



# U.S. Immigration and Customs Enforcement

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**STATEMENT**

**OF**

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DEPARTMENT OF HOMELAND SECURITY**

**Regarding**

**The President's Fiscal Year 2017 Budget Request**

**UNITED STATES SENATE**

**COMMITTEE ON APPROPRIATIONS**

**SUBCOMMITTEE ON HOMELAND SECURITY**

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## **INTRODUCTION**

Chairman Hoeven, Ranking Member Shaheen, and distinguished Members of the Subcommittee:

Thank you for the opportunity to appear before you today to present the President's Fiscal Year (FY) 2017 budget request for U.S. Immigration and Customs Enforcement (ICE). I look forward to discussing our priorities for the upcoming fiscal year and highlighting our continued efforts to ensure we make the most efficient and effective use of the resources you provide to carry out our critical mission.

First, let me take this opportunity to thank you and your staff for your continued support of ICE as we execute our vital homeland security mission. Because of your combined efforts to ensure that DHS was funded throughout FY 2016, we are better positioned today to focus our energy on meeting the new and ever growing challenges to national security and public safety.

I am very proud to represent the dedicated men and women of ICE. ICE promotes homeland security and public safety through broad criminal and civil enforcement of approximately 400 federal laws governing border control, customs, trade, and immigration. The agency carries out its mission through four principal components: Homeland Security Investigations (HSI), Enforcement and Removal Operations (ERO), the Office of the Principal Legal Advisor (OPLA), and Management and Administration (M&A). Additionally, the Office of Professional Responsibility (OPR) investigates allegations of administrative and criminal misconduct at ICE, and performs important inspection and oversight functions around the agency. Today, ICE has nearly 19,000 employees in all 50 states, the District of Columbia, and strategically stationed positions in 46 foreign countries world-wide.

The President's FY 2017 budget request for ICE includes \$5.908 billion in discretionary funding, and is in line with the FY 2016 enacted budget. Additionally, the President's Budget estimates \$322 million in budget authority derived from mandatory fees, bringing total estimated spending authority to \$6.230 billion. The President's FY 2017 budget request will sustain our efforts in 2016 and enable ICE to continue efforts in the following core areas: civil immigration enforcement, criminal investigations, sustaining our workforce, and investment in information technology needed to meet the security challenges of the 21st Century.

## **ENFORCING IMMIGRATION LAWS**

Our civil immigration enforcement efforts are led by the 5,900 law enforcement officers who make up ERO. These dedicated officers enforce our nation's immigration laws by identifying aliens amenable to removal, apprehending, detaining, and removing those individuals from the United States, consistent with DHS priorities.

The Department's civil immigration enforcement priorities impact how ICE conducts removals, and they underscore a heightened focus on the greatest threats to national security, public safety, and border security. ICE focuses its resources on those who pose a threat to national security, public safety and on recent unlawful entrants.

Under the department-wide, three-tiered enforcement and removal guidance issued by the Secretary in November 2014, the top priority includes national security threats, convicted felons, gang members, and recent unlawful entrants apprehended at the border. The second-tier priority includes those convicted of significant or multiple misdemeanors and those who are not apprehended at the border, but who entered or reentered this country unlawfully after January 1, 2014. The third-tier priority consists of individuals who have failed to abide by a final order of removal issued on or after January 1, 2014.

In FY 2015, ICE ERO removed a total of 235,413 undocumented immigrants, of which 98 percent fell into one of ICE's immigration enforcement priorities. Of these removals, 202,152 (86 percent) were considered Priority 1 individuals (threats to national security, border security, and public safety). Convicted criminals continue to be a focus of this agency, and I believe our FY 2015 statistics demonstrate this commitment. Of the total removals in FY 2015, 113,385 (48 percent) were convicted criminal aliens. More notably, 91 percent of ICE's FY 2015 interior removals and returns were individuals who were previously convicted of a crime, compared to 85 percent in FY 2014, and 67 percent in FY 2011. These numbers clearly illustrate the agency's continued commitment to remove convicted criminals and others posing a threat to public safety in the interior of the United States, as well as individuals apprehended while attempting to unlawfully enter the United States.

The Director and I remain firmly committed to enforcing our immigration laws effectively and sensibly. However, the nature and scope of ICE's civil immigration enforcement continues to be faced with a number of significant challenges. As this committee knows well, ICE continues to respond to the influx of families and unaccompanied children without legal status who are apprehended crossing the Southwest Border into the United States. Through the whole of government, we continue to address this humanitarian and border security issue in a manner that is comprehensive, coordinated, and humane. While ICE is only one of several agencies involved in the processing of unaccompanied children and families, ICE plays a critical role by quickly and safely transporting unaccompanied children from U.S. Customs and Border Protection (CBP) custody to the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), transporting families to ICE custody at family residential centers, placing eligible adult family members on alternatives to detention and effectuating removal orders as appropriate following the conclusion of immigration proceedings. The President's FY 2017 budget request includes \$45 million in base funding for the costs associated with the transportation of up to 75,000 unaccompanied children and up to \$12.6 million in contingency funding to handle an additional influx.

ICE's interior enforcement and removal operations also face difficulties as a result of a number of Federal court rulings, most notably *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013). *Rodriguez* applies throughout the Ninth Circuit, the federal court jurisdiction with the largest number of individuals in removal proceedings. The ruling allows individuals who previously would have been detained without bond, including criminal aliens, to seek release on bond from immigration judges after a period of time in detention. Recently, the U.S. Court of Appeals for the Second Circuit has followed the lead of the Ninth Circuit, issuing its decision in *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. Oct. 28, 2015), which provides bond hearings after a

period of time for aliens detained under the mandatory detention provisions of the Immigration and Nationality Act. If a bond is granted and the aliens released from detention, their cases are then transferred from the relatively expedited detained court docket to the non-detained court docket. Because case processing in the non-detained docket generally takes longer than processing of cases on the detained docket, the number of overall removals in a given year has decreased. The President's FY 2017 Request supports the annualization of FY 2016 efforts to hire additional immigration attorneys to more effectively respond and process cases on the non-detained docket.

We also continue to disagree with the District Court decision in the *Flores* case, applying the 1997 settlement agreement from a case solely involving unaccompanied children to children who arrive with a parent and their subsequent processing at ICE family residential centers. The decision and resulting injunction limit the tools available to respond to flows of families without legal status apprehended after crossing into the United States. The U.S. Government has appealed the decision, and the appellate court has agreed to hear the appeal on an expedited basis. While the legal process plays out, we will continue to execute our mission in compliance with the District Court's orders. The President's FY 2017 request includes \$56.5 million to fund 960 family beds. We have implemented significant reforms to how we operate our family residential centers in order to transition affected individuals to temporary processing facilities.

The President's FY 2017 Request also includes \$125.9 million to support the expanded use of the Alternatives to Detention (ATD) program. ATD is a cost-effective alternative to traditional detention that makes detention bed space available for those aliens posing the greatest risk to public safety or national security. We estimate that this funding level will provide for a total of 53,000 average daily ATD participants at full operating capacity in FY 2017. We also anticipate that this funding will adequately accommodate those individuals who represent a low risk to public safety in families who arrive at our borders and are subsequently released from custody pending immigration court proceedings and are placed on the non-detained court docket.

ICE will continue to detain those for whom detention is currently mandated, as well as the highest-risk, non-mandatory detainees with the level of bed space included in the request. To achieve this critical mission goal, ICE will ensure the most cost-effective use of our appropriated funding by focusing costly detention capabilities on priority and mandatory detainees. In addition to funding for the 960 family beds mentioned above, the President's FY 2017 Request also includes \$1.4 billion to fund 29,953 adult beds and \$309 million for the transportation and removal program to coordinate the safe and secure transportation of aliens who are in ICE custody or are being removed from the United States.

As this Committee is aware, another significant factor impacting operations has been the number of state and local law enforcement jurisdictions limiting or declining cooperation with ICE. When law enforcement agencies decline to transfer custody to ICE some removable convicted criminals or public safety threats, the agency must expend additional resources to locate and arrest these individuals at-large.

To address this problem, ICE implemented the Priority Enforcement Program (PEP) in July 2015 to replace the previous Secure Communities program. PEP improves the process of

transferring those most dangerous individuals from state and local custody by enabling ICE to take custody of priority individuals without damaging trust with local communities. PEP is designed to be flexible, allowing ICE to tailor the program to fit the needs of each jurisdiction and achieve mutual law enforcement goals.

Throughout 2015, DHS and ICE conducted a nation-wide effort to implement PEP and promote collaboration, reaching out to thousands of local law enforcement agencies and government officials. The agency's Field Office Directors have provided briefings about the program to over 2,000 law enforcement jurisdictions. Notably, 16 of the top 25 jurisdictions with the largest number detainees that declined to participate in Secure Communities are now participating in PEP, representing nearly half of previously declined detainees.

As ICE continues to strengthen and improve relationships with state and local law enforcement partners, we predict that more jurisdictions will participate in PEP, thereby increasing the number of convicted criminals transferred to ICE for removal and decreasing the risk to ICE officers who would otherwise need to locate these individuals. Building on these efforts, the President's FY 2017 Request includes an additional \$6.6 million in FY 2017 for the Criminal Alien Program (CAP). This funding will be used to hire 100 officers to support expected increases in apprehensions resulting from expanded implementation of PEP. The request will enable ICE to work with state and local law enforcement to take custody of individuals who pose a danger to public safety before those individuals are released into U.S. communities.

### **COMBATING TRANSNATIONAL CRIMINAL ORGANIZATIONS**

HSI is the investigative arm of ICE and conducts criminal investigations to protect the United States against terrorism and other cross border criminal activity that threaten public safety and national security, and to bring to justice those seeking to exploit our customs and immigration laws worldwide. The President's FY 2017 budget request seeks \$2.12 billion for HSI to support current operational efforts in the upcoming fiscal year as well as maintain the additional special agents and investigative support staff funded in the FY 2016 enacted appropriation. In its investigative capacity, HSI focuses its broad investigative authority on three operational priorities – border security, public safety, and counterterrorism/national security.

HSI investigates customs and immigration crimes, including transnational criminal organizations (TCOs) engaged in illicit activity related to export enforcement, human rights violations, narcotics, weapons and contraband smuggling, financial crimes, cybercrimes and child exploitation, human smuggling and trafficking, intellectual property theft and trade fraud, transnational gangs, and immigration document and benefit fraud. Notably, in FY 2015, HSI investigations led to the disruption or dismantlement of approximately 239 TCOs. HSI made more than 33,000 criminal arrests, including more than 3,500 transnational gang members. HSI also seized more than 1.08 million pounds of narcotics, 1,479 seizures for violations of U.S. export laws and regulations, and nearly \$513 million in currency and monetary instruments. Additionally, HSI identified and assisted more than 2,300 crime victims, including 384 human trafficking victims and more than 1,000 child exploitation victims. In connection with HSI's investigations, we are also working with the Department of Labor and other agencies to ensure,

for the protection of workers, the consistent enforcement of federal labor, employment and immigration laws.

One of the top investigative priorities for ICE is human smuggling and trafficking, for which ICE possesses a full range of investigative and border-related authorities. In response to the sudden influx of unaccompanied children in FY 2014, ICE initiated *Operation Coyote*, which was designed specifically to stem the flow of illegal Central American immigration, including that of unaccompanied minors, by targeting the human smuggling organizations that facilitate these illegal activities. HSI deployed personnel to strengthen capacity for conducting human smuggling investigations and enforcement actions, and for monitoring international conditions to enable targeted responses to the influx during the sustained operational period.

To build upon its early investigative accomplishments, HSI expanded the initiative not only across the country, but worldwide, to harness all HSI activity related to the smuggling of Central Americans into the United States. On March 23, 2015, HSI commenced *Operation Coyote 2.0*, which built upon the foundation set by the preceding operational activities to further evolve and enhance HSI's overall human smuggling strategy. In FY 2015, the operation resulted in 876 criminal arrests, 690 indictments, and 612 convictions related to human smuggling investigations.

Terrorism remains one of the most significant threats U.S. law enforcement faces in protecting the homeland. Counterterrorism and criminal exploitation efforts seek to prevent terrorists and other criminals, such as human rights violators, from exploiting the nation's immigration system. HSI's overstay analysis efforts provide timely, relevant, and credible information on entry, exit, and immigration overstay status of visitors to the United States in order to enhance security, facilitate legitimate trade and travel, and ensure the integrity of the immigration system, as well as to protect the privacy of visitors.

HSI is the second largest contributor of federal agents to the FBI-led Joint Terrorism Task Forces (JTTFs), which benefit from HSI agents' investigative expertise and broad enforcement authorities. ICE will continue its participation in more than 100 JTTFs supporting and complementing counterterrorism investigations with ICE's unique immigration and trade-based authorities. In addition, HSI oversees the Human Rights Violators and War Crimes Center, which fosters an agency-wide approach to pursue human rights and war crimes violators by bringing together the resources of the various U.S. Government agencies that have a role in dealing with these offenders.

Finally, HSI's Visa Security Program (VSP) maximizes the visa process as a counterterrorism tool to identify terrorists, criminals and other aliens ineligible for a visa prior to their travel or application for admission to the United States. VSP differs from other U.S. government screening efforts in that it leverages its capabilities, such as in-person interviews and working with international law enforcement partners to investigate suspect travelers, enhance existing information, and identify previously unknown threats, instead of simply denying visas and any potential travel. In FY 2015, HSI opened six new overseas VSP posts—the largest single-year expansion in the history of the program—and reviewed over two million visa applications, including approximately 8,600 cases in which visas were refused for a variety of

reasons, including for suspected connection to terrorism or terrorist organizations. The President's FY 2017 Request includes \$32.5 million to sustain the expansions made in FY 2015 and maintain current operations.

### **MAINTAINING AND SUSTAINING OUR WORKFORCE**

Because of the generous funding increases ICE received in the FY 2015 and FY 2016 appropriations bills, the agency has been able to aggressively hire front-line operational staff and support staff. In FY 2015, ICE hired 92 attorneys and 437 law enforcement officers (LEOs) to enforce our immigration laws and investigate transnational criminal organizations. Currently in FY 2016, we have brought on 111 LEOs and 28 attorneys who will continue to carry out the mission of ICE. For the remainder of this year, we plan to hire approximately 750 personnel. The President's FY 2017 budget request will maintain those added as a result of the FY 2016 hiring efforts, and allow the agency to continue to hire to maintain operational pace.

To better inform our resource allocation and staffing needs, ICE has developed a new repeatable, evidence-based resource management approach, which employs a three-pronged strategy to tie workload resources to requirements. The Workload Staffing Model (WSM) uses workload capacity to determine appropriate staffing levels and funding requirements. WSM also allows ICE to justify its staffing requirements and models the impact those resources have on public safety and national security.

### **INVESTING IN INFORMATION TECHNOLOGY & INFRASTRUCTURE**

Just as important as the resources needed to fulfill ICE's enforcement and investigative missions, are the tools required to carry out the agency's operations. The President's FY 2017 Request includes \$43 million to fund the deployment and modernization of ICE's information technology applications, systems infrastructure that support our front-line personnel and improves information sharing with DHS and partner organizations. The funds requested will enable ICE to continue migration from the agency's legacy financial system to a shared service provider; refresh ICE's information technology infrastructure; and complete the modernization of ICE's law enforcement case management system.

The request also includes an additional \$16.1 million in FY 2017 to support critical improvements in Identity, Credentials, and Access Management (ICAM), cloud support, and system bandwidth to ensure 24/7/365 availability and to meet the cybersecurity needs of ICE information technology systems, infrastructure, and services.

### **CONCLUSION**

ICE will continue to play a critical role in fulfilling DHS's national security, border security, and public safety mission. To that end, the FY 2017 request ensures ICE has the resources to support DHS-wide efforts. Thank you again for the opportunity to testify today and for your continued support of ICE and its critical national security and public safety mission. I look forward to answering any questions you have at this time.