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ONE HUNDRED THIRTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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April 11, 2014

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

Dear Secretary Johnson,

We write this letter as a follow up to the letter that Congressmen Smith sent you on February 27<sup>th</sup> immediately after your testimony before the House Committee on Homeland Security on February 26, 2014. In that letter, Mr. Smith asked you the following questions:

- 1) When will the Department of Homeland Security release its timeline and corresponding metrics for achieving operational control of the border?
- 2) How many criminal immigrants were identified through the Secure Communities program and other departmental programs in 2013?
- 3) How many criminal immigrants were removed from the United States in 2013? What specific crimes did these criminal immigrants commit?
- 4) How many criminal immigrants were released into communities within the United States in 2013? What specific crimes did these criminal immigrants commit?
- 5) Why were criminal immigrants involved in those crimes released into communities within the United States? Please provide your rationale and legal justification for not prioritizing these individuals for detainment and removal.

Congressmen Smith requested specific answers to these questions within 30 days. Thus, you should have provided a response by March 30, 2014. Of course, as of the date of this letter Congressmen Smith has received no response. He has been told by DHS that the response is still being drafted.

Since the time that Congressman Smith sent his letter, a new report issued by the Center for Immigration Studies based on internal data from U.S. Immigration and Customs Enforcement

(ICE) indicates that ICE charged only 195,000, or 25 percent, out of 722,000 potentially deportable aliens they encountered.<sup>1</sup> Additionally, the report indicates that ICE released convicted criminal aliens 68,000 times in 2013.

As you may recall, as part of the House Judiciary Committee's oversight responsibility, the Immigration Subcommittee issued a subpoena to DHS in November 2011 for a list of unlawful and criminal aliens that had been brought to the attention of ICE through Secure Communities after being arrested by state or local law enforcement but had not been detained or placed in removal proceedings by the agency. The Congressional Research Service (CRS), in cooperation with the Committee, crosschecked the subpoenaed data to determine if the illegal and criminal immigrants released by ICE had gone on to commit more crimes. Of note, CRS found that of those released, about 17% of the unlawful and criminal aliens, or 26,412, were rearrested on criminal charges within three years of release. These 26,412 recidivists accounted for a total of 42,827 arrests and 57,763 alleged violations. The categories of crimes charged include nearly 8,500 DUIs (14.6%), over 6,000 drug violations (10.9%), more than 4,000 major criminal offenses (7.1%), which includes murder, assault, battery, rape, and kidnapping, nearly 3,000 theft offenses (4.9%), and over 1,000 other violent crimes (2.1%), which includes carjacking, child cruelty, child molestation, domestic abuse, lynching, stalking, and torture. The crimes committed included 59 murders, 21 attempted murders, and 542 sex crimes. Therefore, the Committee is understandably concerned when ICE releases criminal immigrants onto the streets. It is crucial for the Committee to know what crimes the aliens released by ICE were convicted of given that they were released back into our communities.

Further, the Committee requests information on the treatment of criminal aliens by ICE in addition to the information sought by Congressman Smith. The Committee would like the following information:

- When providing the numbers of criminal immigrants released in 2013, and the specific crimes committed, please break out any cases released as a result of the Supreme Court's decision in the *Zadvydas v. Davis*, 533 U.S. 678 (2001).
- For fiscal year 2013, please provide the number of ICE encounters with deportable aliens, the charging documents issued to those aliens, and the number of criminal convictions of the population encountered and the number of criminal convictions of those aliens issued charging documents.
- On April 6, 2014, the New York Times published an article entitled: "*More Deportations Follow Minor Crimes, Records Show*." The article indicated that the paper obtained data pursuant to the Freedom of Information Act from 2007-2013 regarding removal numbers and the crimes the removed immigrants committed. Please provide the Committee with the same data that was provided to the New York Times.

Finally, and unfortunately, we must note that often the Committee must resort to scheduling a hearing or taking other action in order to receive answers to the questions we pose. We hope that henceforth such actions by our Committee will not prove to be necessary in order to receive information from DHS that is vital for us to fulfill our legitimate oversight role.

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<sup>1</sup> See Jessica Vaughan, *Catch and Release: Interior Immigration Enforcement in 2013*, Center for Immigration Studies, (2014).

On February 7, 2014, your Chief of Staff, Christian Marrone, issued a "Memorandum for All Component Heads," entitled "Secretary's Guidance on Responding to Members of Congress." According to the memo, you expect "the Department to respond to Congress in a direct, courteous, and timely manner." This memo implements a process that "affords the Department a ten (10) business day response time from the receipt of the inquiry to the transmittal of the response to Congress." The memorandum further states, "If a Component recognizes that preparation of a complete answer will require additional time, the Component must draft a substantive interim response to the Member of Congress indicating the reason why more time is needed and the date by which the Department will provide the Member(s) our final response."

In the short time that this policy has been in effect, your staff has already failed to comply with the policy twice with the Committee. Congressman Smith has not received a final response or even an interim response. For these reasons the Judiciary Committee reiterates his request. We ask that you respond to this entire request within 30 days and per your policy we be provided with a "date by which the Department will provide the Member(s) [your] final response."

We look forward to your prompt response to this request. If you or your staff has any questions, please contact Dimple Shah, Counsel to the Subcommittee on Immigration and Border Security, at 202-226-3926.

Sincerely,



BOB GOODLATTE  
Chairman  
House Committee on the Judiciary



LAMAR SMITH  
Member of Congress



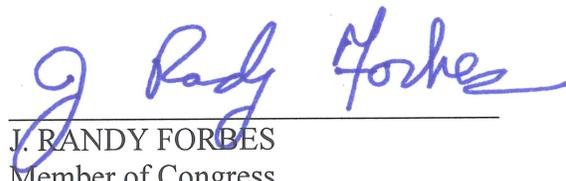
TREY GOWDY  
Chairman  
Subcommittee on Immigration



HOWARD COBLE  
Member of Congress



STEVE CHABOT  
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