

United States Senate

WASHINGTON, DC 20510

May 14, 2014

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

Secretary Johnson:

I write to express my grave concerns regarding recent reports that the Department of Homeland Security (DHS) released 36,007 criminal aliens into American communities during Fiscal Year (FY) 2013—a rate of approximately 100 released criminals per day. Collectively, these criminals had committed more than 87,000 total offenses at the time of their release, including 116 homicides, 228 kidnappings, 426 sexual assaults, 1,333 non-assault sex offenses, 790 robberies, 1,317 acts of domestic violence, 1,724 weapons offenses, 9,187 drug offenses, and 16,070 drunk or drugged driving offenses. Your Department's actions have jeopardized the safety of Americans and raise serious concerns about its commitment to full enforcement of our immigration laws.

As you are aware, Section 236 of the Immigration and Nationality Act (INA) protects public safety by granting DHS broad authority to detain criminal aliens during their removal proceedings when they have been previously convicted of offenses involving moral turpitude, aggravated felonies, controlled substances offenses, firearms offenses, and other dangerous crimes. This provision of the INA ensures that those who have shown a continuing disrespect for our laws should be kept from further victimizing law-abiding citizens. Because aliens who have committed serious crimes face a high probability of deportation at the conclusion of their removal proceedings, the detention of criminal aliens also ensures that these individuals are unable to abscond and further avoid immigration enforcement by disappearing in the United States. It is your Department's duty to exercise this authority with the highest degree of caution and deference to public safety and it appears that your Department has failed to live up to this important responsibility.

Achieving bipartisan border security and immigration reform will require the American people to trust that DHS and the Obama Administration are committed to the faithful execution of the laws passed by Congress. Unfortunately, your Department's release of more than 36,000 criminal aliens in FY 2013 has done great damage to this goal. I ask that you work with me to regain the trust of Congress, my constituents, and the American people by providing detailed responses to the following questions:

1. What is the total number of criminal aliens your Department released into Texas communities last year?
2. Did your Department provide notice of any released criminal aliens to Texas law enforcement officials last year? If so, in how many cases?

3. What is the total number of criminal aliens released by your Department last year who have subsequently committed a criminal offense?
4. What is the total number of criminal aliens released by your Department last year who subsequently failed to appear for removal proceedings?
5. What is the total number of criminal aliens released by your Department last year who were released as a result of changes to your Department's prosecutorial discretion policies since 2011?
6. Is it ever appropriate for your Department to release a criminal alien who has been convicted of homicide or sexual assault prior to the conclusion of their removal proceedings? If so, under what specific circumstances?
7. Does your Department have in place any mechanism to notify victims of the impending or actual release of a criminal alien who has committed an offense against them?
8. Does your Department have in place any mechanism to consult with victims prior to the release of a criminal alien who has committed an offense against them?
9. Should a criminal alien who has been convicted of a crime of domestic violence ever be released from your Department's custody without providing notice to the victims?
10. Will your Department commit to providing Congress with quarterly reports on the number of criminal aliens released from DHS custody pending the outcome of their removal proceedings?
11. Has your Department requested additional resources to ensure that, in the future, it can detain all criminal aliens required under Section 236 of the INA throughout the course of their removal proceedings?
12. Please provide a detailed breakdown of the number of unlawfully present individuals encountered by your Department in FY 2013 who were released from custody without detention, including the number of such individuals who were criminal aliens and the classes of crimes for which these offenders had been convicted. Do these numbers suggest that your Department is employing "catch and release" enforcement tactics?

I appreciate your prompt cooperation on this important matter.

Sincerely,



JOHN CORNYN
United States Senator