

Congress of the United States
Washington, DC 20515

September 19, 2016

The Honorable John Kerry
Secretary
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Kerry and Secretary Johnson:

We write to request case information on Thong Vang, a criminal gang member and violent child rapist from Laos, who reportedly shot and critically injured two correctional officers in Fresno, California on September 3, 2016. He is currently charged with attempted murder. Reports indicate that this dangerous alien had a long history of violent criminal behavior. News sources indicate that Vang and other gang members abducted and repeatedly raped three girls between the ages of 12 and 14 for two days in 1998, as part of a sex slave ring. Vang was convicted of forcible rape and sentenced to imprisonment for 19 years, of which he served 16 years before his release on parole. Vang was placed in removal proceedings and ordered removed from the United States by an immigration judge in 2014. He was supposed to be removed at the conclusion of his parole. However, rather than your respective Departments taking appropriate steps to repatriate him to Laos, he was released from the custody of U.S. Immigration and Customs Enforcement (ICE) in December 2014. According to ICE, Vang was released pursuant to the 2001 Supreme Court ruling in *Zadvydas v. Davis*,¹ which required his release because Laos refused to accept him back.

This is yet another outrageous example of this Administration's refusal to enforce our immigration laws and the tragic consequences that result. While the Supreme Court's *Zadvydas* decision requires the release of a removable alien from custody within six months if there is "no significant likelihood of removal in the reasonably foreseeable future,"² the Administration has a very powerful statutory authority to compel a country to accept its citizens who have been ordered removed from the United States. Specifically, section 243(d) of the Immigration and Nationality Act (INA) requires the State Department to discontinue issuing visas to citizens of a country, if the Secretary of Homeland Security notifies the Secretary of State that the country fails to accept or unreasonably delays repatriating its citizens. This is a common sense remedy. If a country will not accept the return of its citizens, it should not be rewarded with visas to allow its citizens to enter the United States. Nevertheless, this remedy has only been used once—in the case of Guyana in 2001—and it resulted in that country's immediate compliance with its obligation to accept its repatriates.

Reports indicate that Laos has been a recalcitrant country for many years. More than 3,700 criminal aliens from Laos with final orders of removal remain in the United States because the Laotian Government refuses to accept them. ICE data reflects that 182 Laotian criminals with final orders of removal were released in FY 2015 and the first half of FY 2016 alone—one of the highest populations of criminal aliens released under the *Zadvydas* decision. Astonishingly, the Department

¹ 533 U.S. 678 (2001).

² *Id.* at 701.

of Homeland Security has not designated Laos as a recalcitrant country and the State Department continues to grant visas to its citizens—more than 11,000 nonimmigrant visas in the last five years alone. Your total lack of effort to address the issue of recalcitrant countries, including Laos, knowing that it will result in the release of thousands of criminal aliens into our communities to prey on unwary victims, is wholly unacceptable.

Vang and other dangerous removable aliens from recalcitrant countries should not be released from custody without you, as Secretaries of your respective Departments, utilizing all authorities available to you to repatriate such aliens, including the remedy found in INA section 243(d). With the stroke of a pen, the Secretary of Homeland Security could provide notification of a country's recalcitrance to the Secretary of State, who would then be required to impose the sanction contained in INA section 243(d). In a recent briefing to our staffs, State Department representatives acknowledged the mandatory nature of sanctions under that provision if notified by the Secretary of Homeland Security. Congress clearly contemplated that you would utilize those sanctions against recalcitrant countries and there is no excuse for failing to compel those countries to abide by their obligation to accept their citizens.

The wounded correctional officers are in critical condition, but thankfully their conditions are improving. Correctional Officer Toamalama Scanlan is a father of six children with ten years' service in corrections, while Correctional Officer Juanita Davila is a mother and grandmother, and an 18-year veteran of corrections. These dedicated correctional officers, their families and friends, and the American public deserve to know why your respective Departments are not taking steps to force recalcitrant countries to take back their citizens under your clear statutory authority.

To better understand why Vang was released from ICE custody without a concerted effort by your respective Departments to compel the Laotian Government to accept him and other citizens of Laos who have been ordered removed from the United States, please provide both Committees on the Judiciary with the following information as soon as possible, but not later than September 30:

1. The alien registration number for Thong Vang, his complete alien file (A-file) and State Department file, including any temporary files or working files, and all documents and items contained in them that were generated by the Department of Homeland Security (DHS) or the Department of State (DOS) or in their possession about him, whether currently in written or electronic form, including, but not limited to, the Enforcement and Removal Operations (ERO) Executive Summary, criminal history and immigration summaries, detainers or requests for notification, I-213(s), and Notice(s) to Appear or other charging documents created to seek his removal from the United States.
2. Please identify and explain each and every encounter that DHS or any of its agencies has had with Thong Vang, including the date of the encounter, whether the encounter resulted in detention or the issuance of a detainer or request for notification, whether the encounter resulted in the initiation of removal proceedings or reinstatement of a prior removal order against him, and the current status of those removal proceedings or reinstatement.
3. Please identify each and every date on which Thong Vang was arrested by a law enforcement agency in the United States, including criminal and civil arrests, the nature of the charges, the jurisdictions where the arrests occurred, the dispositions of the charges, the dates on which he

was released from the custody of the law enforcement agencies, and the reasons for the release.

4. If a local law enforcement agency declines to honor a detainer or notify ICE regarding Thong Vang, what action will DHS take to ensure that he is not released from custody and allowed to reoffend?
5. Did Thong Vang ever apply for any immigration benefit? If so, was any application approved? Please provide copies of any applications that Thong Vang may have submitted, whether or not adjudicated.
6. What criminal gang(s) is or was Thong Vang associated with? When did ICE become aware that he was associated with a criminal gang? Please explain.
7. If Thong Vang had been encountered by DHS enforcement officials prior to his recent arrest for attempted murder, would he have met the requirements to be considered a priority for removal under the Administration's Priority Enforcement Program? If so, please provide the exact reason for such consideration. If not, why not?
8. Have any victims associated with the crimes committed by Thong Vang been contacted by officials at ICE? Please provide details.
9. What specific actions have DHS and DOS taken to compel Laos to cooperate in the repatriation of its citizens? Pursuant to INA section 243(d), has the Secretary of Homeland Security notified the Secretary of State that Laos denies or has denied, or unreasonably delays or has unreasonably delayed accepting its citizens, subjects, or nationals after the Secretary of Homeland Security has requested whether it will accept such individuals? What specific actions were taken by DHS and DOS to encourage Laos to issue a travel document to Thong Vang or otherwise accept him for repatriation?
10. Are there any current plans to sanction Laos under INA section 243(d)? If so, when will these sanctions be imposed? If not, why not?

As you know, the Privacy Act authorizes disclosure of information to Committees of Congress. If you cannot fully respond to each and every request for documents or information set forth above, please identify the specific item requested to which you cannot fully respond and explain why you cannot respond.

Should you have any questions, please contact Kathy Nuebel Kovarik at (202) 224-5225 or Tracy Short at (202) 225-3926. Thank you for your cooperation.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on the Judiciary



Bob Goodlatte
Chairman
House Committee on the Judiciary