

*Secretary*U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

June 14, 2007

The Honorable Christopher J. Dodd
United States Senate
Washington, DC 20510

Dear Senator Dodd:

Thank you for your June 11, 2007 letter co-signed by Senator Joseph I. Lieberman and Representative Rosa L. DeLauro, regarding a U.S. Immigration and Customs Enforcement (ICE) immigration enforcement operation that occurred in New Haven, Connecticut, on June 6, 2007. Senator Lieberman and Representative DeLauro will receive separate, identical responses.

In addition to committing significant resources to prevent aliens from illegally entering the United States, the Department of Homeland Security (DHS) has also committed resources to arresting immigration law violators within the Nation's interior. Any alien who has failed to depart the United States pursuant to a final order of removal, deportation or exclusion, or who has failed to report to an ICE Detention and Removal Office after receiving notice to do so, is considered to be a fugitive. At present, there are over 632,000 fugitive aliens at large in the United States, according to ICE's Office of Detention and Removal Operations' (DRO) Deportable Alien Control System (DACS). Fugitive Operations Teams (FOTs) were established to address the burgeoning number of fugitive aliens present in the United States. FOTs are a crucial part of ICE's interior immigration enforcement mission.

A critical element of the FOT strategy is to identify, locate, arrest, and remove criminal aliens, fugitives, and other immigration law violators from the United States. FOTs use leads and other intelligence-based information to find, arrest, and remove aliens who have been ordered to leave the country by an immigration judge (or ordered removed through an alternate immigration process) but have failed to comply.

In FY 2006, there was funding in place for 52 teams. During FY 2007, Congress provided funding for an additional 23 teams, increasing the total number of funded teams to 75. As of May 28, 2007, 61 teams are operational. These teams are being deployed at DRO Field Offices throughout the United States, and each of the 24 DRO Field Offices will have at least one operational FOT by the end of FY 2007.

Further, on May 26, 2006, ICE began Operation Return to Sender, a nationwide interior enforcement initiative that applies an organized and methodical approach to the identification, location, and arrest of fugitive aliens. Conducted as part of ICE's National Fugitive Operations

Program (NFOP), Operation Return to Sender combines NFOP resources with those of other Federal, State, and local law enforcement entities to eliminate the backlog of ICE fugitive cases.

In your letter, you inquired about the timing of ICE's operation in New Haven and whether the targets of operations are determined based on intelligence about specific individuals. FOTs act on specific intelligence-based data gathered through law enforcement channels. Once intelligence is gathered on several fugitives located within the same general vicinity, a FOT will develop an operational plan for the swift and safe arrest of the fugitive aliens in the most fiscally efficient way. As of June 11, 2007, 29 illegal aliens were arrested as a result of this enforcement initiative. Five of the 29 aliens arrested were fugitives with outstanding orders of removal. The remaining 24 illegal aliens were arrested at targeted locations of the operation.

I want to emphasize that it is not our policy for FOTs to conduct "raids," or take an ad hoc approach to enforcing immigration law; rather, the policy is to focus their efforts on specific fugitive aliens at specific locations. According to ICE policy, FOTs prioritize their efforts using the following criteria (in order of priority): (1) fugitives who are a threat to national security; (2) fugitives who pose a threat to the community; (3) fugitives who were convicted of violent crimes; (4) fugitives who have criminal records; and, (5) non-criminal fugitives.

In regard to your questions related to warrants, DRO issues a *Warrant of Deportation/Removal* (I-205) upon an order of removal by an immigration judge. If the alien fails to appear for removal, the alien is deemed an ICE fugitive. A warrant of removal is administrative in nature and does not grant the same authority to enter dwellings as a judicially approved search or arrest warrant. During the course of normal targeted operations, while attempting to arrest ICE fugitives, FOTs often encounter other individuals at the targeted location. A warrant is not necessary when arresting someone who is in the country illegally. Pursuant to section 287(a)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1357(a)(1), an officer has the authority to question any person as to their right to enter, reenter, pass through, or reside in the United States. If a person is deemed to be an alien in the United States illegally and is believed to be removable, they may be arrested without warrant and processed accordingly for removal.

Questioning as to identity or request for identification does not constitute a Fourth Amendment seizure. The individual being interviewed must voluntarily agree to remain during questioning. To detain an individual for further questioning, however, the immigration officer must have reasonable suspicion that the individual has committed a crime, is an alien who is unlawfully present, is an alien with status who is either inadmissible or removable from the United States, or is a nonimmigrant who is required to provide truthful information to DHS upon demand. *See* 8 C.F.R. § 214.1(f). In addition, section 264(e) of the INA, 8 U.S.C. § 1304(e), requires aliens 18 years of age and older to carry proof of alien registration at all times. Failure to carry such proof is a misdemeanor punishable by up to 30 days in imprisonment and a fine of \$100.

At no time did any ICE FOTs enter a dwelling without consent. To ensure consent was obtained knowingly and voluntarily from the dwelling's occupant, each team had a Spanish speaking officer assigned to it. After consent was obtained, the occupant was asked how many other individuals were in the house. If other persons were present, those individuals were asked to come into a common area for officer safety.

ICE officers ascertained during this questioning whether there were any humanitarian concerns at the scene of arrest by asking those arrested if they had any medical conditions or child care issues. ICE agents did not take any children into custody and ensured no child was left unattended without a parent or caregiver. In one instance, ICE officers stayed with an 11-year-old child who had been left home alone by her parents and awaited the father's arrival from work.

Family members were provided the address and telephone number of the local ICE office at the scene of arrest in order to ascertain the whereabouts of those arrested. Family members were also instructed that it may take a few hours before they would know definitively in which facility those arrested would be housed as they would have to be processed and transported to those facilities. As a matter of policy, those arrested without outstanding Warrants of Removal were provided a list of free legal services. Additionally, once processed, the opportunity to make phone calls was provided. Local ICE offices routinely provide information to attorneys as to their clients' whereabouts.

ICE did not coordinate with any local social service agencies prior to or after the operation as children were not taken into custody nor were they left unattended without a parent or caregiver. However, during the course of any official large-scale operation, FOTs are instructed to contact the local law enforcement having jurisdiction over the area of operations prior to commencement of an operation for officer safety, liaison, additional support, and courtesy. On the day of the New Haven operation, local law enforcement was called 1 hour and 15 minutes after the commencement of the operation.

DRO's Boston Field Office and Hartford Sub-Office normally work closely with local police departments. In fact, prior to the operation's commencement, DRO's Hartford Sub-Office contacted the New Haven Police Department regarding the operation on three occasions beginning in early April. The Hartford Fugitive Operation Supervisor initially attempted to contact Sgt. Lisa Daddio, the officer in charge of the Detective Bureau, and left a message. The Hartford Fugitive Operation Supervisor attempted a second call a few weeks later and did speak to Sgt. Daddio. During his conversation with Sgt. Daddio, the Hartford Fugitive Operation Supervisor indicated that his office anticipated executing an approximately 20-target warrant operation in the near future and inquired as to what type of assistance and cooperation ICE could expect from the police department.

Sgt. Daddio requested the Hartford Fugitive Operation Supervisor speak with her superior, Lt. Pat Redding, regarding ICE activities in the city. Within days, the Hartford Fugitive Operation Supervisor spoke to Lt. Redding. The Hartford Fugitive Operation Supervisor was informed that Lt. Redding would speak with his Assistant Chief for Operations in order to provide him more information. Lt. Redding never contacted the Hartford Fugitive Operation Supervisor with a response.

After the Hartford Fugitive Operation Supervisor consulted with the Hartford Assistant Field Office Director (AFOD), it was decided that the New Haven Police Department would be given a courtesy call on the morning of the operation and there would not be a request for assistance

from the New Haven Police Department. This call was placed to New Haven Dispatch at approximately 7:15 a.m. on June 6, 2007.

I want to assure you there is no relationship between the operation's execution date and the City of New Haven's immigration policy.

I appreciate your interest in this matter. Please be assured that officials at DHS and ICE take allegations of misconduct seriously and will fully investigate all allegations. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,



A handwritten signature in black ink, appearing to read "Michael Chertoff".

Michael Chertoff