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October 20, 2015

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Johnson:

On April 30, 2014, the United States Sentencing Commission approved Amendment 782, which modified the United States Sentencing Guidelines to lower the base offense level for federal controlled substances offenses. Amendment 782 was made retroactive by the Commission. As a consequence, approximately 6,000 convicted criminals whose sentences were reduced by the sentencing court pursuant to Amendment 782 are now eligible for release from the Federal Bureau of Prisons (BOP) on or about November 1, 2015, and approximately 8,500 additional prisoners will be eligible for early release by November 1, 2016. Of the initial 6,000 inmates who will be released early, a significant number – approximately 2,000 – are criminal aliens. These aliens are removable from the United States, either because they are unlawfully present or because of their criminal convictions. In fact, based on their convictions for drug trafficking offenses, such aliens are the highest enforcement priority (Priority 1) for the Department of Homeland Security, based on your own written policy for priority enforcement, issued on November 20, 2014.

During your testimony before the House Judiciary Committee on July 14, 2015, Committee Members questioned you about the early release of aliens under Amendment 782. In response, you stated, "I'm aware of this issue. I'm aware of the adjustment to the Federal Sentencing Guidelines. I'm aware that a number of individuals will be released as a result. I'm aware that a number of them are probably undocumented, and we've been working with DOJ to do the most effective thing for public safety in that regard." Given your response, I fully expect that U.S. Immigration and Customs Enforcement (ICE) will issue a detainer with the BOP for each alien expected to be released pursuant to Amendment 782, and that each alien will be taken into custody by ICE, as required by the Immigration and Nationality Act, for purposes of initiating removal proceedings or to

execute the removal order of each alien who is already subject to a final order of removal from the United States.

Please confirm whether my expectation will be met and that the Department of Homeland Security is committed to ridding our streets of aliens peddling dangerous and illicit drugs to our children. Additionally, please provide the following requested information:

1. The specific number of aliens who will be released early by BOP pursuant to Amendment 782.
2. Of those alien prisoners, how many have ICE detainers or requests for notification?
3. Does ICE expect to issue detainers or requests for notification for every alien identified in (1) above prior to the prisoner's release from BOP custody?
4. Does ICE expect to take custody of every alien identified in (1) above for the purpose of initiating removal proceedings or to execute a final order of removal? If not, why not?
5. Please provide the number of aliens identified in (1) above who will not be taken into ICE custody upon release from BOP and provide an explanation for each alien as to why ICE will not take the alien into custody.

Please provide this information to me by **October 30, 2015**. If your office has any questions, please contact Tracy Short, Counsel, Subcommittee on Immigration and Border Security, at (202) 225-3926.

Sincerely,



Bob Goodlatte
Chairman

cc: Hon. John Conyers, Jr.