

**Congress of the United States**  
**Washington, DC 20515**

March 2, 2016

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

Dear Secretary Johnson:

Once again, we write to you with grave concerns regarding the irresponsible policy of U.S. Immigration and Customs Enforcement (ICE) to refuse to take custody of removable aliens who pose a clear threat to the safety of the American public. You expressly authorized this policy in your memorandum of November 20, 2014, titled, "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants." Under that memorandum, ICE may refuse to take custody of dangerous aliens from state and local law enforcement agencies when such aliens exhibit criminal behavior, but have not been *convicted* of a felony and most misdemeanors. To be clear, ICE has the lawful authority to arrest and detain any alien for whom there is reasonable cause to believe that the person is present in the United States unlawfully. Their mere presence in the United States is cause for arrest. Moreover, detained individuals are not eligible for release from ICE custody unless they demonstrate that they are not a danger to persons or property and are not a flight risk.

According to ICE, the agency's "primary mission is to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade and immigration." If that truly is the mission of ICE, it is inconceivable that you would direct the agency to abort that mission by refusing to arrest dangerous foreign nationals or release them after taking custody, despite the agency's awareness of that danger. Such a policy can only be described as reckless.

Because of this policy, Esmid Valentine Pedraza was reportedly arrested by ICE and placed in removal proceedings in August 2013 after Pedraza's conviction for DUI in Alameda County, California. Despite the fact that Pedraza is in the United States illegally and his criminal conviction made him an enforcement priority under your written policy, ICE released him on a \$2,500 bond. On February 24, 2016, Pedraza was arrested in San Francisco, California for the murder of Stacey Aguilar. According to ICE, Pedraza "had already been on a Priority 2 list for recent illegal entrants," and reportedly ICE filed a request for notification with the Alameda County Jail, requesting to be notified if Pedraza is released, so that ICE can arrange to take him into custody to pursue "possible follow-up immigration enforcement action." It is outrageous that ICE would arrest Pedraza as an enforcement priority, but then release him despite a recent conviction for DUI. In addition, ICE's only response to this terrible crime is to pledge that it will review Pedraza for "possible" enforcement action. Such a response is wholly unacceptable. ICE completely failed its most basic duty to protect the public – and more specifically, Stacey Aguilar – by releasing this criminal alien from custody and thereby enabling him to allegedly commit this heinous crime.

It is also because of this policy that ICE reportedly released a dangerous individual, Jose Munoz Aguilar, after taking custody of him pursuant to an ICE detainer. Aguilar was arrested by police in Louisville, Kentucky, on February 7, 2016, after his vehicle collided with a vehicle

occupied by Chelsea Hogue and Meghan Lake, causing injuries to both women. Chelsea Hogue is now in a coma. A police report indicates that Aguilar had consumed 10-12 alcoholic drinks and was intoxicated at the time of the crash. Aguilar, who appears to be in this country illegally, was charged with assault, wanton endangerment, and criminal mischief. After bonding out on those charges on February 10, he was transferred to ICE custody pursuant to a detainer. Reports indicate that ICE promptly released Aguilar from custody the following day. According to ICE, Aguilar was released because he “had no significant misdemeanor or felony conviction record,” and as such, “[h]e does not meet ICE enforcement priorities.”

In another tragic case, 21-year-old Sarah Root’s vehicle was struck from behind by a vehicle operated by Eswin Mejia on January 31, 2016, while Mejia was allegedly drag racing in Omaha, Nebraska, with a blood alcohol level more than three times the legal limit. Sarah Root was killed and Mejia was charged with felony motor vehicle homicide. Authorities say that Mejia is a Honduran national, who is believed to be in the country illegally. Mejia, who had twice failed to appear in court on state charges, was given a \$50,000 bond by a state judge. This allowed him to be released upon posting ten percent of that amount, just \$5,000. State authorities reportedly contacted ICE numerous times to notify the agency of Mejia’s elevated flight risk and requested that ICE take custody of him, but ICE denied the request. As a result, after posting bail on February 5, Mejia walked out of jail and absconded. He is now a fugitive from justice. An ICE spokesman stated that ICE did not lodge a detainer on Mejia because his arrest for felony motor vehicle homicide “did not meet ICE’s enforcement priorities.”

The decisions by ICE to release these dangerous criminal aliens, all of whom are apparently illegally present in the United States and are clearly threats to public safety, are a complete abandonment of ICE’s law enforcement mission. Notably, your policy authorizes ICE to waive the so-called priority categories and to arrest aliens who are unlawfully present when their removal “would serve an important federal interest.” On January 4, 2016, you stated that the enforcement priorities contained in your November 20, 2014, memorandum “focus [DHS] enforcement resources on convicted criminals and threats to public safety.” From that statement, you recognize that dangerous aliens who are illegally present need not be convicted of a crime to be arrested by ICE. Astonishingly, in all of these tragic cases, ICE determined that it was not an important federal interest to protect the public by detaining these dangerous individuals, so that they will not victimize others. This careless policy is a clear and unmistakable message to the American people that this Administration has decided that their safety and security are far less important than ensuring that illegally present aliens with no regard for the law will remain in this country without any legal consequences whatsoever.

For a more thorough understanding of these cases and the decisions by ICE to release these dangerous aliens, please provide the following information not later than March 16, 2016:

1. The alien registration numbers for Esmid Valentine Pedraza, Jose Munoz Aguilar, and Eswin Mejia, their complete alien files (A-file), and all reports or notifications generated by DHS or in its possession about them, whether currently in written or electronic form, including, but not limited to, the Enforcement and Removal Operations (ERO) Executive Summary, criminal history, immigration history, immigration benefits applications, detainers or requests for notification, I-213(s), and Notice(s) to Appear or other charging documents created to seek their removal from the United States.
2. Please identify each and every date on which Esmid Valentine Pedraza, Jose Munoz Aguilar, and Eswin Mejia were encountered by a law enforcement agency in the United States, to

include criminal and civil arrests, the nature of the charge, the jurisdiction where the arrest occurred, the disposition of that charge, the date(s) on which they were released from the custody of that law enforcement agency, and the reason(s) for the release. Please provide the arrest and disposition documentation for each encounter.

3. How did Esmid Valentine Pedraza, Jose Munoz Aguilar, and Eswin Mejia enter the United States? Please explain.
  - a. When did each alien enter?
  - b. Were any of them an unaccompanied minor? Please explain.
  - c. Were any of them issued a Notice to Appear? If so, when was it issued? If so, when were they placed in removal proceedings? What is the status of their cases?
4. Did Esmid Valentine Pedraza, Jose Munoz Aguilar, or Eswin Mejia ever apply for any immigration benefits, including deferred action? If so, was any application approved? Please provide copies of any applications that any of them may have submitted.
5. Have Esmid Valentine Pedraza, Jose Munoz Aguilar, or Eswin Mejia been removed previously? If so, when?
6. Did ICE ever place a detainer on Esmid Valentine Pedraza, Jose Munoz Aguilar, or Eswin Mejia, or request that it be notified of the release from custody of any of them? Please explain.
7. Was Esmid Valentine Pedraza, Jose Munoz Aguilar, or Eswin Mejia a member of, or associated with any criminal gang? Please explain.
8. Does the Department of Homeland Security (DHS) continue to assert that Esmid Valentine Pedraza, Jose Munoz Aguilar, and Eswin Mejia are not enforcement priorities? If DHS has determined that any of them are enforcement priorities, when was the determination made? Please provide the exact enforcement priority category under the Priority Enforcement Program and explain the basis for the determinations.

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 Tracy Short at (202) 225-3926 or Kathy Nuebel Kovarik at (202) 224-5225. Thank you for your cooperation.

Sincerely,



Bob Goodlatte  
Chairman  
House Committee on the Judiciary



Charles E. Grassley  
Chairman  
Senate Committee on the Judiciary