



# Deportation of Aliens Claiming U.S.-Born Children

First Semi-Annual, Calendar Year 2013

April 28, 2014

Fiscal Year 2013 Report to Congress



Homeland  
Security

*U.S. Immigration and Customs Enforcement*

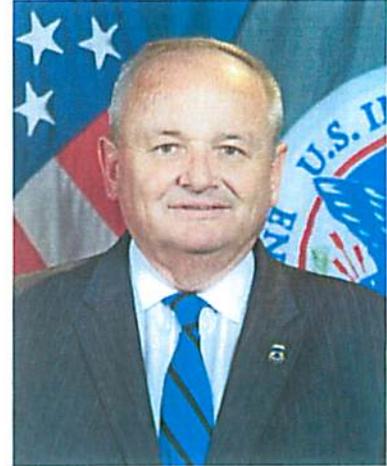
# Message from the Deputy Principal Assistant Secretary

April 28, 2014

I am pleased to present the report, "Deportation of Aliens Claiming U.S.-Born Children: First Semi-Annual, Calendar Year (CY) 2013," as prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to Senate Report 112-74, which accompanies the *Fiscal Year (FY) 2012 Department of Homeland Security (DHS) Appropriations Act* (P.L. 112-74) and the Joint Explanatory Statement, which accompanies the *FY 2013 DHS Appropriations Act* (P.L. 113-6).

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:



The Honorable John R. Carter  
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable David E. Price  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Mary L. Landrieu  
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Daniel Coats  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (202) 732-3000 or to the Department's Acting Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely yours,

A handwritten signature in black ink, appearing to read "T. S. Winkowski".

Thomas S. Winkowski  
Principal Deputy Assistant Secretary  
U.S. Immigration and Customs Enforcement



# Deportation of Aliens Claiming U.S.-Born Children First Semi-Annual, Calendar Year 2013

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# I. Legislative Language

This document responds to the language set forth in Senate Report 112–74, which accompanies the *FY 2012 DHS Appropriations Act* (P.L. 112-74), and Senate Report 112-169, which accompanies the *FY 2013 DHS Appropriations Act* (P.L. 113-6).

Senate Report 112–74 states:

The Committee directs ICE to continue to submit the report on collection of data on deportation of parents of U.S.-born children, as mandated in the joint explanatory statement accompanying Public Law 111–83, to the Senate Committee on Appropriations and the Committee on the Judiciary.

The Joint Explanatory Statement, which accompanies the *FY 2013 DHS Appropriations Act* (P.L. 113-6) includes the following language:

## DEPORTATION OF PARENTS OF U.S.-BORN CHILDREN

In order to better understand the scale and intricacies of this issue, the conferees direct ICE to submit, within 60 days after the date of enactment of this Act, an evaluation of the process and data management system changes necessary to track the information discussed in both the House and Senate reports, including a timeline for implementing the required changes in Fiscal Year (FY) 2010. ICE is directed to begin collecting data on the deportation of parents of U.S.-born children no later than July 1, 2010, and to provide the data at least semi-annually to the Committees and the Office of Immigration Statistics.

This report has been prepared pursuant to the report language and covers data for the first half of CY 2013.

## II. Background

This report was compiled using the ICE Integrated Decision Support reporting tool, which provides an efficient method of obtaining operational data from the Enforcement Integrated Database and the Enforcement Case Tracking System (ENFORCE) Alien Booking Module for analytical and reporting purposes. ICE continues to vet the quality and consistency of the data captured. Like the prior reports to Congress, the raw data was extracted from our system of records and manually analyzed to achieve the accurate reporting.

ICE is committed to ensuring that the agency's immigration enforcement activities, including detention and removal, do not unnecessarily disrupt the parental rights or family ties of alien parents. As a result, the agency has taken a number of proactive steps to address this issue and continues engaging in robust consultation and collaboration with its partners to assess existing immigration enforcement policies and practices to identify opportunities for maintaining family unity and parental rights when feasible. For example, ICE maintains a working group that meets regularly and frequently engages with other federal agencies and non-governmental organizations to address issues related to the impacts that immigration enforcement and detention may have on parental rights and family unity.

Former ICE Director John Morton's March 2, 2011, Civil Immigration Enforcement Priorities memorandum<sup>1</sup> and June 17, 2011, Prosecutorial Discretion memorandum<sup>2</sup> underscore the importance of family ties in the exercise of prosecutorial discretion. The Prosecutorial Discretion memorandum makes clear that ICE officers, agents, and attorneys should consider all relevant factors -- including ties to the community, family relationships, whether the alien has a U.S.-born child or lawful permanent resident child, and whether an alien is the primary caretaker of a minor -- in determining whether to exercise prosecutorial discretion in a case. Through the use of prosecutorial discretion, ICE seeks to focus its limited resources on the agency's enforcement priorities: aliens who pose a threat to national security or public safety, recent illegal entrants, and aliens who are fugitives or otherwise obstruct immigration controls.

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<sup>1</sup> Memorandum from John Morton, former ICE Director, on Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens (March 2, 2011) ("Absent extraordinary circumstances or the requirements of mandatory detention, field office directors should not expend detention resources on aliens who ... demonstrate that they are primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest.") Link: [https://insight.ice.dhs.gov/mgt/opp/documents/policies/ipm/10072.1-hd-civil\\_enforcement\\_priorities.pdf](https://insight.ice.dhs.gov/mgt/opp/documents/policies/ipm/10072.1-hd-civil_enforcement_priorities.pdf).

<sup>2</sup> Memorandum from John Morton, former ICE Director, on Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens (June 17, 2011) ("When weighing whether an exercise of prosecutorial discretion may be warranted for a given alien, ICE officers, agents, and attorneys should consider all relevant factors, including, but not limited to— ... the person's ties and contributions to the community, including *family relationships*; ... whether the person has a *U.S. citizen or permanent resident spouse, child, or parent*; ... whether the person is the *primary caretaker* of a person with a mental or physical disability, minor, or seriously ill relative; . . . [and] whether the person is likely to be granted temporary or permanent status or other relief from removal, including as a *relative of a U.S. citizen or permanent resident* ... ." (emphasis added)).

\* Facilitating Parental Interests in the Couse of Civil Immigration Enforcement Activities (August 23, 2013) [https://insight.ice.dhs.gov/mgt/opp/Documents/policies/ipm/11064.1\\_policy\\_parental\\_rights.pdf](https://insight.ice.dhs.gov/mgt/opp/Documents/policies/ipm/11064.1_policy_parental_rights.pdf)

In January 2013 ICE completed implementation of a new detainee intake process, the Risk Classification Assessment (RCA) tool, to improve the consistency and transparency of ICE custody and release decisions. ICE programmed the RCA, which is a part of the ENFORCE suite of applications, to enable officers to identify and track detained primary caretakers. ENFORCE provides the ability to generate regular reports of detained primary caretakers in an area of responsibility (AOR). This information provides field offices the opportunity to follow up on individual cases.

On August 23, 2013, ICE issued the ICE policy directive, “Facilitating Parental Interests in the Course of Civil Immigration Enforcement Actions”. This directive complements existing ICE policy and procedures by addressing the placement, monitoring, accommodation, and removal of certain alien parents or legal guardians.

### III. Data Report

The data provided in this report are based on a reporting period of January 1, 2013, through June 30, 2013.

During the reporting period, ICE sought orders of deportation, exclusion, or removal in the cases of 29,417 aliens who claimed to have at least one U.S.-born child. ICE obtained 16,123 final orders of deportation for aliens who claimed to have at least one U.S.-born child.

In the first half of calendar year 2013, ICE removed 39,410 aliens who claimed at least one U.S.-born child. Removals of aliens who claimed at least one U.S.-born child included 24,518 of individuals were apprehended in the interior of the United States. Ninety-one percent of the interior removals had been previously convicted of a crime. ICE also removed 14,892 aliens claiming a U.S.-born child who were apprehended along the borders while attempting to unlawfully enter the United States, 74 percent of which were previously convicted of a crime. Ninety-eight percent, 38,726, of all removals of aliens who claimed a U.S.-born child clearly fell under one of ICE's stated civil immigration enforcement priorities (i.e., convicted criminals, apprehended while unlawfully attempting to enter the United States, had previously been removed from the United States, or are an ICE fugitive by absconding after receiving a final order of removal or had failed to report to ICE after receiving notice to do so). Of the 6,137 removals without a criminal conviction, 64 percent, or 3,912, were apprehended at the border while attempting to unlawfully enter the United States, and 89 percent clearly fell within one of ICE's stated immigration enforcement priorities.