on it. I waiting on specifics from USCIS about when/if (b)(6),(b)(7)(C) derived citizenship, but wanted you to review what I have in case you have additional information to add.

Thanks! (b)(6),(b)(7)(C)

ISSUE: The Illinois Times, a liberal weekly alternative newspaper in Springfield, Ill., is requesting ICE comment on the case of (b)(6),(b)(7)(C) a USC who says he was detained for a week last spring by ICE before being released.
<http://stateswithoutnations.blogspot.com/2012/06/icc-kidnaps-another-us-citizen-in.html>
The article indicates (b)(6),(b)(7) will be filing a lawsuit and has retained an attorney. PAO will likely not be able to meet reporter's deadline of COB July 13, but wants to draft a response for any future inquiries.

INTERNAL BACKGROUND: Per HSI and ERO, the subject was listed in (b)(7) as an LPR IR2 (child of a USC). His multiple convictions made him eligible for deportation based on information initially available and he was arrested May 4, 2012 by HSI Springfield. However, if the parents naturalize before a child is 18, the child automatically derives US citizenship. If an N-600 was never filed, then there would be no indication in the records system that his status changed from LPR to USC. Once he presented evidence of his US citizenship, he was immediately released by ERO Chicago on May 10, 2012.

NEEDED FROM USCIS: Specifics dates or confirmation from USCIS on when/if he derived US citizenship from his parents and any info on why that would not be updated in DHS records. It is my understanding that (b)(7) still shows him as an LPR.

I-213 Narrative

In March of 2012, ICE RAC Springfield received information regarding (b)(6),(b)(7)(C) for (b)(7)(E) with HSI. A referral was sent from CIS BFU as the subject had been issued an LPR card by CIS, even though the subject had multiple felony convictions, numerous felony and misdemeanor arrests. The reported address for (b)(6),(b)(7)(C) was a Springfield, Illinois address. Multiple attempts were made to request the A file from CIS Chicago for (b)(6),(b)(7)(C) but the file was not sent to RAC Springfield. Records checks indicate that the subject is an LPR from Colombia, with multiple felony convictions which would render him amenable to removal. On May 4, 2012, ICE RAC Springfield located (b)(6),(b)(7)(C) at (b)(6),(b)(7)(C) Springfield, Illinois, which was the last address given when he was arrested in August 2011 for DUI. (b)(6),(b)(7)(C) was arrested and transported to RAC Springfield for processing. (b)(6),(b)(7)(C) appears to be amenable to removal under 237a2Aii and 237 a2Aiii of the INA. (b)(6),(b)(7)(C) was processed for an I-862, Notice to Appear, and was booked into Sangamon County Jail to await pick up by ICE ERO Chicago. (b)(6),(b)(7)(C) has an extensive criminal history to include: 08/(b)(6) 11. DUI 05/(b)(6) 10 Resisting Peace Officer 07/(b)(6) 09 Knowngly damage property IVC Felony(Auto theft) Conv. 3 years 05/(b)(6) 09 Aggravated Battery Great Bodily Harm 01/(b)(6) 09 Refused Blood alcohol test 06/(b)(6) 06 IVC Felony (Auto theft) Conv-3 years 10/(b)(6) 04 Driving suspended/revoked 10/(b)(6) 04 Flecing police 08/(b)(6) 04 Theft IVC Felony 10/(b)(6) 03 Assault Knowngly damage property Resisting peace officer 06/(b)(6) 03 Driving suspended/revoked Aggravated fleeing 11/(b)(6) 02 Retail theft 04/(b)(6) 02 Aggravated assault 01/(b)(6) 06 Criminal Possession of Stolen Property 4th degree -02/(b)(6) 06 conv. of Crim Poss stolen property 5th 03/(b)(6) 06 Assault 2nd Injure person while confined correctional facility -05/(b)(6) 06 conv. of Assault 3rd with intent to cause injury.

PROPOSED ICE RESPONSE Pursuant to Appendix (b)(7)(E)

“Based on initial information available to U.S. Immigration and Customs Enforcement (ICE), (b)(6),(b)(7)(C) was arrested May 4, 2012 because he appeared eligible for removal based on his significant criminal history. As soon as ICE received evidence of his U.S. citizenship, Mr. (b)(6),(b)(7)(C) was immediately released on May 10, 2012.

ICE treats all claims of U.S. citizenship with the utmost seriousness. ICE has taken numerous steps to ensure that the detention of U.S. citizens does not occur, including a new detainer form and the launch of a toll-free hotline — (855) 448-6903 — that detained individuals can call if they believe they may be U.S. citizens or victims of a crime.”

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)

Recipient:

Sent Date: 2012/07/13 16:47:30

Delivered Date: 2012/07/13 16:47:31

Generator: Microsoft Word 14 (filtered medium)



U.S. Immigration
and Customs
Enforcement

May 10, 2012

MEMORANDUM FOR: Director of Field Operations, OPLA
Assistant Director for Field Operations, ERO

FROM: Karen E. Lundgren, Chief Counsel
Office of Chief Counsel, Chicago

Ricardo Wong, Field Office Director
Enforcement and Removal Operations, Field Office Chicago

SUBJECT: Claim to United States Citizenship
(b)(6),(b)(7)(C)

STATEMENT OF THE CASE

(b)(6),(b)(7)(C), (the Claimant) is currently not in removal proceedings, but is in the custody of U.S. Immigration and Customs Enforcement (ICE) after he was served on May 4, 2012 a Notice to Appear. It charges him as removable under INA §§ 237(a)(2)(A)(ii)(two crimes involving moral turpitude not arising out of a single scheme of criminal misconduct) and 237(a)(2)(A)(iii)(convicted of an aggravated felony as defined in section 101(a)(43)(G) relating to a theft or a burglary offense for which the term of imprisonment at least 1 year was imposed). The claimant was admitted to the United States on May 21, 1995 as a Lawful Permanent Resident. On May 9, 2012, the claimant made a claim to U.S. citizenship based on INA § 320(a), i.e., his mother's naturalization on November 1, 2002.

We conclude (b)(5)

FACTS

Claimant's Date and Place of Birth

The Claimant was born in Pereira, Colombia on (b)(7)(C),(b)(6)

Parent's Names, Dates and Places of Birth, Citizenship and Immigration Status

The claimant's mother (b)(6),(b)(7)(C) is a naturalized citizen of the United States as of November 1, 2002. His father (b)(6),(b)(7)(C) is also a naturalized citizen of the United States as of April 25, 1996.

Parent(s) Marital Status

The claimant was born out of wedlock. His parents were never married.

Parent(s) Physical Presence or Residence in the United States

The claimant's U.S. citizen mother and father are physically present in the United States.

The Claimant's Immigration History

The claimant was admitted to the United States on May 21, 1995 as a Lawful Permanent Resident.

Claimant's Criminal History

The claimant has the following criminal history:

On June (b) 2009, the claimant was convicted in the Sangamon County Court at Springfield, Illinois for the offense of Aggravated Battery. The sentence imposed is unknown at this time.

On June (b) 2009, the claimant was convicted in the Sangamon County Court at Springfield, Illinois for the offense of Felony Auto theft. He was sentenced to 3 years in prison.

On August (b)(1) 2004, the claimant was convicted in the Coles County Court at Charleston, Illinois for the offense of Possession of Stolen Property. He was sentenced to 3 years in prison.

On May (b)(1) 2006, the claimant was convicted in the Naussau County District Court at Hempstead, New York for the offense of Assault in the 3rd with intent to cause injury. The sentence imposed is unknown at this time.

On February (b) 2006, the claimant was convicted in the Naussau County District Court at Hempstead, New York for the offense of Criminal Possession of Stolen Property. The sentence imposed is unknown at this time.

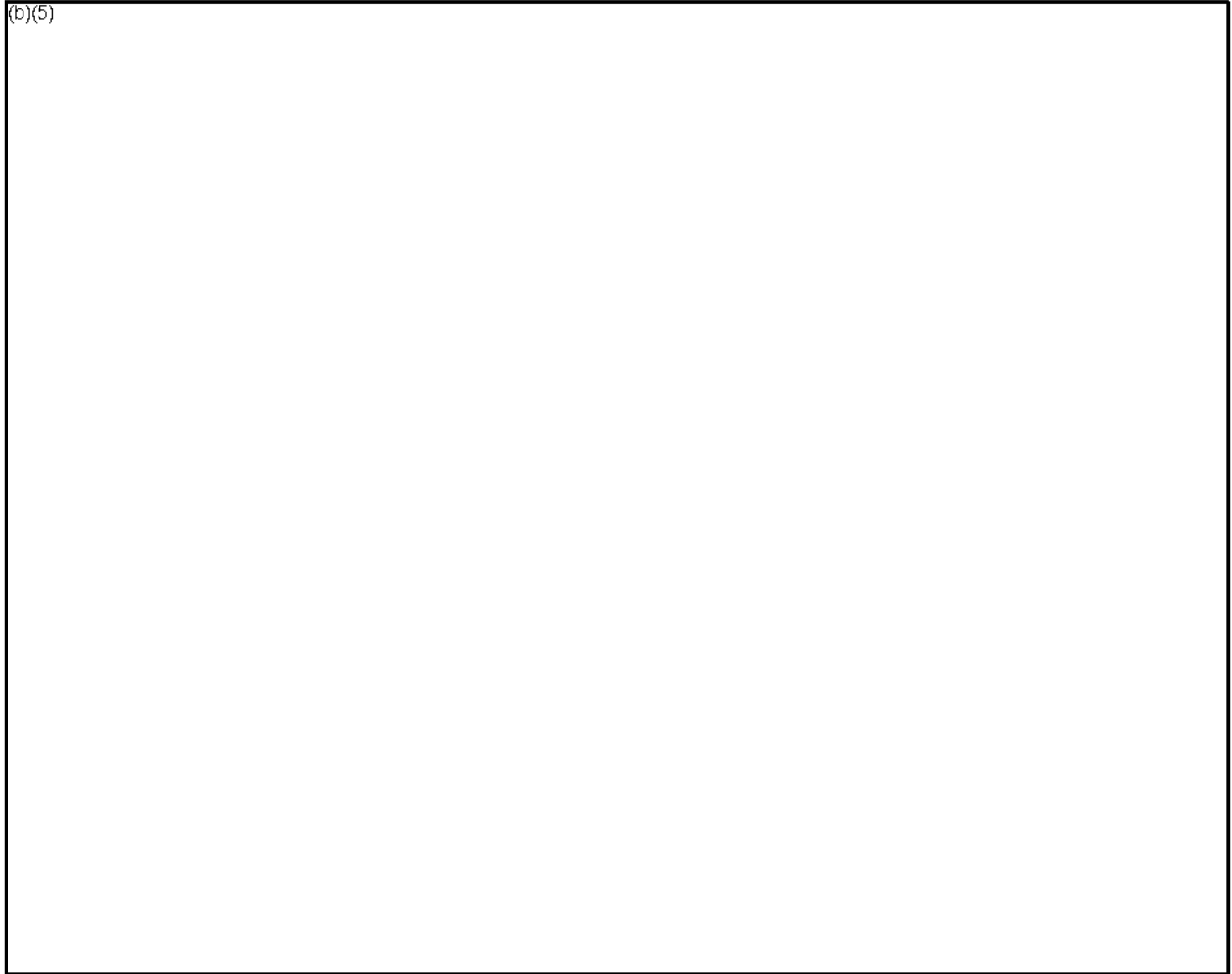
He was also arrested for the following offenses but their dispositions are unknown:

- 08 (b) 11 DUI
 - 05 (b) 10 Resisting Peace Officer
 - 05 (7)(C) 09 Aggravated Battery Great Bodily Harm
 - 01 (b) 09 Refused Blood alcohol test
 - 10 04 Driving suspended/revoked
 - 10 04 Fleeing police
 - 10 (b) 03 Assault
- Knowingly damage property
Resisting peace officer

- 06 (b)(6) /03 Driving suspended/revoked
Aggravated fleeing
- 11 (b)(7) /02 Retail theft
- 04 (C) /02 Aggravated assault

LEGAL ANALYSIS

(b)(5)



CONCLUSION AND RECOMMENDATION

(b)(5)



From: (b)(6),(b)(7)(C)
To:
CC:

Subject: RE: OPA: Arrest of Derivative USC

Date: 2012/07/16 14:23:49

Priority: Normal

Type: Note

(b)(6),(b)(7)(C) We will be issuing the below in 30 minutes unless we hear otherwise from you.

Thanks!

(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, July 16, 2012 12:16 PM
To: (b)(6),(b)(7)(C)
Cc:
(b)(6),(b)(7)(C)
Subject: RE: OPA: Arrest of Derivative USC

Am I ok to release this to the reporter? I was hoping to get it to him by mid-day today.

(b)(6),(b)(7)(C) ICE Public Affairs | 312-347-(b)(6),(b)(7)(C) desk | 312-446-(b)(6),(b)(7)(C) (cell) |
(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, July 16, 2012 9:46 AM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: RE: OPA: Arrest of Derivative USC

Thanks – taking a look now

From: (b)(6),(b)(7)(C)
Sent: Monday, July 16, 2012 10:29 AM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: Re: OPA: Arrest of Derivative USC

Adding DHS for vis.

(b)(6),(b)(7)(C)

Director
ICE Office of Public Affairs

From: (b)(6),(b)(7)(C)
Sent: Monday, July 16, 2012 10:21 AM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: OPA: Arrest of Derivative USC

(b)(6),(b)(7)(C)

ISSUE: The Illinois Times, a liberal weekly alternative newspaper in Springfield, Ill., is requesting ICE comment on the case of (b)(6),(b)(7)(C), a USC who says he was detained for a week last spring by ICE before being released.
<http://stateswithoutnations.blogspot.com/2012/06/ice-kidnaps-another-us-citizen-in.html>
The article indicates (b)(6),(b)(7)(C) will be filing a lawsuit and has retained an attorney. PAO could not meet reporter's deadline of COB July 13. However, he may still

be able to use it today – **Deadline Noon Eastern.** PAO is also vetting this response is for any future inquiries.

INTERNAL BACKGROUND: Per HSI and ERO, the subject was listed in (b)(7) as an LPR IR2 (child of a USC). His multiple convictions made him eligible for deportation based on information initially available, and he was arrested May 4, 2012 by HSI Springfield. However, he had derived U.S. citizenship from his parents who had both naturalized before (b)(6),(b)(7)(C) turned 18. Once he presented evidence of his US citizenship to ICE, he was immediately released by ERO Chicago on May 10, 2012.

I-213 Narrative

In March 2012, HSI RAC Springfield received information regarding (b)(6),(b)(7)(C). A referral was sent from CIS BFU as the subject had been issued an LPR card by CIS, even though the subject had multiple felony convictions, and numerous felony and misdemeanor arrests. The reported address for (b)(6),(b)(7)(C) was a Springfield, Ill. address. Multiple attempts were made to request the A file from CIS Chicago for (b)(6),(b)(7)(C) but the file was not sent to RAC Springfield. **Records checks** indicated that the subject is an LPR from Colombia, with multiple felony convictions which rendered him amenable to removal. On May 4, 2012, ICE RAC Springfield located (b)(6),(b)(7)(C) at (b)(6),(b)(7)(C) Springfield, Ill.

Criminal History:

- On June (b) 2009, (b)(6),(b)(7) was convicted in the Sangamon County Court at Springfield, Ill., for the offense of Aggravated Battery. The sentence imposed is unknown at this time.
- On June (b) 2009, (b)(6),(b)(7) was convicted in the Sangamon County Court at Springfield, Ill., for the offense of Felony Auto theft. He was sentenced to 3 years in prison.
- On August (b) 2004, (b)(6),(b) was convicted in the Coles County Court at Charleston, Ill., for the offense of Possession of Stolen Property. He was sentenced to 3 years in prison.
- On May (b) 2006, (b)(6),(b) was convicted in the Naussau County District Court at Hempstead, New York for the offense of Assault in the 3rd with intent to cause injury. The sentence imposed is unknown at this time.
- On February (b) 2006, (b)(6),(b) was convicted in the Naussau County District Court at Hempstead, New York for the offense of Criminal Possession of Stolen Property. The sentence imposed is unknown at this time.

Per OCC: (b)(6),(b)(7)(C) was admitted to the United States on May 21, 1995 as a Lawful Permanent Resident. Although his parents were never married, both his mother and father became naturalized US citizens when (b)(6),(b)(7)(C) was under the age of 18. Therefore, under INA § 320(a), (b)(6),(b)(7)(C) is a U.S. citizen. The NTA was cancelled and (b)(6),(b)(7)(C) was released. Unfortunately, the USCIS system will never be updated unless (b)(6),(b)(7)(C) affirmatively files an N-600 and USCIS adjudicates it in his favor. OCC tries to work with these aliens and their attorneys to file this application so that the systems are clear.

PROPOSED ICE RESPONSE: (Pursuant to Appendix A II C 2) PRIVACY/OPLA APPROVED

(b)(5)

(b)(6),(b)(7)(C) ICE Public Affairs | 312-347-(b)(6),(b)(7)(C) desk | 312-446-(b)(6),(b)(7)(C) (cell) |
(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)
Recipient:

(b)(6),(b)(7)(C)

Sent Date: 2012/07/16 14:23:48

Delivered Date: 2012/07/16 14:23:49

Generator: Microsoft Word 11 (filtered medium)

From: (b)(6),(b)(7)(C)
To:
CC:

Subject: RE: OPA: Detainers placed on USC in Indianapolis

Date: 2012/02/15 15:56:31

Priority: Normal

Type: Note

+DHS

From: (b)(6),(b)(7)(C)
Sent: Wednesday, February 15, 2012 3:51 PM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: OPA: Detainers placed on USC in Indianapolis

Brian, Beth and (b)(6),

ISSUE: WRTV in Indianapolis is doing a February Sweeps story next week on detainers placed on USCs. He is requesting releasable information on a USC female who is complaining that she was held on an ICE detainer after getting arrested in a bar fight in December. Reporter is also requesting a statement on why detainers are important and what they accomplish. **Deadline: Thursday 2pm CST**

BACKGROUND: The reporter did a previous story in early December when the ACLU filed a civil complaint in U.S. District Court in Indianapolis seeking a jury trial and compensatory damages regarding (b)(6),(b)(7)(C) a naturalized USC who was allegedly held on an ICE detainer for 3 days at the Marion County Jail. At that time, ICE declined comment due to pending litigation. The reporter is now doing a story for February Sweeps that also looks at the case of (b)(6),(b)(7)(C) is complaining that she was held on a detainer at the Marion County Jail after being arrested at a bar fight on Dec. 11, 2011.

From ERO: The immigration detainer that had been issued to (b)(6),(b)(7)(C) was cancelled before she even had a bond hearing for the local charge. ICE never took custody of her.

Per the ERO agent: "To my best recollection, (b)(6),(b)(7)(C) was listed as a Mexican National on the Marion County (b)(7)(E) system on 12/11/2011. (b) and (b)(7)(E) databases were negative for (b)(6),(b)(7)(C). I lodged an immigration detainer on (b)(6),(b)(7)(C) on 12/11/2011 in the morning hours. I received a phone message and email from the Marion County Jail concerning (b)(6),(b)(7)(C) claim of United States citizenship within hours of lodging the detainer. I revisited the (b)(7)(E) database and (b)(6),(b)(7)(C) was listed as a United States citizen with a place of birth as Indiana. I immediately emailed a cancellation detainer over to Marion County for (b)(6),(b)(7)(C). The detainer was cancelled prior to her posting bond and her initial hearing. Thus, at no time did the ICE detainer restrict her release from local custody.

Timeline:

Booked into the jail on 12/11/2011 @ 4:51 A.M.

Immigration Detainer lodged 12/11/2011 @ 9:12 A.M.

Bond Set on 12/11/2011 @ 11:27 A.M.

Immigration Detainer cancelled 12/11/2011 @ 2:40 P.M.

Criminal Bond Posted 12/11/2011 @ 3:04 P.M.

Initial Court Hearing 12/11/2011 @ 3:30 P.M.

Released 12/11/2011 @ 4:30 P.M.

PROPOSED RESPONSE: Pursuant to Appendix (b)(7)(E) Privacy Approved)

(b)(5)

On Background: An immigration detainer (Form I-247) is a notice that DHS issues to federal, state and local LEAs to inform them that ICE intends to assume custody of an individual in the LEA's custody and to request that the LEA notify ICE as soon as possible prior to the time when LEA would otherwise release the individual. Detainers help ensure that individuals who are convicted of criminal charges or have previously been removed are not released back into the community to potentially commit more crimes. Detainers are critical tools in assisting ICE's identification and removal of criminal aliens, immigration fugitives, illegal re-entrants, recent border crossers and others who have no legal right to remain in the United States.

<http://www.ice.gov/news/library/factsheets/detainer-faqs.htm>

<http://www.ice.gov/news/releases/1112/111229washingtondc.htm>

(b)(6),(b)(7)(C)

Spokeswoman

U.S. Immigration and Customs Enforcement (ICE)

312-347- (b)(6), (b)(7)(C) office)

312-446- (b)(6), (b)(7)(C) cell)

(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)

Recipient:

(b)(6),(b)(7)(C)

Sent Date: 2012/02/15 15:56:28

Delivered Date: 2012/02/15 15:56:31

Generator: Microsoft Word 11 (filtered medium)

From: (b)(6),(b)(7)(C)
To:

Subject: RE: visit to Indianapolis, IN
Date: 2012/01/25 18:17:33
Priority: Normal
Type: Note

Here is a brief summary on the USC that was in custody for 30 minutes.

(b)(6),(b)(7)(C)

Assistant Field Office Director

DHS/ICE/ERO

Chicago Field Office

(312) 347- (b)(6),(b)(7)(C) desk)

(312) 735- (b)(6),(b)(7)(C) cell)

~~Warning: This document is UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this report should be furnished to the media, either in written or verbal form.~~

From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 25, 2012 2:47 PM
To: (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Subject: FW: visit to Indianapolis, IN
Importance: High

~~Do not disseminate~~

Please see below do any of you know of any hot topics

Please respond back to (b)(7)(C) by 10:00 am Thursday January 26

From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 25, 2012 2:41 PM
To: (b)(6),(b)(7)(C)
Cc: Wong, Ricardo; (b)(6),(b)(7)(C)
Subject: visit to Indianapolis, IN
Importance: High

(b)(6),(b)(7)(C)

Per our conversation, can you please provide a basic word document highlighting major “snakes in the grass” and/or ICE operations/issues in the Indianapolis, IN AOR deemed relevant and useful to S1 and submit back to me by 2:00 p.m.(CST)on January 26, 2012. Attached is a template to go by.

A “Snake in the Grass” is any political or media related event worth noting; or anything that can blindside the Secretary. Negative responses are required.

Half-page page bulleted summaries of local news coverage regarding programs or issues related to your component or directive in the Indianapolis, IN AOR.

Each item should:

- 1) Be an active issue in the media within the past three weeks, unless very likely to arise again with S1’s presence.

- 2) Be reports originating from a local or state news source. (Not, for example, a widespread wire story that the local papers also run, unless pertaining to a local issue.)
- 3) Be 2-3 sentences describing why this issue is important from the perspective of your component/directive.
- 4) Include citations to news reports (with hyperlinks)

Thank you,

(b)(6),(b)(7)
(C)

(b)(6),(b)(7)(C)

Desk Officer (TDY)

Field Operations - East

DHS/ICE/ERO

500 12th Street SW, Suite 2007

Washington, D.C. 20536

Office: (202) 732-(b)(6),(b)(7)(C)

Fax: (202) 732-4566

Cell: (312) 296-(b)(6),(b)(7)(C)

Sender: (b)(6),(b)(7)(C)
Recipient:

Sent Date: 2012/01/25 18:17:31

Delivered Date: 2012/01/25 18:17:33
Generator: Microsoft Word 14 (filtered medium)

**S1 Visit to Indianapolis, Indiana
Component State Background Paper**

- **Issue #1:** A United State citizen was detained in ICE custody at the Indianapolis ERO Office. (b)(6),(b)(7)(C) was charged with Operating While Intoxicated on August (b) 2010. An immigration detainer was lodged based on biographic matches in the (b)(7)(E) (b)(7) Subject was held in local custody by Marion County Jail after posting a criminal bond on August 31, 2010. He was picked up by ICE pursuant to the detainer the following morning, September 1, 2010, and driven to the ICE ERO office in Indianapolis, IN. Within thirty minutes it was determined that he was a naturalized United States citizen and he was released. There is a current lawsuit pending brought forward by ACLU.

From: (b)(6),(b)(7)(C)
To:
CC:

Subject: Response to ACLU claims of USCs in detention

Date: 2011/12/15 13:14:12

Priority: Normal

Type: Note

Team,

If you receive any media inquiries in reference to ACLU claims that four USCs were detained under SC, please provide the below on the record statement, background info and attached FAQs after you send your BBK. Please make sure you cc (b)(6),(b)(7)(C) and myself on your BBK and advise which media outlet/reporter is doing a story. Thank you

On the record:

“The cases cited by the New York Times were highly unusual with unique factual circumstances. That said, we treat all claims of U.S. citizenship with the utmost seriousness. ICE is strongly committed to the prevention of similar situations and have taken numerous steps to ensure that the detention of U.S. citizens does not occur.

Secure Communities is not designed and should not be used to detain U.S. citizens and we work hand-in-hand with our state and local partners to ensure that it is used appropriately.”

Background:

Although these are isolated and unusual cases, DHS is scrubbing its database to ensure that no U.S. citizens are incorrectly characterized as foreign nationals.

Recently, ICE has taken numerous measures to ensure that individuals being held by local law enforcement on an immigration detainer are properly notified that the agency has identified them as potentially being subject to removal from the country and to ensure that these individuals are aware of their rights.

ICE has revised its detainer form, which will launch soon nationwide. The primary changes include:

- • • * The new form requests that the LEA provide to the subject of the detainer a copy of the detainer form and a notice advising him or her that DHS intends to assume custody. The notice informs these individuals that DHS has requested the LEA to maintain custody beyond the time when they would have been released by the state or local law enforcement authorities based on their criminal charges or convictions. The notice contains translations into Spanish, French, Portuguese, Chinese, and Vietnamese.
- • • * The new form also emphasizes that local law enforcement agencies (LEAs) may only hold an alien for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays).
- • • * The new form will also include a number that LEAs should call if the local law enforcement agency (LEA) believes the individual may be the victim of a crime or a U.S. citizen. This number will connect them to the ICE Law Enforcement Support Center.
- • • * The new form will also include a number that the subject of the detainer should call if he or she believes that he or she is a U.S. citizen or a victim of crime. This number will connect them to the ICE Law Enforcement Support Center

(b)(6),(b)(7)(C)

Spokesperson/Public Affairs Specialist

U.S. Immigration and Customs Enforcement (ICE)

202-732- (b)(6),(b)(7)(C) (office)

786-387- (b)(6),(b)(7)(C) (cell)

(b)(6),(b)(7)(C)

www.ice.gov

Sender: (b)(6),(b)(7)(C)
Recipient:

Sent Date: 2011/12/15 13:14:11

Delivered Date: 2011/12/15 13:14:12

ProgId: Word.Document

Generator: Microsoft Word 12

Originator: Microsoft Word 12

TargetScreenSize: 1024x768



U.S. Immigration and Customs Enforcement

December 2011

ICE Detainers: Frequently Asked Questions

Q1: What is an immigration detainer?

A1: An immigration detainer (Form I-247) is a notice that DHS issues to federal, state and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual in the LEA's custody.

An immigration detainer serves three key functions: 1) to notify an LEA that ICE intends to assume custody of an alien in the LEA's custody once the alien is no longer subject to the LEA's detention; 2) to request information from a LEA about an alien's impending release so ICE may assume custody before the alien is released from the LEA's custody; and 3) to request that the LEA maintain custody of an alien who would otherwise be released for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) to provide ICE time to assume custody.

Q2: Why does ICE issue detainers?

A2: Detainers are critical for ICE to be able to identify and ultimately remove criminal aliens who are currently in federal, state or local custody.

ICE relies on the cooperation of our state and local law enforcement partners in this effort.

Q3: What if the LEA needs the individual to remain in the United States for prosecution or other law enforcement purposes?

A3: Local law enforcement agencies (LEAs) are advised that once individuals are in ICE custody, they may be removed from the United States. If the LEA wants an individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, the agency should notify the local Field Office or the ICE Law Enforcement Support Center at (802) 872-(b)(7)(E)

Q4: Where does ICE's authority to issue a detainer stem from?

A4: By issuing a detainer, ICE requests that a law enforcement agency notify ICE before releasing an alien and maintain custody of the subject for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, to allow ICE to assume custody. This request flows from federal regulations at 8 C.F.R. § 287.7, which arises from the Secretary's power under the Immigration and Nationality Act § 103(a)(3), 8 U.S.C. 1103(a)(3), to issue "regulations . . . necessary to carry out [her] authority" under the INA, and from ICE's general authority to detain individuals who are subject to removal or removal proceedings.

Q6: What has been changed on the I-247 form?

A6: The new I-247 form requests that the **LEA provide to the subject of the detainer a copy of the detainer form and a notice advising him or her that ICE intends to assume custody**. The notice informs these individuals that ICE has requested the LEA to maintain custody beyond the time when they would have been released by the state or local law enforcement authorities based on their criminal charges or convictions. The notice contains translations into Spanish, French, Portuguese, Chinese, and Vietnamese.

The new I-247 form also emphasizes that local law enforcement agencies (LEAs) may only hold an alien for **a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays)**.

Q7: What happens if ICE does not assume custody of the individual after 48 hours?

A7: If ICE does not assume custody after 48 hours (excluding weekends and holidays), the local law enforcement agency (LEA) is required to release the individual. The LEA may not lawfully hold an individual beyond the 48-hour period.

Q8: What if the subject of the detainer believes that he or she has been held beyond the 48 hours, or has a complaint?

A8: The Notice to the Detainee advises individuals that if ICE does not take them into custody during the 48 hours, they should contact the LEA or entity that is holding them to inquire about their release from state or local custody.

If the individual has a complaint regarding the detainer or violations of civil rights or civil liberties connected to DHS activities, he or she should contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).

Q9: What happens if a detainer is placed on a victim of a crime or a U.S. citizen?

A9: If the local law enforcement agency (LEA) believes the individual may be the victim of a crime or a U.S. citizen, the LEA should notify the ICE Law Enforcement Support Center at (802) 872-6020.

If the subject of the detainer believes that he or she is a victim of a crime or a U.S. citizen, that individual should advise DHS by calling the ICE Law Enforcement Support Center at (802) 872-1310.

ICE

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security. ICE is a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit: www.ICE.gov. To report suspicious activity, call 1-866-347-2423.

From: (b)(6),(b)(7)(C)
To: [Redacted]

Subject: Talking Points on US Citizen Cases

Date: 2009/04/16 13:50:16

Priority: Normal

Type: Note

Salvador...below are our points on the allegations about the removal of U.S. citizens. The Phoenix case I mentioned involves a man named (b)(6),(b)(7)(C) who was born in Mexico but adopted as an infant by a U.S. couple. We are trying to get clearance to release further information about his case. When you know more about where you want to go with this story, let's chat again.

(b)(6),(b)(7)(C)

Western Regional Communications Director/Spokesperson
U.S. Immigration and Customs Enforcement (ICE)
Phone: (949) 360-(b)(6),(b)(7)(C)
www.ice.gov

Allegations regarding the detention and removal of U.S. citizens

- U.S. Immigration and Customs Enforcement (ICE) only processes an individual for removal when all available facts indicate, by clear and convincing evidence, that the individual is an alien.
- Instances involving individuals erroneously claiming to be aliens are rare. It is far more common for ICE to encounter people who attempt to avoid removal by falsely stating they are United States citizens.
- Why would someone falsely claim to be an alien? In our experience, individuals may lie about their nationality seeking to evade prosecution or avoid further incarceration. They may also make such claims in an effort to avoid conditions often imposed by probation were they to remain in the United States.
- Individuals who misrepresent their true identity and make false statements to ICE officers create problems both for law enforcement and for themselves.
- In the event a person formerly identified as an alien makes a claim to U.S. citizenship, ICE will carefully and thoroughly investigate that claim. However, the public must remember, there is no national database in the United States containing all of this country's birth records. Further, U.S. immigration law creates a rebuttable presumption that a person is an alien when he or she reports birth abroad.
- ICE, the largest investigative arm of the Department of Homeland Security, is responsible for enforcing our nation's immigration laws and we are committed to doing so in a judicious, fair and appropriate manner.
- Last year, ICE removed or returned nearly 350,000 illegal aliens to their native countries. Of that number, one-third had criminal convictions in addition to being in the country illegally.

- Those statistics reflect ICE's ongoing commitment to an ambitious enforcement strategy aimed at securing our borders and strengthening our nation's legal immigration system.

Sender: (b)(6),(b)(7)(C)
Recipient: [Redacted]

Sent Date: 2009/04/16 13:50:16

Generator: Microsoft Word 11 (filtered medium)