



Deportation of Aliens Claiming U.S.-Born Children

Second Half, Calendar Year 2013
Report to Congress

April 28, 2014



Homeland
Security

U.S. Immigration and Customs Enforcement

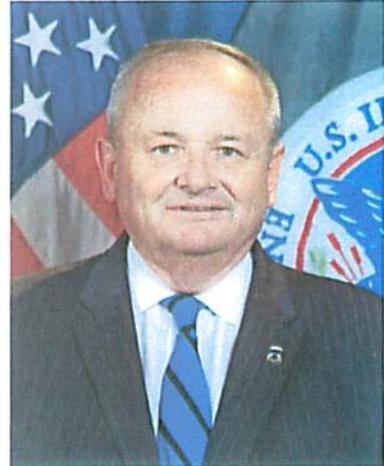
Message from the Principal Deputy Assistant Secretary

April 28, 2014

Attached is the report “Deportation of Aliens Claiming U.S.-Born Children” for the second half of Calendar Year (CY) 2013, as prepared by U.S. Immigration and Customs Enforcement (ICE).

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

Pursuant to congressional guidelines, 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) 447-0441.

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 Second Half, Calendar Year 2013

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I. Legislative Language

This document responds to the reporting requirement set forth in the Joint Explanatory Statement and Senate Report 112–74, which accompany the *FY 2012 DHS Appropriations Act* (P.L. 112-74).

The Joint Explanatory Statement that accompanies P.L. 111–83 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.

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.

This report has been prepared pursuant to the report language and covers data for the second half of CY 2013, from July 1, 2013 through December 31, 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 ENFORCE (Enforcement Case Tracking System) Alien Booking Module for analytical and reporting purposes. ICE vets the quality and consistency of the data captured. Like the prior reports to Congress, the raw data is extracted from the ICE system of records and manually analyzed to achieve 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 to engage in robust consultation and collaboration with its partners to assess existing immigration enforcement policies and practices, and 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 of immigration enforcement and detention on parental rights and family unity.

The March 2, 2011, Civil Immigration Enforcement Priorities¹ memorandum and the June 17, 2011, Prosecutorial Discretion memorandum² 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 family relationships, whether the alien has a U.S.- born 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, namely the promotion of national security, border security, and public safety, and the integrity of the immigration system. The tenets of this strategy elucidate the need to determine ties to the community, including family relationships, and the role of a primary caretaker when considering all cases.

¹ 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.").

² 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)).

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 allow officers to identify and track detained primary caregivers. ENFORCE provides a standardized way for field offices to generate regular reports of detained primary caretakers and provides ICE personnel the ability to monitor 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 is based on a reporting period of July 1, 2013 through December 31, 2013.³

During the reporting period, ICE sought orders of deportation, exclusion, or removal in the cases of 31,801 aliens who claimed to have at least one U.S.-born child.⁴ ICE obtained 12,291 final orders of deportation, exclusion, or removal for aliens who claimed to have at least one U.S.-born child.⁵ ICE removed 33,000 aliens who claimed at least one U.S.-born child.^{6, 7, 8} Of these removals, 20,925, or approximately 63 percent, of the individuals were apprehended in the interior of the United States.

It is important to note that of the removed aliens claiming to have at least one U.S.-born child in this report, 32,488, or approximately 98 percent, clearly met one or more of ICE's stated civil immigration enforcement priorities. Highest among these priorities are those individuals who had been previously convicted of a crime, which accounted for 86 percent of the total removals referenced in this report.⁹ Of the remaining removed aliens claiming to have at least one U.S.-born child who fell within one of ICE's other stated priorities, 59 percent were apprehended while or shortly after attempting to unlawfully enter the United States, and 9.8 percent were repeat immigration violators.

³ Calendar year is based on the apprehension date.

⁴ Final orders sought are identified as the following processing dispositions: administrative deportation, expedited removal (I-860), expedited removal limited review, expedited removal with credible fear, notice to appear detained, notice to appear released, order to show cause, warrant of arrest/order to show cause, and warrant of arrest/notice to appear.

⁵ Final order data exclude Case Category 16 and expedited removals with no detention.

⁶ Removals include returns. Returns include voluntary returns, voluntary departures, and withdrawals under docket control. Removals exclude expedited removals with no detention.

⁷ Starting in FY 2009, ICE began to "lock" removal statistics on October 5th at the end of each fiscal year and counted only the aliens whose removal or return was already confirmed. Aliens removed or returned in that fiscal year but not confirmed until after October 5th were excluded from the locked data and thus from ICE statistics. To ensure an accurate and complete representation of all removal and returns, ICE will include the removals and returns confirmed after October 5th into the next fiscal year.

⁸ Fiscal year data lag/case closure lag is defined as the physical removal of an alien occurring in a given month; however, the case is not closed in ENFORCE Alien Removal Module until a subsequent fiscal year after the data are locked. Because the data from the previous fiscal year are locked, the removal is recorded in the month the case was closed and is reported in the next fiscal year removals. This may result in a higher number of recorded removals in a fiscal year than actual departures.

⁹ These criminal alien removals include those apprehended in the interior of the United States and those apprehended along the borders.