AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

ICE WORKPLACE RAIDS: THEIR IMPACT ON U.S. CHILDREN, FAMILIES AND COMMUNITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

COMMITTEE ON

EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, MAY 20, 2008

Serial No. 110–92

Printed for the use of the Committee on Education and Labor

Available on the Internet:
http://www.gpoaccess.gov/congress/house/education/index.html

U.S. GOVERNMENT PRINTING OFFICE

42–334 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON EDUCATION AND LABOR

GEORGE MILLER, California, *Chairman*

Dale E. Kildee, Michigan, *Vice Chairman*
Donald M. Payne, New Jersey
Robert E. Andrews, New Jersey
Robert C. "Bobby" Scott, Virginia
Lynn C. Woolsey, California
Rubén Hinojosa, Texas
Carolyn McCarthy, New York
John F. Tierney, Massachusetts
Dennis J. Kucinich, Ohio
David Wu, Oregon
Rush D. Holt, New Jersey
Susan A. Davis, California
Danny K. Davis, Illinois
Raúl M. Grijalva, Arizona
Timothy H. Bishop, New York
Linda T. Sánchez, California
John P. Sarbanes, Maryland
Joe Sestak, Pennsylvania
David Loebsack, Iowa
Mazie Hirono, Hawaii
Jason Altmire, Pennsylvania
John A. Yarmuth, Kentucky
Phil Hare, Illinois
Yvette D. Clarke, New York
Joe Courtney, Connecticut
Carol Shea-Porter, New Hampshire

Howard P. "Buck" McKeon, California, *Senior Republican Member*
Thomas E. Petri, Wisconsin
Peter Hoekstra, Michigan
Michael N. Castle, Delaware
Mark E. Souder, Indiana
Vernon J. Ehlers, Michigan
Judy Biggert, Illinois
Todd Russell Platts, Pennsylvania
Ric Keller, Florida
Joe Wilson, South Carolina
John Kline, Minnesota
Cathy McMorris Rodgers, Washington
Kenny Marchant, Texas
Tom Price, Georgia
Luis G. Fortuño, Puerto Rico
Charles W. Boustany, Jr., Louisiana
Virginia Foxx, North Carolina
John R. "Randy" Kuhl, Jr., New York
Rob Bishop, Utah
David Davis, Tennessee
Timothy Walberg, Michigan
[Vacancy]

Mark Zuckerman, *Staff Director*
Vic Klatt, *Minority Staff Director*

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

LYNN C. WOOLSEY, California, *Chairwoman*

Donald M. Payne, New Jersey
Timothy H. Bishop, New York
Carol Shea-Porter, New Hampshire
Phil Hare, Illinois

Joe Wilson, South Carolina, *Ranking Minority Member*
Tom Price, Georgia
John Kline, Minnesota

C O N T E N T S

	Page
Hearing held on May 20, 2008	1
Statement of Members:	
Hare, Hon. Phil, a Representative in Congress from the State of Illinois, questions for the record and the responses	90
Hinojosa, Hon. Rubén, a Representative in Congress from the State of Texas, letter, dated April 29, from the Congressional Hispanic Caucus sent to Immigration and Customs Enforcement	60
Wilson, Hon. Joe, ranking minority member, Subcommittee on Workforce Protections	5
Additional submissions:	
"Immigration Raid in Iowa Largest Ever in U.S.," Associated Press article	6
U.S. Immigration and Customs Enforcement: FY07 Accomplishments	83
Detention and Removal Operations: Alternatives to Detention	86
Frequently Asked Questions About Worksite Enforcement	86
"ICE Fugitive Operations Program," from ICE Fact Sheets, December 4, 2007	88
Woolsey, Hon. Lynn C., Chairwoman, Subcommittee on Workforce Protections	1
Prepared statement of	4
Additional submissions:	
Statement of the American Psychological Association (APA)	64
APA Resolution on Immigrant Children, Youth, and Families	65
APA Factsheet	78
"The Protection of Children During Immigration Enforcement Actions: Lessons from Recent Large Scale Worksite Raids," by Randy Capps, Rosa Maria Castañeda, Ajay Chaudry and Robert Santos, the Urban Institute	67
Statement of the Lutheran Immigration and Refugee Service and Bishop Steven Ullestad, Northeastern Iowa Synod of the Evangelical Lutheran Church in America	80
Statement of First Focus	72
Letter, dated May 27, 2008, from the National Education Association	82
Statement of Witnesses:	
Gibney, Kathryn M., San Pedro Elementary School principal	22
Prepared statement of	24
Additional submissions:	
"ICE Raids on Homes Panic Schools, Politicians," from the San Francisco Chronicle, Wednesday, May 7, 2008	31
"30 Illegal Immigrants Targeted in Canal Neighborhood Raid," from the San Rafael, CA, Independent Journal, March 7, 2007	32
"Canal Community Fearful After Immigration Raids," from the San Rafael, CA, Independent Journal, March 8, 2007	33
"Second Day of Immigration Raids Includes Novato and San Rafael," from the Marin, CA, Independent Journal, March 8, 2007	34
"Fate of Detained Becomes Clearer," from the Marin, CA, *Independent Journal,* March 8, 2007	35
"Immigration Raids Handled Poorly," from the San Rafael, CA, Independent Journal, March 9, 2007	36

Page

Statement of Witnesses—Continued
Gibney, Kathryn M., San Pedro Elementary School principal—Continued
Additional submissions—Continued
"Immigration Raids Draw Dawn Protest," from the San Rafael, CA, Independent Journal, March 9, 2007 37
"March and Rally Draw Hundreds in San Rafael," from the San Rafael, CA, Independent Journal, March 13, 2007 38
"Marin Officials Rip Immigration Tactics," from the Marin, CA, Independent Journal, March 14, 2007 40
"65 Arrested, 23 Deported in Raids, North Bay Congresswoman Says," from the San Rafael, CA, Independent Journal, March 15, 2007 41
"Civic Leaders Prepare for Likelihood of Future Raids," from the San Rafael, CA, Independent Journal, April 5, 2007 42
"ACLU Sues Over Seizure of Boy in Immigration Raid," from the San Rafael, CA, Independent Journal, April 26, 2007 43
Murguía, Janet, president and CEO, National Council of La Raza 12
Prepared statement of 14
"Paying the Price: The Impact of Immigration Raids on America's Children," published by the Urban Institute 13
Romo, Simon, chief counsel, New Mexico Child Protective Services 44
Prepared statement of 46
Spero, Hon. James C., Deputy Assistant Director, Office of Investigations, U.S. Immigration and Customs Enforcement, Department of Homeland Security 9
Prepared statement of 11
Responses to questions for the record 91

ICE WORKPLACE RAIDS: THEIR IMPACT ON U.S. CHILDREN, FAMILIES AND COMMUNITIES

Tuesday, May 20, 2008
U.S. House of Representatives
Subcommittee on Workforce Protections
Committee on Education and Labor
Washington, DC

The subcommittee met, pursuant to call, at 10:05 a.m., in room 2175, Rayburn House Office Building, Hon. Lynn Woolsey [chairwoman of the subcommittee] presiding.

Present: Representatives Woolsey, Payne, Bishop, Hare, Wilson, Hinojosa, Kline and McKeon (Ex Officio).

Staff Present: Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Tico Almeida, Labor Policy Advisor; Alfred Amado, Legislative Fellow for Education; Jordan Barab, Health/Safety Professional; Jody Calemine, Labor Policy Deputy Director; Lynn Dondis, Senior Policy Advisor, Subcommittee on Workforce Protections; Brian Kennedy, General Counsel; Sara Lonardo, Junior Legislative Associate, Labor; Ricardo Martinez, Policy Advisor, Subcommittee on Higher Education, Lifelong Learning and Competitiveness; Alex Nock, Deputy Staff Director; Joe Novotny, Chief Clerk; Megan O'Reilly, Labor Policy Advisor; Robert Borden, Minority General Counsel; Cameron Coursen, Minority Assistant Communications Director; Ed Gilroy, Minority Director of Workforce Policy; Rob Gregg, Minority Senior Legislative Assistant; Alexa Marrero, Minority Communications Director; Jim Paretti, Minority Workforce Policy Counsel; Molly McLaughlin Salmi, Minority Deputy Director of Workforce Policy; Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel; Hannah Snoke, Minority Legislative Assistant; and Loren Sweatt, Minority Professional Staff Member.

Chairwoman WOOLSEY. A quorum is present. The hearing of the Workforce Protections Subcommittee on ICE Workplace Raids: Their impact on U.S. Children, Families and Communities will come to order.

Pursuant to committee rule 12(a), any member may submit an opening statement in writing, which will be made part of the permanent record.

I now recognize myself, followed by Ranking Member Joe Wilson, for an opening statement.

I personally wanted to thank our witnesses for being here today and participating in this very important hearing. While I am

pleased to welcome all of you—I must give a particular welcome to all of you, because every one of you virtually means something to me—but there's a woman here from my district and San Pedro Elementary School, Katherine Gibney, who is the principal. She has come a long way, and I am so honored that you have come here to do this with us. Thank you very much.

Today, we will explore the effects of the ICE raids on children of immigrant parents. The U.S. Immigration and Customs Enforcement, known as ICE, is the interior enforcement arm of the Department of Homeland Security.

Before 2006, the Bush administration's record on enforcement was not particularly good. According to the GAO, in the fiscal year 2004 there were only 445 unauthorized workers arrested, a drop from fiscal year 1999 by 84 percent.

In 2005, ICE made about 1,300 work site arrests of undocumented immigrants. But, by 2006, ICE had increased its enforcement activities and made about 4,400 work site arrests, more than triple the year before.

In December of 2006, ICE launched Operation Wagon Train, the largest work site operation in history. More than 1,000 ICE agents arrested about 1,300 people in six Swift & Company meat processing plants located around the country. Also in 2006, ICE launched a nationwide operation called Operation Return to Sender, which resulted in 23,000 arrests at work sites and other locations, including people's homes.

In 2007 and now in 2008, work site raids and raids at other locations have continued. Between October of 2006 and October of 2007, ICE raids in California resulted in the arrest of over 800 undocumented immigrants.

In March of 2007, ICE conducted raids in San Rafael and Novato, cities in my district. Now you would think that it is weird that Marin County, the wealthiest county in the entire country, would have ICE raids and would even have a need for immigrant workers, but, guess what, we do. We are no different than any other part of this country, and we will be hearing more about that later.

Just last week, ICE conducted its biggest workplace raid this year at a meat processing plant in Postville, Iowa. Of the 800 to 900 workers at the plant, over 300 were arrested. Twelve of those arrested were children, children between the ages of 15 and 17. They were working at the plant in violation of child labor laws. As of last Thursday, they were still being detained, and we now know that ICE conducted this raid even as the Department of Labor and Iowa State officials were investigating the owner of the plant for child labor violations.

We are very concerned that the raid will have the effect of derailing that investigation. But today we are looking for the impact of the raids on the children, the children of the families, the children of the workers, the children who are working at the plants themselves. There are about 4.7 million children who have at least one parent who is undocumented. Of that number, 3.1 million, or two-thirds of these children, are U.S. citizens.

While we do not know the exact number of children who have had a parent arrested or deported, we know that thousands of chil-

dren have been affected and that most of them are U.S. citizens themselves.

There will also be testimony today about the ICE guidelines, guidelines that were put into place in November, 2007, and outlining humanitarian concerns that officials should follow when conducting raids. These guidelines are discretionary, and so ICE officials most likely have no real incentive to follow them. As a result, we are still hearing heartbreaking stories of the impact on children.

They have witnessed their parents being arrested. They have had flashlights in their faces late at night. With their families, they have hidden in their houses and their basements and their closets, and some even under their beds, afraid that their parents and other family members will be taken from them.

They have been separated from their families in the cruelest of ways for long periods of time, and many of their parents have been deported. Some have been absent from school for days at a time. Children, especially young children, are experiencing depression, separation anxiety and, in some serious cases, PTSD.

Let me tell you about Kebin Reyes, a U.S. citizen from my district. Kebin is just now 7 years of age. In March of 2007, when he was 6, ICE arrested his father. His father is his only parent in the United States and Kebin was a witness to his father's arrest.

When his father was arrested, Kebin was taken to a facility where he spent 10 hours in detention. His father was detained for 6 weeks, and during that time Kebin had no idea if he would ever see his father again. He experienced severe emotional trauma as a result.

Ana is another child. She is age 11. She suffered because of the raids. She is from Petaluma, California. Her teacher noticed she was missing school because of severe stomach cramps. After many weeks, the teacher learned that the real reason Ana did not want to go to school was because she was afraid if she went to school, her parents would be taken away in one of the ICE raids while she was gone.

As it turned out, Ana's aunt had been arrested by ICE and left for Tijuana, far away from her own children. It took the aunt months to return home to California.

Kebin and Ana are two of the thousands of children who are living this same nightmare.

In Postville, Iowa, we have heard reports that at least 200 children had parents who were swept up in the raids last week. Sister Mary McCauley, who is assisting the children and their families, told us that many, many children are staying in a local Catholic Church, sleeping on the pews. She said that most of these children are not going to school. They are traumatized, and they are very fearful.

This has affected the entire community of Postville, a community of 2,300 residents. Sister McCauley is one of the very wonderful people which includes teachers, members of the faith community, community organizers and others who have worked tirelessly to make sure that these children's basic needs are being provided.

She may be here in the audience, is she out there?

Well, she will be coming in, I will bet.

Some of these people are witnesses here today, and you will hear from them, and we will applaud them. But unless ICE follows humanitarian procedures in conducting these raids, we are still left with traumatized children and with communities that don't know how to handle these situations.

Again, I want to thank the witnesses for being here today, and I look forward to your testimony. Thank you very much.

Ranking Member Wilson.

[The statement of Ms. Woolsey follows:]

Prepared Statement of Hon. Lynn C. Woolsey, Chairwoman, Subcommittee on Workforce Protections

I want to welcome all our witnesses for agreeing to participate in this very important hearing.

And while I am pleased to welcome all of you, I must give a special welcome to Katherine Gibney, the Principal at the San Pedro Elementary School in San Rafael, California. You see, Ms. Gibney is a constituent of mine.

Welcome, Ms. Gibney.

Today, we will explore the effects of the ICE raids on the children of immigrant parents.

The U.S. Immigration and Customs Enforcement, known as ICE, is the interior enforcement arm of the Department of Homeland Security.

Before 2006, the Bush Administration's record on enforcement was not very good.

According to the GAO, in fiscal year 2004, there were only 445 unauthorized workers arrested, a drop from fiscal year 1999 of 84 percent.

In 2005, ICE made about 1,300 worksite arrests of undocumented immigrants.

But by 2006, ICE had increased its enforcement activities and made about 4,400 worksite arrests, more than triple than the year before.

In December, 2006, ICE launched "Operation Wagon Train" the largest worksite operation in history.

More than 1,000 ICE agents arrested about 1,300 people at 6 Swift & Co. meat processing plants located around the country.

Also in 2006, ICE launched a nationwide operation called "Operation Return to Sender," which resulted in the 23,000 arrests at worksites and other locations, including people's homes.

In 2007 and now in 2008, worksite raids and raids at other locations have continued at a steady pace. Between October 2006 and January 2007, ICE raids in California resulted in the arrest of over 800 undocumented immigrants.

In March of 2007, ICE conducted raids in San Rafael and Novato, cities in my district.

And just last week, ICE conducted its biggest workplace raid this year at a meat processing plant in Postville, Iowa. Of the 800-900 workers at the plant, over 300 were arrested. Twelve of those arrested were children between the ages of 15 and 17. They were working at the plant in violation of child labor laws. As of last Thursday, they were still being detained. And we now know that ICE conducted this raid even as the Department of Labor and Iowa state officials were investigating the owner of the plant for child labor violations. We are very concerned that the raid will have the effect of derailing the investigation. But today, we are looking at the impact of the raids on the children. There are about 4.7 million children with who have at least at least one parent who is undocumented. Of that number 3.1 million, or—⅔ of these children—are U.S. citizens. While we do not know the exact number of children who have had a parent arrested or deported, we know that thousands of children have been affected and that most of them are U.S. citizens themselves. There will also be testimony today about the ICE guidelines, which were put into place in November 2007 and which outline humanitarian concerns officials should follow when conducting raids, are not being followed in a consistent fashion.

These guidelines are discretionary, and so ICE officials most likely have no real incentive to follow them. As a result, we are still hearing heartbreaking stories of the impact on children. They have witnessed their parents being arrested.

And they have had flashlights shown in their faces late at night.

With their families, they have hidden in their houses, basements, closets and some even under their beds, afraid that their parents and other family members will be taken.

They have been separated from their families in the cruelest of ways for long periods of time and many of their parents have been deported.

Some have been absent from school for days at a time, and children, especially young children are experiencing depression, separation anxiety, and in some serious cases, post traumatic stress disorder (PTSD).

Let me tell you about Kebin Reyes, a U.S. citizen, from my district. He is now age 7. In March 2007, when he was 6, ICE arrested his father—who is Kebin's sole parent in the U.S.—and Kebin was there to witness it. When his father was arrested, Kebin was also taken and spent 10 hours in detention. His father was detained for 6 weeks and during that time, Kebin had no idea if he would ever see his father again. He experienced severe emotional trauma as a result. Kebin is one of thousands of children who are living this same nightmare. In Postville, Iowa, we have heard reports that at least 200 children had parents who were swept up in the raids last week.

Sister Mary McCauley who is assisting the children and their families told us that many, many children are staying at a local Catholic church sleeping on pews. She said that most of these children are not going to school. They are traumatized and very fearful. And this has affected the entire community of Postville, which has 2,300 residents. Sister Mary McCauley is one of the very wonderful people—which includes teachers, members of the faith community, community organizers and others—who have worked tirelessly to make sure that these children's basic needs are being provided. Some of these people are witnesses here today.

But unless ICE follows humanitarian procedures in conducting these raids, we are still left with traumatized children and communities. Again, I want to thank our witnesses for being here today and look forward to their testimony.

Mr. WILSON. Good morning. Thank you, Chairwoman Woolsey; and I also want to commend you on your speedy recovery from your back surgery. I notice that you are getting around with vim and vigor, so I am very happy for you.

Chairwoman WOOLSEY. Are you really?

Mr. WILSON. I am, I am.

Chairwoman WOOLSEY. Okay.

Mr. WILSON. Thank you for convening this hearing on Immigration and Customs Enforcement, ICE's efforts to enforce our immigration laws. I am particularly pleased that ICE will be here this morning with Mr. Spero to discuss the policies that have been developed to handle the humanitarian issues that are the subject of today's hearing.

An unfortunate byproduct of the failure to overhaul the immigration system has been a large number of non-work-eligible individuals working in the United States, establishing families and putting down roots in our communities, only to have their lives upended when it is discovered that they are here illegally. This is damaging to everyone involved, from the workers and their families and the employers who, in many cases, are unknowingly employing ineligible workers.

However, unlike many problems facing our Nation, this is one in which there is an obvious, albeit incomplete, solution, a sound employment verification system.

The issue is so important to me that I am a cosponsor of the Secure America through Verification and Enforcement Act, or SAVE Act, H.R. 4088, and the New Employee Verification Act, or NEVA, H.R. 5515.

I would encourage Congress to take action on immigration reform by allowing a vote on H.R. 4088. To date, 188 Members have signed a discharge petition to bring that bill, offered by a Member of the majority party, to a vote by the full House. Still, the majority has failed to follow or allow an up and down vote.

I formerly practiced immigration law to promote legal entry, and I know the value of legally entering America. Congress must continue to work to improve our immigration system to eliminate just the issues this hearing is designed to address. But it is unreasonable for us to narrow our focus to just one small issue in the larger challenge posed by our broken borders and flawed immigration system.

For instance, this committee has not yet explored the prevalence of identity theft, nor the scourge of illegal drug trafficking, both of which are closely linked to a system that permits illegal immigration. Just last week, it was reported that the largest-ever immigration raid took place in Iowa, with nearly 400 persons arrested.

Of interest to our hearing today, an article by the Associated Press reported that "fifty-six were released on humanitarian grounds, typically because their arrest would leave a child with no custodian. A handful were released because of medical conditions."

Madam Chairwoman, I would request that the Associated Press article be included in the record of today's hearing.

[The information follows:]

[Associated Press article]

Immigration Raid in Iowa Largest Ever in U.S.

By HENRY C. JACKSON

DES MOINES, Iowa (AP)—A federal immigration raid at a kosher meatpacking plant in northeast Iowa was the largest such operation in U.S. history, with nearly 400 people arrested, federal officials said Tuesday.

Immigration and Customs Enforcement officials said at least 390 people were arrested on immigration charges as part of a raid Monday morning at Agriprocessors Inc. in Postville. The plant had about 900 workers before the raid.

Most of the 314 men and 76 women arrested are from Guatemala and Mexico, but some were from Ukraine and Israel.

"Based on the number of * * * arrests, this is the largest single site operation of its kind ever in the United States," said ICE spokesman Tim Counts.

The raid followed a months-long investigation into Agriprocessors, the largest kosher slaughterhouse in the world.

ICE officials would not comment on whether company officials could face criminal charges. Telephone messages left with Agriprocessors on Tuesday were not returned.

Of those initially arrested, officials said 56 were released on humanitarian grounds, typically because their arrest would leave a child with no custodian. A handful were released because of medical conditions.

Men were being held at temporary housing at the National Cattle Congress Fairgrounds in Waterloo, where they are expected to be processed by Wednesday night and moved to other locations by Thursday. Women are being held at the Hardin County jail.

The American Civil Liberties Union of Iowa condemned the raids in a statement Tuesday.

"It appears that detainees are not receiving adequate time to meet with their lawyers, and that defense attorneys are being overwhelmed by requests to represent far more clients than is advisable—or perhaps even ethical," said Ben Stone, the group's president. "We are concerned that the sheer size of this raid is likely to result in numerous violations of the U.S. Constitution, which protects the due process rights of all persons in this country."

Counts said those arrested had and would have adequate time to meet with their attorneys.

Everyone arrested Monday has been charged with immigration violations. So far 20 of them also have been arrested on a variety of criminal charges, including aggravated identity theft and false use of Social Security numbers, said Bob Teig, a spokesman for the U.S. attorney's office.

Those facing criminal charges began appearing Tuesday afternoon in a makeshift federal court at the Cattle Congress grounds in Waterloo, said U.S. Attorney Matt M. Dummermuth.

Anyone detained on a criminal charge will be placed in the custody of the U.S. Marshals Service. People charged only with immigration violations will remain in ICE custody before going through removal proceedings, including a hearing before an immigration judge. Those hearings will take place throughout the country, Counts said, depending on space.

According to a search warrant application and affadavit dated May 9, federal officials relied on a variety of sources, including former employees and at least one undercover source who wore a wire and became an employee of the plant at ICE's request.

According to the search warrant application, the undercover source said that some employees were paid with cash, and that those workers wore specially colored work hats to denote their status. Other employees were paid with checks that did not bear Agriprocessors' name.

Sources in the warrant application also said they saw what appeared to be underage workers at the plant.

According to the company's Web site, Agriprocessors was founded in 1987 by the Rubashkim family. The company's kosher and non-kosher products are found in many national supermarket chains.

Mr. WILSON. Clearly, the article shows that steps are being taken to address humanitarian concerns we are looking at today, but the article also brings to light another issue that we are not considering today. For the same article, and I quote, "Everyone arrested Monday has been charged with immigration violations. So far, 20 of them also have been arrested for a variety of criminal charges, including aggravated identity theft and false use of Social Security numbers."

So while I appreciate the opportunity to examine these issues before us today, I would like to state for the record my disappointment at the majority's unwillingness to allow real action on immigration reform. Hearings will not divert the attention of the American people, and ignoring some of the most troubling side effects of our broken immigration system will not be enough. We need real action.

Thank you, and I yield back.

Chairwoman WOOLSEY. Thank you.

I don't hear any objection. I would like to allow Congressman Hinojosa from Texas, the Chair of the Higher Education Subcommittee, to make opening remarks out of order. Without objection.

Mr. HINOJOSA. Thank you, Madam Chairman. Thank you very much. Thank you for allowing me to join this subcommittee today.

I am deeply grateful to Chairwoman Woolsey and Ranking Member Joe Wilson for calling this hearing to highlight the terrible impact and the policy of stepped-up immigration raids is having on children and communities.

Today, we must ask ourselves if our enforcement-only approach to immigration is worth it. It's estimated that there are approximately 4.7 million children who have an undocumented parent. Two-thirds of these children are U.S. citizens. Late last year, before the most recent round of raids and detentions, The New York Times reported that of at least 13,000 children, one or both of their parents were deported in the last 2 years.

Children are paying the highest price of all for broken immigration Federal policies. They are being torn from their families. They live with the constant fear that any moment their parents or loved ones will be sent away.

Instead of working towards comprehensive immigration reform, this administration is now pursuing a policy of enforcement, no matter what the cost. Instead of pursuing a policy that addresses real threats to our Nation's security, we have reports of ICE agents staking out migrant and seasonal Head Start centers for enforcement. When we reauthorized Head Start, we included provisions to prioritize the expansion of migrant and seasonal Head Start to keep young children out of the fields.

ICE, in targeting these programs for enforcement activities, has created an environment of fear and intimidation. As a result, families are avoiding these centers. Children are denied high-quality, safe, preschool opportunities and are often left with no option except to accompany their families to the fields.

In April of this year, the Congressional Hispanic Caucus called upon ICE to immediately stop this practice and to issue guidance to their field offices that social service programs are not to be targets of enforcement activity. Public health and safety must take precedence over these activities. As of today, there has been no response to the Congressional Hispanic Caucus from ICE.

Instead of requiring that immigrants legalize their status and putting the laws in place for them to do so, our policy is to arrest people, place them in detention camps and neglect their health needs and human rights. This represents a moral humanitarian crisis for this Nation.

The only solution is to fix the problem. When laws are unjust, we change them. There's no justice in our current immigration policy, and it's time for change.

Thank you, Madam Chairman; and I yield back.

Chairwoman WOOLSEY. Thank you very much.

I would like to introduce our very distinguished panel of witnesses, who are here with us this morning, in the order that they will be speaking.

First, we will have James Spero, who is currently the Acting Deputy Assistant Director of the ICE Critical Infrastructure and Fraud Division. Prior to this assignment, Mr. Spero served as Unit Chief for the Identity and Benefit Fraud Unit at ICE headquarters. Before that, he was an Acting Assistant Special Agent in Charge of the ICE special agents in the District of Columbia. It's called the SAC/DC. Mr. Spero has an undergraduate degree in economics from St. John's University in New York City.

Janet Murguía is President and CEO of the National Council of La Raza, a position she has held since January of 2005. Ms. Murguía began her career as legislative counsel for former Kansas Congressman Jim Slattery. She then worked at the Clinton White House, working her way up to the position of Deputy Assistant to the President. After leaving the executive branch, Ms. Murguía served as Deputy Campaign Manager and Director of Constituency Outreach for the Gore-Lieberman Presidential campaign. She received both her bachelor's and JD from the University of Kansas.

Katherine Gibney is principal of San Pedro Elementary School in San Rafael, California. Approximately 96 percent of San Pedro's student population is Latino, with the largest cultural groups coming from Guatemala, El Salvador and Mexico. Prior to her position as principal of San Pedro school, Ms. Gibney served as K-5 summer

school principal, new teacher adviser and K-8 literacy coach for the San Rafael elementary school district. Ms. Gibney holds a bachelor of arts degree in Spanish and a multiple subject teaching credential from the University of California, Irvine, and an administrative credential from San Francisco State University.

Simon Romo is the Chief Children's Court Attorney for the New Mexico Children's Youth and Families Department. Mr. Romo manages the legal staff for the Protective Services Division throughout the State of New Mexico. He has 22 years of experience with the Children, Youth and Families Department and its predecessor agency. He is a certified national child welfare law specialist and member of the National Association of Council for Children and the American Bar Association. Mr. Romo has been a licensed attorney in many in New Mexico since 1985. He also holds a master's degree in social work from New Mexico Highlands University.

I welcome all of our witnesses.

For those of you who have not testified here before us in the past, let me explain the lighting system. We have a 5-minute rule. Everyone, including members, is limited to 5 minutes of presentation or questioning.

So the green light is illuminated when you begin to speak. When you see the yellow light, it means that you have 1 minute left. When the light turns red, then you are asked to conclude your testimony. We don't hang you out to dry mid-sentence. Don't worry about that. But if you have more to say, when—during the question and answer period, feel free to add what you think you may have missed.

First, now, we will begin with our first witness, and that is Mr. Spero.

STATEMENT OF JAMES SPERO, ACTING DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS, CRITICAL INFRASTRUCTURE AND FRAUD, ICE

Mr. SPERO. Good morning, distinguished members of the subcommittee. I am pleased to appear before you today to discuss ICE's law enforcement operations.

ICE is, first and foremost, a Federal law enforcement agency with the mandate of protecting national security and public safety by enforcing the Nation's immigration and customs laws. ICE conducts its law enforcement operations lawfully, professionally, and humanely and takes extraordinary steps to identify documents and act appropriately regarding humanitarian concerns of individuals encountered during law enforcement operations. In planning enforcement operations, ICE agents specifically plan for the possibility that individuals who are arrested may also be a sole caregiver or that their detention may otherwise place an undue hardship on their families.

ICE strikes a balance between the operational objectives of enforcing the law and any humanitarian issues that may arise as a result of the enforcement operation. ICE has developed work site enforcement guidelines that field offices use when developing their operational plans to ensure that individuals who have been arrested and have unattended minors or family members with health factors are identified at the earliest possible point.

During large work site enforcement operations, ICE coordinates with Public Health Service professionals to provide a sufficient number of personnel to assist in the medical and humanitarian needs of arrestees.

In addition to PHS, when operationally possible, ICE coordinates with State and local social service agencies to assist with humanitarian screening.

If ICE is contacted by a social service agency or an NGO and provided with additional information or details regarding a humanitarian concern after an arrestee has been processed and detained, ICE carefully evaluates the new information and, if appropriate, may modify the conditions of release. This may include the possibility of release from custody or an alternative to detention such as electronic monitoring. During large-scale operations, in an effort to provide reliable and timely information to family and friends regarding an arrestee's custody status and detention location, ICE has taken the unprecedented step of establishing a dedicated 24-hour toll-free information hotline.

When making a custody determination, ICE considers any humanitarian issues raised by the PHS, a social service agency or contract support personnel and evaluates those in the context of other factors, including the arrestee's criminal record, immigration history or other relevant factors.

We used a similar humanitarian plan on our most recent large work site enforcement operation. On May 12, 2008, ICE agents conducted an operation at AGRIPROCESSORS INC., a meat processing plant in Postville, Iowa. Agents executed a criminal warrant and a Blackies search warrant at the company. The work site enforcement operation resulted in the administrative arrest of 389 undocumented alien workers, 304 of whom were subsequently arrested for criminal violations.

In this recent operation, as in all ICE law enforcement operations, extraordinary care was taken to determine if any arrestees were sole caregivers or had other humanitarian concerns. This process involved the direct questioning of all arrestees on the day of the enforcement operation and during interviews with PHS representatives. Detainees were questioned no less than three times about humanitarian issues such as child custody concerns. ICE arranged to have PHS professionals at the arrest site to immediately determine the needs and status of any children impacted by the operation. Through this comprehensive effort, 62 of those arrested were conditionally released for humanitarian purposes. Most were released from the arrest site while the operation was ongoing.

Work site enforcement operations are not poorly planned, haphazard instances, but rather are professional law enforcement operations conducted by a professional law enforcement agency whose primary mission is the enforcement of the laws of the United States and the protection of the American people.

ICE does, and will continue to, take great care with respect to the humanitarian concerns of aliens taken into custody during law enforcement operations and exercise discretion regarding custody when and if the exercise of such discretion is appropriate.

On behalf of the men and women of ICE who place their lives at risk every day to enforce the laws of this Nation, making it a

safer place to live and work, I would like to thank you for your continued support. These men and women have a difficult job to do in often dangerous circumstances, but they do so as consummate law enforcement professionals.

Thank you for your time, and I look forward to answering your questions.

Chairwoman WOOLSEY. Thank you.

[The statement of Mr. Spero follows:]

Prepared Statement of Hon. James C. Spero, Deputy Assistant Director, Office of Investigations, U.S. Immigration and Customs Enforcement, Department of Homeland Security

Introduction

Good morning, distinguished Members of the Subcommittee. I am pleased to appear before you today to discuss U.S. Immigration and Customs Enforcement (ICE) law enforcement operations. I want to thank the Subcommittee for its continued support of ICE, which has allowed the dedicated men and women of the agency to accomplish so much.

ICE is first and foremost a federal law enforcement agency with the mandate of protecting national security and public safety by enforcing the nation's immigration and customs laws. ICE conducts its law enforcement operations lawfully, professionally, and humanely and takes extraordinary steps to identify, document, and act appropriately regarding humanitarian concerns of the individuals encountered during law enforcement operations. In planning enforcement operations, ICE agents specifically plan for the possibility that individuals who are arrested may also be a sole caregiver or that their detention may otherwise place an undue hardship on their families.

When planning worksite enforcement operations, ICE strikes a balance between the operational objectives of enforcing the law and any humanitarian issues that may arise as a result of the enforcement operation. ICE has developed worksite enforcement guidelines that field offices use when developing their operation plans to ensure that individuals who have been arrested and have unattended minors or family members with health factors are identified at the earliest point possible. ICE takes this responsibility very seriously and these humanitarian factors are carefully taken into account when ICE makes custody decisions.

During large worksite enforcement operations, ICE coordinates with Public Health Service (PHS) professionals to provide a sufficient number of personnel to assess the medical and humanitarian needs of arrestees. This assessment is then used by ICE to identify arrestees who may be considered for release from custody due to an urgent humanitarian concern. PHS personnel are given prompt access to all arrestees under safe and humane conditions on the day of the enforcement action. To the extent possible, PHS personnel are provided access on a "rolling basis" immediately after the processing of each arrestee.

In addition to PHS, when operationally possible, ICE coordinates with state and local social service agencies to assist with humanitarian screening. Furthermore, after an operation begins, ICE proactively contacts the local social service agencies and local nongovernmental organizations to advise them of the operation and request their assistance in identifying any humanitarian issues that come to their attention. We provide these groups with contact information for an ICE representative who will immediately address any issues not previously identified.

If ICE is contacted by a social service agency or an NGO and provided with additional information or details regarding a humanitarian concern after an arrestee has been processed and detained, ICE carefully evaluates that new information and if appropriate, may modify the conditions of release. This may include the possibility of release from custody or an alternative to detention such as electronic monitoring. During large scale operations, in an effort to provide reliable and timely information to family and friends regarding an arrestee's custody status and detention location, ICE has taken the unprecedented step of establishing a dedicated 24 hour toll-free information hotline.

When making a custody determination, ICE considers any humanitarian issues raised by the PHS, a social service agency, or contract support personnel and evaluates those in the context of other factors, including the arrestee's criminal record, immigration history, and other relevant factors. Generally, aliens who are ordered detained by ICE can seek a bond re-determination hearing before an immigration judge who has authority to review and modify ICE's detention decisions. ICE also

makes every effort to not transfer detainees out of the area where they are arrested; however, this is not always possible due to the limitations of detention locations.

We used a similar humanitarian plan on our most recent large worksite enforcement operation. On May 12, 2008, ICE agents conducted an operation at AGRIPROCESSORS INC., a meat processing plant in Postville, IA. Agents executed a criminal search warrant and a Blackies search warrant at the company. This worksite enforcement operation resulted in the administrative arrest of 389 undocumented alien workers, 304 of whom were subsequently arrested for criminal violations.

In this recent operation, as in all ICE law enforcement operations, extraordinary care was taken to determine if any arrestees were sole caregivers or had other humanitarian concerns. This process involved the direct questioning of all arrestees on the day of the enforcement operation and during interviews with PHS representatives. Detainees were questioned no less than three times about humanitarian issues such as child custody concerns. ICE arranged to have PHS professionals at the arrest site to immediately determine the needs and status of any children impacted by the operation. Through this comprehensive effort, 62 of those arrested were conditionally released for humanitarian purposes; most were released from the arrest site while the operation was ongoing.

ICE takes extraordinary efforts to ensure that its law enforcement operations are conducted in a safe, humane, and professional manner, including extensive preoperational planning and coordination. Worksite enforcement operations are not poorly planned, haphazard incidents, but rather are professional law enforcement operations conducted by a professional law enforcement agency whose primary mission is the enforcement of the laws of the United States and the protection of the American people.

ICE does, and will continue to, take great care with respect to the humanitarian concerns of aliens taken into custody during law enforcement operations and exercise discretion regarding custody when, and if, the exercise of such discretion is appropriate.

Conclusion

On behalf of the men and women of ICE who place their lives at risk every day to enforce the laws of this Nation making it a safer place to live and work, I would like to thank you for your continued support. These men and women have a difficult job to do in often dangerous circumstances but they do so as consummate law enforcement professionals. Thank you for your time and I look forward to answering your questions.

Chairwoman WOOLSEY. Ms. Murguía.

STATEMENT OF JANET MURGUÍA, PRESIDENT, NATIONAL COUNCIL OF LA RAZA

Ms. MURGIA. Thank you, Madam Chairwoman Woolsey. Thank you, subcommittee members, and a special thank you to Congressman Hinojosa for your leadership. I appreciate you being here today. Thanks for doing this hearing and the opportunity for us to testify before you today about the challenges and impacts of immigration enforcement on America's children.

I am particularly grateful that the committee is taking up one of these challenges, one that has reached crisis proportions in many communities around the country. There is substantial and growing evidence that the use of workplace raids as an immigration enforcement strategy is causing great harm to children, schools, child care centers and communities in a way that is harmful well beyond the immigrant population.

Madam Chairwoman, I would like to be clear. NCLR believes that the United States can and should enforce our immigration laws. As with any set of laws, the Nation should enforce them wisely and well. This requires an examination of the costs and benefits of particular enforcement strategies to make sure that the prior-

ities and tactics we choose are not undercutting other important laws, values and goals.

The work of this committee is absolutely critical to inspiring that kind of conversation with respect to immigration enforcement. I very much appreciate the committee's attention to the impact of workplace raids on America's children.

You have my detailed statement that will be submitted for the record; and I would like to make, though, this morning four key points.

First, there is growing evidence that immigration raids are undercutting the very important priorities, other important priorities,including the protection and education of American children, as well as protecting children from labor law abuse. We saw this in Iowa.

It is also clear that the increase in workplace raids is causing enormous strain on school systems, child care centers, churches and other community institutions. This is well documented in the report that NCLR and the Urban Institute published last year.

Madam Chairwoman, I hope that you will allow us to put this in the record, also. It is a report that is called Paying the Price: The Impact of Immigration Raids on America's Children. I think it's very informative in terms of the overall impact.

Chairwoman WOOLSEY. Without objection.

["Paying the Price: The Impact of Immigration Raids on America's Children," published by the Urban Institute, may be accessed at the following Internet address:]

http://www.nclr.org/content/publications/detail/49166/

Ms. MURGUÍA. School systems and child care centers are forced to mobilize on very short notice to provide protection for children whose parents have been detained. They must support children who are traumatized and terrified. As one school administrator told us in this report, the raid which took place in his community distracted the entire school system from doing its work in educating our children and truly making sure that no child is left behind.

In Iowa last week, a massive raid created panic in the school and forced the Catholic parish of Saint Bridget's to mobilize to feed 450 migrants the first night of the raid and shelter 150 children who spent the night on mats and in pews. As we prepared this testimony, the church was still feeding and sheltering frightened families. Children are going to school from the church on buses and returning to the church after school.

NCLR was particularly alarmed to learn that the employer in Iowa was under investigation by State and possibly Federal authorities for labor law violations, including employing children as young as 13.

The investigation of these abuses has ground to a halt as a result of the immigration raid. As many as a dozen children, many of whom I understand were prepared to be witnesses against this employer, were detained and are now in removal proceedings. The employer, meanwhile, has regrouped and reopened the next day.

We just heard from our ICE enforcement official here about how many undocumented immigrants were taken in that raid. But if we could have gotten one unscrupulous and abusive employer, that would have sent a much more powerful message if we are going to accomplish many of our enforcement goals.

The second thing I would like you to know is that ICE has made an important effort to ameliorate some of the most disturbing problems resulting from these raids by issuing guidance governing the treatment of nursing mothers, juvenile detainees and other humanitarian concerns. While this is encouraging that ICE is responding to these severe humanitarian concerns, last week's raid in Iowa demonstrates that ICE's efforts have not been terribly effective.

While some detainees were indeed released for humanitarian reasons, as we have heard, there is also evidence that ICE guidance was not always followed. NCLR has learned of at least two nursing mothers detained with little access to their food or their children for nearly 24 hours. Our associates in Iowa tell us that very few detainees were provided with access to telephones so that they could notify their families of their whereabouts and make arrangements for their children.

Churches and school systems have been forced to guess as to the best way to provide supervision for the children who lose their parents suddenly this way. In our report we documented that, in previous raids, we saw the churches and schools have to fill important roles as that safety net.

Third, I would just like to say that the committee's attention to the particular great concern with the presence of ICE authorities at Head Start centers, particularly those serving migrant workers, is very disturbing. We have seen a growing presence of ICE enforcement officials at day care centers, where they stop and drop them off. Then we have also seen them at different pickup times.

During the reauthorization of the Head Start Act, NCLR worked with many of you in a bipartisan way to expand our efforts to deal with these migrant children. I would hate to see those efforts undercut by some of these enforcement efforts.

Finally, Madam Chairwoman, I want to be as clear as we can be that we do support immigration enforcement where it needs to. We need to look at the strategies and weigh the costs and benefits, though, of our enforcement strategies. We are glad that you are here today making sure that is done.

Thank you for the chance to testify.

Chairwoman WOOLSEY. Thank you.

[The statement of Ms. Murguía follows:]

Prepared Statement of Janet Murguía, President and CEO, National Council of La Raza

I. Introduction

Madam Chairwoman, subcommittee members, and members of the Congressional Hispanic Caucus, thank you for this opportunity to testify before you today about the impact of immigration enforcement on America's children.

The National Council of La Raza (NCLR)—the largest national Hispanic civil rights and advocacy organization in the United States—is a private, nonprofit, nonpartisan, tax-exempt organization established in 1968 to reduce poverty and discrimination and improve opportunities for Hispanic Americans. NCLR has a long history in the immigration debate; our work on this issue is focused on ensuring that we have an immigration system that functions in the best interest of the na-

tion. Immigration to the United States should be orderly and legal, promote economic growth, sustain our families, and be implemented in a way consistent with our best values in the United States. As you know, the country is far from achieving that goal. My organization, our Affiliates, and our many coalition partners are dedicated to an effort to reform U.S. immigration laws in a way that promotes order, fairness, and above all legality. Until a major immigration reform is enacted, the country will continue to cope with challenges resulting from the presence of roughly 12 million undocumented immigrants in our workforce and in our communities.

I am particularly grateful that the committee is taking up one of these challenges, one that has reached crisis proportions in many communities around the country. There is substantial, growing evidence that the use of workplace raids as an immigration enforcement strategy is causing great harm to children, schools, child care centers, and communities well beyond the immigrant population. Madam Chairwoman, let me be clear: NCLR believes that the United States can and should enforce its immigration laws. As with any set of laws, the nation should enforce them wisely and well. This requires an examination of the costs and benefits of particular enforcement strategies to ensure that the priorities and tactics we choose do not undercut other important laws, values, and goals. The work of this committee is absolutely critical to inspiring a reasonable conversation on immigration enforcement, and I sincerely appreciate the committee's attention to the impact of workplace raids on America's children.

II. Consequences of Immigration Enforcement for Children

A. Report on Impact of Workplace Raids

There has been a significant increase in interior immigration enforcement operations by the Department of Homeland Security in the last year and a half. In 2007, according to U.S. Immigration and Customs Enforcement (ICE), more than 4,900 arrests were made in connection with worksite enforcement investigations, representing a 45-fold increase in criminal worksite arrests compared to fiscal year 2001.[1] This year, ICE has stepped up its enforcement actions by raiding individual homes as well as worksites; in April ICE conducted a five-state sweep of Pilgrim's Pride poultry plants last month, and just last week it raided Agriprocessors, Inc., a kosher meatpacking plant in Postville, Iowa, a raid which ICE has called the largest in history.

The impact of immigrant enforcement raids on children is often disregarded and poorly understood. For these reasons, NCLR commissioned the Urban Institute to conduct a study of three communities where large-scale worksite raids occurred in 2007. We had a strong interest in moving beyond the anecdotal accounts reported by the media to documenting the challenges that children face as a result of immigration enforcement actions. NCLR believes that the impact on children and communities must be considered when making decisions about immigration enforcement—or any law enforcement—strategy. We believe strongly that such a debate should be based on facts and empirical evidence as much as possible, which is why we invested in a thorough report. I request that the report be included in the official record of this hearing.

NCLR released this report, Paying the Price: The Impact of Immigration Raids on America's Children, in October 2007. The findings confirmed the inevitability of hardship to children resulting from an immigration raid. There are approximately five million children in the U.S. with an undocumented immigrant parent, the vast majority of whom are U.S. citizens and under the age of ten. The Urban Institute researchers found that, for every two immigrants detained as a result of worksite raids, approximately one child is left behind. Further, the study shed light on the fact that many children slipped through the cracks as a direct result of ICE's enforcement protocols. For example, ICE did not provide detained immigrants with access to telephones. This meant that parents were unable to notify family members and coordinate alternative child care arrangements, forcing some children to stay with landlords or babysitters indefinitely or, worse still, home alone. ICE also failed to consider hardship to children when making custody determinations. Some children experienced the loss of both parents who had been placed in detention locally or in detention facilities out of state, which made it virtually impossible for these children to visit them.

There were also accounts of ICE detaining nursing mothers, resulting in infants being forcibly weaned from breast milk. In a 2006 raid in New Bedford, Massachusetts, an eight-month-old infant was taken to the emergency room to be treated for dehydration after her mother was detained. The infant's pediatrician appealed to

[1] See *http://www.ice.gov/pi/news/newsreleases/articles/080502sanfrancisco.htm.*

ICE officials to release the child's mother, citing medical reasons for which the child needed to continue breastfeeding. NCLR and our sister organizations in the Latino community wrote to the Department of Homeland Security after this incident to raise concerns; we received a response stating that the incident never occurred, despite extensive evidence, including video footage of the child and interviews with the emergency room physician who treated her.

In addition, the report found evidence of increased economic hardship, social stigma, fear, isolation, family separation, disruptions in schooling, and negative emotional and mental health consequences for children. Across the three communities examined in the report, teachers, caregivers, and mental health professionals consistently described children with symptoms of depression and other psychological disturbances such as sleep disturbance, loss of appetite, fearfulness, mood swings, and feelings of abandonment by their parent(s).

Beyond the negative consequences to children's well-being resulting from worksite raids, the report provides evidence that our nation's social institutions—such as school and child welfare agencies—that are tasked with protecting and nurturing children are playing the role of first responders in the aftermath of a raid. For example, school officials interviewed for our report discussed steps they undertook on the day of the raid to ensure the well-being of children, such as instructing bus drivers to release children only at homes where there was an adult present, asking teachers to stay late to help care for children, and coordinating mental health services. In the days following the raid, school personnel visited homes and attended community gatherings reminding parents that schools were a safe place for children and urging their return to school. A school leader in Grand Island, Nebraska made a poignant statement regarding how the raid served as a diversion from the school's primary mission of ensuring that no child is left behind.

Today, nearly every time there is a significant immigration enforcement operation, NCLR receives reports from the community similar to those noted above. There is a similar pattern with each raid: school systems and child care centers must scramble to find relatives or caregivers for children whose parents have abruptly disappeared. These institutions, along with community organizations, must grapple for days or weeks with an emergency situation in which families struggle to find the location of detainees, who are often unable to access legal services. Even since the implementation of ICE guidelines in response to these many problems, there are always cases of children left behind and nearly always cases of nursing mothers separated from their infants for long periods. Moreover, school systems and child care centers report enormous long-term challenges in meeting the needs of children whose families have been forcibly and suddenly separated in this way.

B. Continuing Impact: Particular Concerns at Migrant Head Start Centers

There is also growing alarm in our community about ICE's engagement in intimidation and enforcement tactics near our public schools and Head Start programs. For example, NCLR has several Affiliates who operate Head Start programs that serve the children of migrant farmworkers. Last spring, many of these programs began reporting the following incidents (see Attachment 1—MSHS Enforcement Chart):

- ICE agents parking near migrant Head Start centers during drop-off and pick-up times
- ICE agents and local law enforcement following school buses carrying children under the age of five, beginning as early as 4:00 a.m.; in some instances, ICE followed school buses for the entire route, as long as two hours
- ICE agents and local law enforcement following migrant Head Start staff to and from the center during lunch breaks

These actions on the part of ICE are having a chilling effect on the participation of migrant children in Head Start. Quite simply, the presence of ICE around Head Start centers is causing fearful parents to keep their children away from the program. In fact, the low rates of attendance registered by these programs has even garnered the attention of U.S. Department of Health and Human Services, Office of Head Start, which monitors Head Start enrollment and sanctions programs for failing to meet their enrollment targets. During the reauthorization of the Head Start Act, NCLR worked closely with this committee to ensure that migrant children benefit from greater access to Head Start. We were proud of this committee's bipartisan work to prioritize the expansion of migrant Head Start and its commitment to ensuring that migrant children exit the fields and enter classrooms where they can learn and grow. It is deplorable that the laudable goals of this committee have been virtually undone by the current immigration enforcement strategy of this Administration.

We are also aware of instances in which ICE has actually entered private homes and school buildings to remove children. For example, in October 2007, a Honduran immigrant mother, who was in her Ohio home breastfeeding her nine-month-old infant when ICE agents entered her home, was taken into custody while ICE agents went to her children's school to remove her children.[2] In another account, an NCLR Affiliate, HELP-New Mexico, Inc., contacted NCLR in September 2007 to report that ICE agents and local police entered their preschool program, located inside the Sunrise Elementary School in Chaparral, New Mexico, to remove children whose parents had been detained in a local sweep of Hispanic businesses and homes.[3] One child, Virginia Ana Rodriguez, was released to her father, who was in the custody of four fully armed Otero County police officers at the time. The officers initially brought the father into the main office of Sunrise Elementary until the principal asked them to accompany her into the conference room so as not to alarm other students and staff. These same agents also entered the local middle and high schools to remove children of detained immigrants.

In the immediate weeks following this incident, school officials at the Gadsden School District documented that approximately 200 students were absent and a small number returned to school during the remainder of the school year. The HELP-New Mexico preschool program also registered lower rates of enrollment in the ensuing weeks, and has yet to fully reach enrollment targets consistent with previous school years. A preschool teacher reports the challenges they now face in enrolling children in the program because parents remain afraid of the possibility that ICE agents will return to the center. Clearly, our current approach to immigration enforcement is instilling fear among our children and families and undermining our important social policy goals for children, and the programs designed to meet these goals.

III. Limitations of ICE Policies for the Protection of Children

Many of the problems that are documented in the NCLR/Urban Institute report have also been the subject of media attention, litigation, and congressional inquiries. As a result of this pressure, during 2007, ICE developed and released three policy memoranda that consider children in the conduct of immigration enforcement actions. While these memoranda represent an improvement in ICE sensitivity to these important considerations, experience with immigration raids since the development of these policies suggests that they have significant limitations. The scope and the limitations of these guidelines are discussed as follows:

(1) Guidelines for Identifying Humanitarian Concerns Among Administrative Arrestees for Worksite Enforcement Actions, November 16, 2007. Following the New Bedford, Massachusetts raid in March 2007, Senators Edward Kennedy and John Kerry and Congressman William Delahunt worked with ICE to develop guidelines for quickly identifying persons arrested who are sole caregivers or who should be released from custody for other humanitarian reasons. The guidelines apply to larger worksite raids that result in the arrest and/or detention of more than 150 immigrants. The guidelines stipulate that ICE will:

- Develop a comprehensive plan for quickly identifying humanitarian issues among detainees.
- Coordinate with federal health and/or state and local social services, including allowing these entities to serve as intermediaries to help screen and assess humanitarian issues among detainees.
- Facilitate communication among detainees and their family members by providing access to telephones; ICE is also expected to coordinate with nongovernmental agencies (NGOs) and make information on detainees and ICE personnel available to these entities in real time, so that they can help to screen for humanitarian concerns.

(2) Memorandum Outlining Prosecutorial Discretion for Nursing Mothers, November 7, 2007. In response to mounting accounts of infants forcibly weaned from breast milk as a result of enforcement actions, ICE released guidelines highlighting the importance of discretion when making arrests and custody determinations of nursing mothers. These guidelines call for the following:

- Nursing mothers should be released on an Order of Recognizance or Order of Supervision, and the Alternative to Detention programs should be considered as an additional enforcement tool.
- In situations where ICE determines that nursing mothers should remain in custody, field personnel should consider placement in Berks or Hutto Family detention facilities.

---

[2] See *http://www.nytimes.com/2007/11/17/us/17citizen.html?fta=y.*

[3] For more information, see *http://www.aclu-nm.org/.*

(3) Memorandum Regarding Juveniles Encountered During Fugitive Operations, August 24, 2007. In March 2006, ICE agents raided a home in San Rafael, California and apprehended Kebin Reyes, a six-year-old U.S. citizen. ICE agents kept Kebin in detention for ten hours alongside his father, who repeatedly pleaded for access to a telephone to make alternative care arrangements for Kebin. The ACLU filed a lawsuit that led to the development of a memorandum concerning the treatment of minor children encountered during enforcement actions.[4] The memo stipulates the following:

• ICE should not take into custody a legal permanent resident or U.S. citizen minor child.

• ICE should coordinate the transfer of a minor child to the nearest child welfare authority or local law enforcement agency. If these options are not feasible, ICE should document the parent's request for the transfer of the child to a third party.

• To the greatest extent possible, ICE should coordinate with child welfare authorities prior to an enforcement operation.

In general, ICE appears to have made attempts to adjust its enforcement policies to consider humanitarian issues, including hardship to children. There is even some evidence to suggest that ICE has adhered to its stated objective of promptly releasing nursing mothers. For example, recent large raids in Van Nuys, California and Postville, Iowa demonstrate that ICE has released nursing mothers with electronic monitoring devices. However, there is also anecdotal evidence that the release of these mothers can be significantly delayed and the conditions of their detention inappropriate. NCLR has learned that one nursing mother detained last week in Postville was not provided sufficient access to food over a nearly 24-hour period before she was released to care for her infant.

However, the positive impact of ICE's guidance memoranda is severely limited with respect to providing any real assurances that children will be comprehensively and systematically protected in immigration enforcement activities. For example:

• The policy guidelines noted above are nonbinding, as they are not regulations and are not codified.

• There is no mechanism for holding ICE accountable for compliance with its own stated policies.

• The humanitarian guidelines for worksite raids only apply to larger raids of more than 150 people. Thus, it is unclear whether or not ICE will attempt to apply these guidelines in raids yielding less than 150 detainees.

• The guidelines noted above fail to address the undue burden placed on schools, early childhood centers, child welfare agencies, churches, and community-based organizations that are left to play the role of first responder in the aftermath of a raid.

• The guidelines fall short of accounting for all of the situations and scenarios in which children could potentially be harmed in an enforcement action. Simply put, the guidelines do not stipulate that all children, regardless of any type of enforcement action of any size, will have their best interests taken into account.

Unfortunately, there is substantial evidence that ICE does not consistently follow its own guidelines. For example, Immigration and Naturalization Services (ICE's predecessor) policy guidance dating back to 1993 strongly discourages immigration enforcement actions near schools.[5] The policy states that agents are to "attempt to avoid apprehension of and to tightly control investigative operations on the premises of schools, places of workshop, funerals, or other religious ceremonies." In 2004, the Bureau of Customs and Border Protection of the Department of Homeland Security reaffirmed the 1993 guidance. However, as noted above, there are mounting stories of ICE presence near schools and Head Start centers, providing clear evidence that ICE does not uphold the guidelines and is actively conducting enforcement operations in violation of them.

Even if ICE were to execute all of its existing policy guidance perfectly and expand its scope to include all children who are affected by immigration raids, there would still be a profound dissonance between the goal of enforcing our nation's immigration laws and the equally important goal of protecting America's children and supporting the institutions that are charged with meeting their needs. Even if the federal government were to use great care and attention when removing parents from their workplaces, homes, families, and communities—which is far from the case now—our current enforcement strategy relies heavily on raids which undeniably and inevitably has an impact on American children and creates difficult chal-

---

[4] For more information, see *http://www.aclu.org/immigrants/detention/29526prs20070426.html.*

[5] See "Enforcement Activities at Schools, Places of Worship, and at Funeral or Other Religious Ceremonies," U.S. Border Patrol, April 2004, INS, June 2001& May 1993.

lenges for schools, child care centers, and the child welfare system in meeting their needs.

IV. Impact of Last Week's Raid in Postville, Iowa

Last week's workplace raid in Postville, Iowa provides the best evidence that, despite ICE's efforts to ameliorate some of the impact of enforcement actions on children, the negative effects of workplace raids on American children, school systems, and social service infrastructure can be catastrophic.

A first major concern is that the raid itself appears to have undercut an investigation into the use of child labor at the Agriprocessors plant in Postville. There is substantial reason to believe that the employer in this case was highly problematic and was likely violating a number of laws in the treatment of his employees, including employing children—allegedly recruiting some of them from the local middle school. There is mounting evidence that state and possibly federal authorities were aware of labor law violations, including laws prohibiting child labor, in advance of the raid. State authorities have confirmed that they were conducting an investigation, and the United Food and Commercial Workers Union wrote to ICE to request that an immigration enforcement action not take place, citing fears that it would undercut the enforcement of labor laws intended to protect all of the workers at the plant.[6] ICE appears to have disregarded this evidence; indeed, as many as a dozen child workers—one as young as 13—who were evidently poised to provide information that would assist in an investigation of labor law violations, were instead detained for several days by ICE authorities. As a result, the investigation into labor law violations has ground to a halt.

The employer in this case, who is widely reported to have been abusive and was almost certainly illegally employing children, was able to reopen operations the next day, while the workers whose stories could lead to prosecution have faced detention and likely removal from the country. Federal authorities missed an opportunity to prosecute abuse of workers—including children—which could have a profound impact on protecting workers in the state and in the meat processing industry well beyond the immigrant community. It is not only unjust that all of the penalties associated with this enforcement action have been borne by immigrant workers, rather than by the employer, it is also a clear example of how the actions of one federal agency enforcing one set of laws can undercut the enforcement of another important set of laws designed to protect all workers, including and especially children.

There are also significant concerns about ICE officials failing to fully implement the ICE guidelines regarding nursing mothers. NCLR has learned that some nursing mothers were released for humanitarian reasons, however, in at least a couple of cases, there were substantial delays and inadequate nutrition provided to a mother in detention.[7]

In addition, two major provisions of ICE humanitarian guidelines specifically intended to protect children appear not to have been followed in Postville:

• Access to intermediaries: ICE has said that it will allow for third-party intermediary entities—either federal health officials, or state and local social services, or other contracted third-party groups—to screen detainees for humanitarian reasons. This is important because many immigrants are reluctant to reveal to ICE that they are parents for fear that their children will also be detained. NCLR's contacts in Iowa have been unable to substantiate that any intermediary party assisted in screening of detainees.

• Communication: ICE has said that it will facilitate access to free telephones. According to NCLR's contacts in Iowa, very few families have been able to communicate with a detained family member. This complicates the ability of parents in detention to make alternative arrangements for their children and considerably increases the stress on nondetained family members, including children. Similarly, it adds a layer of uncertainty for school systems, child care centers, and social service agencies that are dealing with issues of finding appropriate adult supervision for children whose parents have been detained.

---

[6] See coverage from WHO TV Des Moines: *http://www.whotv.com/global/story.asp?s=8332288.*

[7] NCLR has spoken to Sister Kathy Thill of the Sisters of Mercy of Waterloo, Iowa. She recounted that her community was contacted in the middle of the night on the night after the raid to pick up a young mother who was being released. They were called multiple times between midnight until the mother was finally released at 4:00 a.m. The young woman had a small child she was still breastfeeding at night, and she was released because she voiced concerns over whether the child would be okay without her. While in detention, this young woman was given very little to eat and was not given access to a telephone to call her family. When she was finally picked up by Sister Kathy at 4:00 a.m., she had not eaten since 2:00 p.m. the previous day.

Finally, and perhaps most significantly, it is important for the committee to have a clear picture of what happens in a community like Postville when a worksite raid takes place. We have seen the same dynamics in nearly every major raid, both before and since ICE has changed its guidelines in the interest of protecting children.

Specifically, as federal agents in trucks and helicopters descended on the plant in Postville, an uproar occurred in local schools, from which the helicopters were clearly visible, and students with immigrant parents were immediately affected, as were teachers and administrators. The situation for children in school was documented eloquently in the Des Moines Register by a teacher; I have attached it to this testimony.

Almost immediately, as the raid was taking place, the local Catholic Parish—St. Bridget's—became a focal point for community activity. NCLR spoke with individuals at the church who described the scene as being chaotic. About 150 children (most of whom are U.S. citizens) spent the night there, and the church provided food to more than 400 children throughout the first 24 hours following the raid. More than 24 hours after the raid there were at least 150 people still at the church, where they attempted to match up every child with a relative. The burden of ensuring that children are matched up with relatives and other caregivers has fallen squarely on the shoulders of the church, school, and community.

As this testimony was being prepared, there were still families seeking sanctuary in the church. Families have been afraid to go to their homes because of the continued ICE presence in Postville. The church was still feeding hundreds of children and families nearly five days after the raid. Children are being escorted on buses from the church to school and back. Church and school officials report that access to counselors and mental health professionals for children has emerged as one of many pressing unmet needs. In short, the disruption to the larger community in Postville, to its school system, churches, and community service infrastructure, has only just begun. As NCLR and the Urban Institute documented in the Paying the Price report, the impact of a major raid like this one is deep, long-lasting, and destructive.

V. Conclusion and Recommendations

Madam Chairwoman, I want to be as clear as I can be that NCLR is not calling for a halt to immigration enforcement. We recognize that the nation can and should control its borders, and that it is reasonable to conduct interior enforcement activities. But it is also true that every enforcement agency must establish priorities and parameters for its work, and it is reasonable—indeed, essential—for these parameters to include consideration of other important policy and law enforcement goals.

It is vitally important to the well-being of America's children and all communities that the federal government engage in a conversation that results in good judgments about how to enforce our immigration laws without undercutting other important goals, such as child protection, education, and worker protection. In the Postville raid, immigration enforcement clearly trumped an important labor law investigation in a way that may have lasting implications for the workers—including children—in the meatpacking industry. To place children in detention while their exploitative employer regroups and reopens within a day is a clear indication that our enforcement priorities need examination.

In Postville, as in other raids which preceded it, school systems, child care centers, and the social service infrastructure have been left with a huge challenge of meeting the needs of children whose parents literally disappeared from one day to the next. The New York Times has estimated that some 13,000 American children have had at least one parent removed from the country;[8] surely this merits a conversation about whether workplace raids are causing more harm than good. NCLR believes that this committee has an important role to play in such a conversation.

While NCLR is glad to see that ICE has responded to these concerns, there is clear evidence that the workplace raids conducted over the last two years, as well as the ICE presence near Head Start centers and schools, are undercutting a variety of important priorities under the jurisdiction of this committee. It is also very clear that even ICE's carefully constructed guidance to avoid these problems will be insufficient to address this larger challenge. This problem is really a collision between very important policy goals. I don't believe we can regulate our way out of this dilemma with guidance or other tweaks. We need to make policy choices, and all of the implications of these choices should be on the table.

In closing, I know that the committee is aware that we are in a highly charged environment on the immigration issue. The longer that our immigration system remains broken and unaddressed by Congress, the longer that these and related problems—and the tensions surrounding immigration itself—will continue. Literally

[8] New York Times, November 17, 2007.

every day, NCLR uncovers new evidence supporting the misguided notion that any immigration enforcement is considered good enforcement, even if it does grave damage to our American citizens and our nation's most cherished values, and we have tolerated this environment for too long. Last week alone provided three examples of the ways in which ill-considered policy and enforcement judgments do great, if unintended, harm. Last week it became clear through extensive press coverage that the economic stimulus bill denies Americans, including military personnel, access to a new tax credit simply because they have immigrant family members. Just last week The Washington Post documented horrific abuses of immigrants in detention facilities, including denying critical medical care to some seriously ill detainees and injecting dangerous drugs into others. Again last week, NCLR and many others did what we could to support churches and community leaders in crisis in Postville in the aftermath of the ICE raid there. Every week the evidence mounts—evidence that we need to exercise judgment in the application of our laws affecting immigrants to avoid doing harm that we will later regret.

I urge the committee in the strongest possible terms to engage the Department of Homeland Security and the other congressional committees of jurisdiction to conduct serious assessments of the costs and benefits of workplace raids. NCLR believes that a thorough examination will inexorably lead to the conclusion that we need to change course in how we enforce our immigration laws.

Thank you for the opportunity to present this testimony today.

ATTACHMENT 1.—CHART OUTLINING IMMIGRATION ENFORCEMENT NEAR MIGRANT AND SEASONAL HEAD START CENTERS

[Prepared by the National Migrant and Seasonal Head Start Association]

Date	Location	Incident
April 2008	Holley, NY	Local Officers parked near MSHS center. Local Officers following staff leaving MSHS center.
April 2008	Immokalee FL	MSHS staff intervened on behalf of MSHS children when parents were detained and not released even when they presented proof of having young children to ICE officers and leaving the child without proper care.
April 2008	Bybee, TN	ICE officers parked a block from the MSHS center. Families' fear of being detained and separated from their children has forced parents to make a decision to take their children to the fields. Recently a couple of young parents made the decision to take their child with them and TIED the toddler in the pick up truck with the doors opened and the baby actually hung itself and died.
April 2008	Meter, GA	ICE Officials set up road blocks that block access to the MSHS center.
August 2007	Winnemucca, NV	ICE Officials parked near MSHS center and follow MSHS school transporting children as a result MSHS centers removed signage from buildings and buses.
June–October 2007	Hinton, OK	ICE officials questioning MSHS staff checking into hotels. MSHS staff was there to provide training and technical assistance to the local MSHS center.
May–November 2007	Semmes AL	ICE officers parked outside MSHS centers. Families were so fearful and chose not to register children for MSHS that the center did not open.

ATTACHMENT 1.—CHART OUTLINING IMMIGRATION ENFORCEMENT NEAR MIGRANT AND SEASONAL HEAD START CENTERS—Continued

[Prepared by the National Migrant and Seasonal Head Start Association]

Date	Location	Incident
September 2007	Chaparral, NM	Sheriffs, with ICE close behind, were doing raids of homes and businesses, without warrants, finding excuses to get people to open their doors, pulling over Latinos for traffic stops. When they determined that folks spoke Spanish, they called ICE over to ask for papers. They detained the undocumented folks, asked them about their kids, and then took them to the migrant HS center, operated by HELP New Mexico Inc., to retrieve them. That center had seven kids removed from Head Start y by their parents, with 3–4 armed sheriffs standing behind each parent. The also went to local schools with detained parents to remove children.
September 2007	Alamo, TN	Since 2006 Alamo parents were afraid to attend parent and Policy Council meetings because immigration enforcement agents were reputed to be pulling over Latino families at road blocks on the highway leading to the center.
September 2007	Summer City, TN	ICE officials parking outside of MSHS centers and other social service providers (WIC, food stamps, Medicaid) has forced parents to make decision about enrolling their families and children in these federal funded programs.
April 2006	Immokalee and Nocatee, FL	ICE Officials parked near MSHS center and follow MSHS school transporting children. Within a couple of weeks, there is an employment raid where the majority of MSHS parents were working. Parents were detained and the MSHS staff worked to get information to the parents regarding their rights while the MSHS centers remained open beyond regular business hours to care for children.

Publication Facts & Stats

Currently 839 documents in library

- White Paper: 26
- Issue Brief: 19
- Success / Human Interest Story: 8
- Statistical Brief: 12
- Research Report: 42
- Background Memo: 11
- Conference Proceedings: 6
- Presentation: 23
- Testimony: 51
- Other: 313
- Fact Sheet: 100
- Annual Report: 8

Chairwoman WOOLSEY. Ms. Gibney.

STATEMENT OF KATHRYN M. GIBNEY, SAN PEDRO ELEMENTARY SCHOOL PRINCIPAL

Ms. GIBNEY. Thank you, Chairwoman Woolsey and distinguished members of this panel. I very much appreciate you holding this hearing and inviting me here to testify today.

My name is Katherine Gibney, and I am principal of San Pedro Elementary School in San Rafael, California. My school serves 400 kindergarten through fifth grade students, 96 percent of whom are Latino, with the largest cultural groups coming from Guatemala,

El Salvador and Mexico. These children and other students in our district have suffered severe trauma as a result of the ICE raids in the low-income Canal neighborhood of San Rafael.

In the pre- dawn hours of March 6, 2007, Federal immigration officers pulled up in white vans in front of three large apartment buildings. Suddenly, without warning, agents identifying themselves as police stormed the three buildings and began pounding on doors, attempting to serve 30 warrants for people who had prior deportation orders. In the process, these agents used the warrants as rationale to sweep the neighborhood, sending ripples of fear throughout the community.

They have shone bright flashlights in the faces of young children who were still asleep. They handcuffed parents in front of their children and took them away, threatening that they would soon be back for others. They left behind them a trail of fear.

Traumatized by the vicious nature of the intrusions and terrified to take their children to the bus stop, many families held their children at home in hiding. Other parents, recognizing that school might be the safest place, enabled their children to go to school.

One child, whose father had just been taken away, was told by her mother to pack some essentials in her backpack and leave it by the door so that if she returned home and found no one there she could go to her aunt's house just in case her mother was also seized and deported. Imagine this child's frame of mind when she left for school that day.

Later that morning, my staff and I first learned of these events, as clearly shaken and crying students exited from school buses and blurted out their stories of what had happened earlier. On a day when we were scheduled to administer State exams, 40 students were absent, seven times the normal absentee rate. Throughout the day, muted and trembling voices asked teachers if agents would come to school and take them away. What would happen to their mommy or daddy or aunt or uncle and what would happen to them?

During the next 2 weeks, the situation escalated as ICE threatened to hold more raids, as parents continued to be afraid to leave their homes, even to take their children to and from the bus stop, and as this fear took its mental and psychological toll on children, on families and on teachers and staff who worked long hours to ride buses and ensure that students were released safely into the care of an authorized adult.

The San Rafael community responded with speed and compassion. The community launched efforts to discover the facts of what had taken place and express opposition to the way in which these raids were implemented.

In one detailed response, ICE leadership in Washington, D.C., responded that although they avoid entering schools, places of worship or hospitals, they would do so if the situation warranted it. Consequently, we could no longer assure our children that schools were absolutely safe.

In San Rafael on May 8, 2008, agents stopped a father walking his daughter to school at Bahia Vista Elementary School. Since agents were not able to communicate with the father, the second

grade daughter had to serve as translator between her father and the agents, who ultimately took him away.

The impact of these raids has been devastating. Absentee rates have soared. Test scores have dropped. Students who do make it to school remain distracted as they worry about whether their families will be home when they return. Families lose sleep at night as they worry about possible home interrogations. Families whose breadwinners have been seized are struggling to survive.

Even when family members were successful in proving their right to be in the country and were allowed to return home, the memories remain, the memories of U.S. agents banging on the doors of their houses at dawn, shining flashlights in their faces and taking parents away in handcuffs.

At San Pedro school, mental health services have been substantially increased to address the ongoing fragility of our students. Many of our children are American-born, full-fledged citizens with a right to a quality education and the rights guaranteed to all American citizens. They are America's children and the Nation's future workforce.

Success in schools depends on a three-way partnership between students, schools and families. The current environment strains the family component. There must be a better way to execute a Federal mandate in a more humane manner.

Thank you.

Chairwoman WOOLSEY. Thank you.

[The statement of Ms. Gibney follows:]

Prepared Statement of Kathryn M. Gibney, San Pedro Elementary School Principal

In the pre-dawn hours of March 6, 2007, families throughout the Canal neighborhood of San Rafael, California were just beginning to awaken. Unknown to them, outside their homes, federal immigration officers had already pulled up in white vans. Suddenly, while many were still asleep, agents identifying themselves as "police" began pounding on doors, attempting to serve 30 warrants for people who had prior deportation orders. In the process, they swept the neighborhood, taking individuals for whom they did not have warrants, leaving children and their families paralyzed with fear, and sending ripples of impact throughout the community. These raids were part of a campaign titled "Operation Return to Sender."

General Circumstances

The key facts that were initially reported to us on March 6, 2007 were:

- Early that morning, white vans pulled up in front of three apartment complexes at 150, 220 and 400 Canal Street and individuals who reported themselves as police knocked on doors looking for people on a list of approximately 30 individuals for whom they had orders to seize. In some cases, if those individuals were not home, they questioned the individuals who answered the door and attempted to seize them. In the process of looking for these individuals, they sometimes woke children and shined flashlights in their faces, questioning them and frightening the children and their families.
- Absences for that day included 77 students at Bahia Vista School, approximately 40 students at San Pedro School, and approximately 15 absences at San Rafael High. Smaller numbers of absences were reported at Davidson Middle School and Venetia Valley K-8 School, although students were clearly anxious about the situation.
- Known seizures that day included one Laurel Dell male parent, one Venetia Valley male parent, two San Pedro male parents, two Bahia Vista male parents, and one Coleman male parent and, because the Coleman parent was the sole adult in the house with the child and would not leave the child alone, both the parent and child were taken.
- The seizures were carried out by Immigration and Customs Enforcement (ICE), which is the largest investigative branch of the Department of Homeland Security.

The raids, part of a campaign titled "Operation Return to Sender," apparently began a week and a half prior to March 6, 2007, with seizures of adults on the street and at their businesses. On March 6, 2007, the raids increased in intensity and targeted people in their homes. Initial reports from individuals in the area were that approximately 70 to 100 San Rafael residents were seized, and that the raids were also taking place in Novato, the city immediately to the north of San Rafael.

As soon as the school district learned of the situation that morning, staff took immediate action to determine what was taking place and to ensure the safety of students. Specifically:

• The Bahia Vista Principal made a home visit in the morning to determine what actions were taking place and by whom.

• The district was in contact with the San Rafael Police Department, the Canal Alliance, the Human Rights Commission, and the office of Marin County Board of Supervisors' President Steve Kinsey to determine where individuals who had been seized were being taken and what follow-up actions could be taken.

• School site teachers, staff, and district staff planned to ride school buses and stand at school bus stops to ensure that students were safely transported to and from school. In addition, teachers planned to stay late and were informing students that, if they were uncertain that a parent or guardian was at their home, they should return to school.

Media Coverage

This event immediately became a major community concern, as reported by local TV and news media.

• "30 Illegal Immigrants Targeted in Canal Neighborhood Raid," March 6, 2007 Marin Independent Journal (Attachment #1)

• "Canal Community Fearful after Immigration Raids," March 8, 2007, Marin Independent Journal (#2)

• "Second Day of Immigration Raids Includes Novato and San Rafael," March 8, 2007, Marin Independent Journal (#3)

• "Fate of Detained Becomes Clearer," March 8, 2007 Marin Independent Journal (#4)

• "Immigration Raids Handled Poorly," March 9, 2007 Marin Independent Journal (#5)

• "Immigration Raids Draw Dawn Protest," March 9 Independent Journal (#6)

• "March and Rally Draw Hundreds in San Rafael," March 13, 2007 Marin Independent Journal (#7)

• "Marin Officials Rip Immigration Tactics," March 14, 2007 Marin Independent Journal (#8)

• "65 arrested, 23 Deported in Raids, North Bay Congresswoman Says," March 15, 2007 Marin Independent Journal (#9)

• "Civic Leaders Prepare for Likelihood of Future Raids," April 4, 2007 Marin Independent Journal (#10)

• "ACLU Sues Over Seizure of Boy in Immigration Raid," April 26, 2007, Marin Independent Journal (#11)

The Marin County school district superintendents co-authored and all signed a statement for the community, entitled "Let's Put the Education of our Children First." (#12)

School Board Response

Members of the San Rafael City Schools Board of Education co-authored a letter, cited below, describing the impact of the ICE raids on our schools:

"Thank you for your attention to the recent Immigration and Customs Enforcement (ICE) program Operation Return to Sender and your interest in its impact on our schools and school children. The disruption to the educational program was immediate and will have lasting consequence.

As trustees for San Rafael City Schools our charge is to provide a high quality equitable education for every child living in our districts without discrimination—without determining citizenship. Furthermore, we are responsible for the safety of every student—from the time they leave school until the time they reach their homes.

The ICE raids sent our schools into a state of emergency. Teachers, support staff, principals, and district administrators were placed on buses and at bus stops to make sure children connected safely with adults in their homes. Students were given the phone numbers for their school in case no adult was at home, and staff stayed late to answer phones.

Absentee numbers spiked as high as seven times the usual amount in one school and four times the normal rate at another school. Parents were afraid to walk with

their children to and from the bus stops. Older siblings skipped sports, work and homework to tend to their brothers and sisters. Many students were and remain distracted from school work as they worry about their loved ones. Most of these children are by and large American-born, full-fledged citizens with a right to a quality education and to live in this country for the rest of their lives.

Consider one family Principal Juan Rodriguez visited during the raids when he learned a parent had been taken from their home. As he walked into the living room he noticed student work decorating the walls; he saw a desk with a light in the room; and he noted the lack of a television set. The mother described the family's nighttime routine: the children do their homework at a desk in a well-lit, quiet room; the father reads with the children every night; and, before they go to bed, they discuss the day at school. These are the practices that teachers and school staff request of families to promote academic achievement. This family follows every suggestion and is suddenly without a father. How will these children perform in school now?

Success in school depends on a three-way partnership between students, schools and families. The current environment strains the family partnership for documented and undocumented residents alike as the distinctions between the two are blurred by ICE tactics. People who look like they should have residency papers are lumped together with those who ignore deportation notices. It is hard for our teachers to assure children and their parents who are here legally that they are safe.

We are not in the position to solve the complex issues surrounding immigration, but these problems need to be addressed away from schools. There must be a better way to execute the federal mandate in a more targeted manner. Please explore solutions, continue to shine a light on this matter, and ask the tough questions, keeping in mind the children—those who are born here, those who will stay here, those who will be future workforce and leaders.

Sincerely,

GREG KNELL, JENNY CALLAWAY, LINDA JACKSON,
JON LOBERG, AND NATU TUATAGALOA,
Board of Education, San Rafael City Schools.

The letter from the San Rafael trustees was sent to Mayor Al Boro, Members of the San Rafael City Council, Congresswoman Lynn Woolsey, the Marin County Board of Supervisors, Assemblyman Jared Huffman, and Senator Carol Migden. (#13)

Community Response

Marin County Superintendent of Schools, Ms. Mary Jane Burke, addressed a letter to Assistant Secretary Julie Meyers of the U.S. Immigration and Customs Enforcement Division, calling attention to the impact these types of actions have on schools and students. (#14)

San Rafael Mayor Albert Boro addressed a letter to Senator Barbara Boxer, requesting assistance in obtaining information about detainees and about future raids. (#15)

The issue continued to surface in articles, letters to the editor and community demonstrations by concerned citizens and members of the clergy as well as counterprotests by concerned citizens and by the Minutemen.

Specific School Site Circumstances

In addition to the general description of the raids and community reaction to them as detailed above, the following sections detail specific incidents at school sites in San Rafael.

San Pedro Elementary School

Kathryn Gibney, principal San Pedro Elementary School, wrote the following account of the events of the week:

When ICE agents banged on doors, they demanded to see papers of whoever answered. They entered apartments even if the person for whom they had a warrant was not there. They shined bright flashlights in the faces of young children who were still asleep. They handcuffed parents in front of their children and took them away, threatening that they would soon be back for others. They left behind them a trail of fear.

Traumatized by the vicious nature of the intrusions and terrified to take their children to the bus stop, many families held their children at home, in hiding. Other parents, recognizing that school might be the safest place, enabled their children to go to school. Still, there was much trepidation. One child whose father had just been taken away was told by her mother to pack some essentials in her backpack and leave it by the door so that if, when she returned from school she found no one at

home, she could go to her aunt's home in case her mother was seized and deported. Imagine this child's frame of mind as she left for school that day.

Later that morning, my staff and I first learned of these events as clearly shaken and crying students exited from school buses and blurted out their stories of what had happened earlier. On a day when we were scheduled to administer the State Testing and Reporting or STAR Writing Exam, forty students were absent—seven times the normal absentee rate. Throughout the day, muted and trembling voices asked teachers if agents would come to school and take them away, what would happen to their mommy or daddy or aunt or uncle, and what would happen to them.

During the next two weeks, the situation escalated as ICE threatened to hold more raids, as parents continued to be afraid to leave their homes, even to take their children to and from the bus stop, and as this fear took its mental and psychological toll on children, on families, and on teachers and staff who worked long hours to ride buses and ensure that students were released safely into the care of an authorized adult.

The San Rafael community responded with speed and compassion. Community leaders including the city mayor, county superintendent of schools, and elected state officials launched efforts to discover the facts of what had taken place and express opposition to the way in which these raids were implemented. In one detailed response to an inquiry asking if ICE officials were allowed to enter school campuses, ICE leadership in Washington, D.C. responded that although they avoid entering schools, places of worship or hospitals, they would do so if the situation warranted it.

To this day, federal agents continue to use schools as a venue to help them seize immigrants. During the first week in May of this year, ICE vans parked adjacent to school campuses in Berkeley and Oakland, where they waited to seize parents. And again, in San Rafael, on May 8, 2008, agents stopped a father walking his daughter to school at Bahia Vista Elementary School. Since agents were not able to communicate with the father, the second-grade daughter had to serve as translator between her father and the agents, who ultimately took the father away.

The impact of these raids has been devastating. Absentee rates have soared. Test scores have dropped. Students who do make it to school remain distracted as they worry about whether their families will be at home when they return. Families lose sleep at night as they worry about possible home interrogations. Families whose breadwinners have been seized are struggling to survive. Even when family members were successful in proving their right to be in this country and were allowed to return home, the memories of children remain—the memories of U.S. agents banging on their doors at dawn, shining flashlights in their faces and taking their parents away in handcuffs. The health, well-being and performance of students have been and continue to be severely impacted. Mental health services have been substantially increased to address the on-going emotional fragility of San Pedro students.

Many of our children are American born, full-fledged citizens, with a right to a quality education and the rights guaranteed to all American citizens. They are America's children and the nation's future workforce.

Undeniably, the issues surrounding immigration are complex and we must find ways to address them. On behalf of San Pedro School, however, and schools across the country, I implore you to seek more humane ways to address them, away from our schools and from our children. These emotionally terrifying experiences undermine the trust and confidence in adults that teachers and school staff work diligently to establish with their students and families.

Success in schools depends on a three-way partnership—between students, schools, and families. The current environment strains the family component of this partnership for documented and undocumented residents alike, as the distinction between the two is blurred by ICE tactics. People who look like they should have residency papers are lumped together with those who ignore deportation notices. They are treated as guilty before having opportunity to prove their innocence.

Venetia Valley K–8 School

Pepe Gonzalez, principal of Venetia Valley K-8 School, wrote the following account of the events of the week:

During the week of March 5th through the 9th, many students at Venetia Valley School were greatly affected by the raids that took place in the San Rafael area. The consequential aftermath created a heightened level of anxiety and fear among the families, students, and staff as a whole. Members of our school community were scared to leave their homes, attend jobs, and allow their children to attend school.

As a district and a school site, administrators, teachers and community liaisons were driving through the neighborhoods telling parents that their children were safe

at school. We were at bus stops, on buses and anywhere where we felt our children were at risk. The bus stops where parents once waited in groups to pick up their children were now empty. Parents were waiting in their homes until the bus arrived, then in a dash of panic they would run out of their homes to pick up their children and rush them back into their homes for safety. We felt that we had to be present in order to ensure that the children were being met and safely handed over to a responsible adult.

Stories of families being broken up by immigration agents removing mothers and fathers from homes hit the media, increasing the sense of panic. What some were witnessing on television, others were actually living through the pain of being separated from loved ones.

At Venetia Valley, we had dozens of school community members suffer from these consequences. One of our families was directly affected. A fifth grade student witnessed her father get handcuffed and taken into custody by immigration officers at 7:30 in the morning as she was eating breakfast and getting prepared for school. The father was taken to a holding facility for several days before being deported to Guatemala. The family was left without its main income provider, and a young girl without her father.

On the morning of Wednesday, March 6th, we received a phone call from a man who was whispering over the phone. We were able to identify him and learned that he was whispering because immigration officers had entered the family's apartment at five in the morning and had taken one of their roommates. The father, mother, and son, who all slept in the same bedroom, did not want to leave the sleeping quarters in fear of being captured by immigration officials. They had spent part of the time with all three of them hiding under the bed. Our community liaison representative and I traveled to the apartment to see how we could help the family. We knocked on the door only to have no one answer. We called on the cell phone to assure the family that it was really school personnel at the door and not immigration officials. When they finally opened the door we were embraced with hugs and sighs of relief. We brought the student back to school with us, gave him breakfast and placed him into his classroom. The family gathered all of their belongings and moved to a different apartment complex the very next day. The trauma that the family went through was too much to handle.

The calls throughout the week continued to pour in, as parents were concerned that the immigration officials would continue to enter homes and interrogate and take into custody individuals in our community. Throughout the week, school officials continued to be present in the neighborhoods to try to ease the tension and bring the community back to rest. Home visits were made by community liaisons bringing food to homes and personally driving students to and from school.

We cannot expect to hold our students to the same academic rigors when their emotional states are hindered. The children and families of the San Rafael community suffered through extensive trauma as the fear of losing loved ones was present every day in that second week of March. They lost sleep in the evenings with concerns of possible home interrogations. They were not able to attend jobs and collect income to provide for their families. They could not leave their homes to buy groceries and essential living utilities. When a family and its children are forced to live in isolation, in fear to even open their front doors, making it impossible to perform even their daily routines, we still asked these students to follow through with the state writing tests.

Our community was greatly affected and is still suffering from the events that took place.

Coleman Elementary School

Ruth Reynolds, principal of Coleman Elementary School, with input from Martha Noguiera, School Linked Services Coordinator, wrote the following account of the events of the week:

On the morning of March 6, 2007, behind one door in the Canal neighborhood of San Rafael, six-year-old Kebin Reyes, a first-grade student at Coleman Elementary School, was still sleeping when United States ICE officers stormed into the apartment where he lived with his father Noe Reyes. Noe told officers that Kebin was a U.S. citizen, asking permission to call a relative to care for Kebin while Noe was detained on suspected immigration violations. They refused. Instead, they made Noe wake up Kebin, who watched as officers handcuffed his father. Telling Kebin to put his hands behind his back, the officers took father and son to the ICE booking station in San Francisco. Instead of being in school, Kebin spent 10 hours locked in a room with his father, crying and hungry. ICE agents never allowed Noe to call someone to pick up Kebin. It was only when a relative heard what happened and came to the ICE facility that Kebin was able to leave.

After one day, Kebin, who has excellent school attendance, returned to school while living with his aunt. This year, he is in the second grade and lives with his father, who was not deported but who was detained for 45 days last year in Santa Clara. Kebin saw his father once during that detention. The father is going to court this June to ask for work permission for two years. Kebin's mother and sister remain in Guatemala and they hope to join the family shortly in the United States. Kebin started to see a Spanish speaking therapist after the raid and continues to see the therapist every two weeks. Kebin's father attends all school conferences, parent meetings and workshops. He is very supportive of his son doing well in school.

At Coleman School, children were frightened and needed to be reassured that they were safe in school. The teachers and I met with them privately and in small groups. They asked questions. One seven year-old child was afraid to come to school. She feared that when she returned home her parents would not be there to meet her at the bus. Some of the children asked questions about passports.

Immediately following the ICE raids, parents reported that the entire family slept in one bedroom and would not answer the phone or the door. They also would do their grocery shopping for one month. They were afraid to go out and leave the house.

One year later, parents in the Latino community are still frightened. One difference noted by parents this year is that in the past ICE would go to an apartment and ask for a specific person but would also take anyone in the apartment that could not prove residency. Now parents tell us that ICE is more specific. If they ask for someone and he/she is not in the apartment they do not take anyone else. This has eased some tension.

Laurel Dell Elementary School

Bob Marcucci, principal of Laurel Dell wrote the following account of the events of the week:

Laurel Dell was affected by the ICE raids much in the same way that other San Rafael schools were. There was fear, confusion, anger, and sadness written on the faces of many students. Because many of our students are bussed from the Canal area, we dealt with the fear and uncertainty of student and parent safety while at the stops in the morning and afternoon. Teachers rode the buses to make students feel more secure. We provided hours of counseling to students who just needed someone to talk to. There were students who stayed at home because their parents were afraid to leave the house to bring them to school. I personally picked up a number of students and brought them to school myself so that they wouldn't miss out on projects and assessments happening at the time. During the raid, two families at Laurel Dell were affected in a major way. In each family, one of the parents was detained and deported. The students spent months worried about the safety of their mother or father. Staff wrote letters of support for each family in the hopes of convincing authorities that these were positive members of the community. The students were provided with counseling.

Bahia Vista Elementary School

Juan Rodriguez, principal of Bahia Vista School wrote the following account of the events of the week:

When the raids took place, we asked teachers to let us know about their students and how they were reacting. Within a few days I began receiving reports from teachers about their students' fears. One second grade girl was sleeping with her clothes on and her backpack with her. She also insisted on sleeping under her sister's bed. She told her mother she wanted to be ready to go with her if the police took her away in the night. She also kept her backpack on all day at school. This student continues to suffer from symptoms of trauma. She regularly wets her pants, has trouble concentrating on simple tasks, and is far below grade level in reading and math.

Another boy, also in second grade, was terrified to be away from his mother. He began to have severe reactions to the trauma of his uncle being taken by the ICE police. This boy would see faces in the windows when there was no one there. He continues to have severe anxiety and symptoms of the trauma one year later. He is suffering from nightmares and anxiety on a daily basis.

Children were afraid to come to school, not knowing if their parents would be at home when they returned. Two young students in kindergarten have had severe behavior problems throughout this past year because their mothers were sent back to Guatemala. These young boys don't have the language to be able to talk about their fears or separation anxiety, but they are acting it out every day in school and are not able to learn what they need to in class.

The other reaction we saw from most of the students in the school was a fear of the police in general. They didn't understand the difference between the ICE police and the regular San Rafael police. They saw them all as wanting to take their parents or other family members away. Some children also thought that if someone was taken by ICE, they would be killed. Many families were not able to leave their houses for several weeks, kept lights off at night, and lived in hiding and fear. The general feeling was that the community was under attack.

Partner Community Agency Response

Balandra Fregoso, coordinator of San Rafael School Linked Services, wrote the following regarding the response of community agencies, who work closely with San Rafael City Schools:

The Marin Community Foundation convened and supported the development of an Immigration Task Force after the March 2007 raids, with the specific intent for community agencies to support families in crisis. Prior to this convening, the communities throughout Marin County worked independently from one another, providing many resources to the immigrant community including academic supports, basic need support, ESL classes, parent education, etc.

With the advent of the raids, it was discovered that there was no central place for information sharing and that resources were inadequate to the task at hand. After many meetings, it was decided to make sure the schools, faith community, county resources, legal community, and community based organizations were connected in some way so all resources of the County could be used to the best advantage, on behalf of families.

Consequently three subcommittees were created:

• A Tool Kit Committee collected and organized pertinent materials and documents, such as how to apply for citizenship, how to provide for guardianship of children whose parents are detained, etc. The members of this committee then provided trainings for support providers, including school administrators, school office staff, family advocates, and organizations throughout the county.

• A Community Education Committee began trainings for parents as well as youth. They were designed to bring families out of hiding and to learn how to best conduct themselves in these times.

• A Public Policy Committee brought the legal community and faith based community together with others to have direct conversation with law enforcement officials, the County Board of Supervisors, and state and federal representatives to both understand their stands on the raids and to make clear that there is a group watching how people are being treated.

Through this Task Force, many groups are kept abreast of what is happening across the county. ICE raids are still happening, on a smaller scale, during the early morning hours, and they continue to effect families in Marin County regularly. The Task Force is working to separate fact from fiction and to keep everyone aware of current activities as they occur. Some themes are consistently reported to the Task Force:

• Families that once shared housing are less willing to do so for fear that their roommates are undocumented and will draw attention to ICE.

• Children are learning that if they are documented, they are "better" than their friends and family that are not documented. Families are being physically separated because of the ICE raids. They are being separated on a social/emotional level as well.

• Teachers, coordinators, counselors, and others who work with families and children who are affected by the ICE raids are suffering, too. Not only is there a feeling of hopelessness, but many of these service providers are immigrants themselves and working with the immigrant population may bring up the trauma and stress that they suffered around their own immigration.

Additional Activity around Schools

ICE raids continue in the San Francisco Bay Area. On Tuesday, May 6, just a little more than one year after the first raids in San Rafael, similar ICE activity took place in Berkeley and Oakland. Two days later, ICE agents returned to San Rafael and are known to have approached and taken at least two Bahia Vista parents when they were walking their children to school. In one case, because the ICE agents and father were not able to communicate, the child—a second-grader—was put in the position of have to translate and negotiate with ICE agents. The father was taken away in front of the child.

This issue continues to be one that affects schools and families. Below is an article from the San Francisco Chronicle describing the raids in Berkeley and Oakland.

[From the San Francisco Chronicle, Wednesday, May 7, 2008]

ICE Raids on Homes Panic Schools, Politicians

By JILL TUCKER, JAXON VAN DERBEKEN, *Chronicle Staff Writers*

OAKLAND—Immigration arrests at homes in Berkeley and Oakland on Tuesday sent a wave of panic among parents in both cities, as authorities mistakenly believed immigration agents were raiding schools.

U.S. Immigration and Customs Enforcement officers were in both cities Tuesday, performing routine fugitive operations, spokeswoman Virginia Kice said. Teams go out virtually every day looking for specific "immigration fugitives," she said.

Officers arrested four family members at a Berkeley home and a woman at an Oakland residence. They were not at schools.

Yet, within the next few hours, rumors of raids circulated throughout the communities.

In Berkeley, school district Superintendent Bill Huyet sent out an automated phone message to all parents notifying them that a Latino family had been picked up and assuring them that the district would "not allow any child to be taken away from the school."

In Oakland, Mayor Ron Dellums and three school board members converged at the end of the school day on Stonehurst Elementary School along with immigration rights advocates, saying they believed ICE agents "would return."

"In my view, that is the ugly side of government," Dellums said. "No way children should ever be treated to that kind of harassment and fear." He said police officers will be posted at the campus Wednesday to ensure that federal immigration officials don't come onto school grounds. He added that federal officials have assured him they will not be at schools. Initially, Oakland district officials said federal agents were at Stonehurst and denied entry by school staff. By late afternoon, they rescinded that, saying that an ICE vehicle was seen nearby. Berkeley officials also said no agents were at local schools.

Still, state Senator Don Perata, D-Oakland, got involved.

"There should be an immediate freeze on ICE raids directed at school children while legislation aiming to fix immigration is considered," he said in a statement.

Later, immigration advocates said they believed ICE vans were circling schools and intimidating the community, noting that ICE officers accompanied a mother onto an Oakland school campus in December before questioning her in a workplace investigation.

Kice said Tuesday's rumors took on a life of their own.

In most cases, ICE fugitive operations take place at residences or sometimes at places of employment, she said. "A school is not a place we would routinely conduct an enforcement operation for a variety of reasons," Kice said.

The fear across the communities, however, was real.

"People are terrified," said Berkeley Unified spokesman Mark Coplan. "There is a lot of speculation."

Larry Bensky's fifth-grade daughter came home from Berkeley's LeConte Elementary School on Tuesday saying she had no homework because it was "ICE week," which meant "they" were going after the families of the Latino children.

"She doesn't know what ICE is," Bensky said. "She doesn't know what targeted is. You can imagine it's very disturbing for children that from one day to the next that a child they sit next to could be kidnapped, arrested and deported."

Copyright 2008 SF Chronicle

The information provided in this narrative demonstrates the emotional climate of the town, the school, and particularly of students and their families. Students were crying, fearful, distraught and/or totally preoccupied with worry and anxiety, which we believe this had and continues to have an impact of student academic performance.

A Call for Protection of America's Children

Undeniably, the issues surrounding immigration are complex and we must find ways to address them. Nevertheless, we ask that ways be found to address them away from schools and away from children.

These children are, for the most part, American-born citizens with a right to a quality education and the rights guaranteed to all American citizens. They are America's children and the nation's future workforce.

Even when family members are successful in proving their right to be in this country and return home, the memories of children remain—the memories of U.S. agents banging on the their doors at dawn, shining flashlights in their faces, and taking their parents away in handcuffs.

There must be a better way to execute a federal mandate in a more targeted manner. On behalf of America's children, the San Rafael City Schools asks you to explore solutions, continue to shine a light on this matter, ask the tough questions, keeping in mind the children—those who are born here, those who will stay here, those who will be our future workforce and leaders.

[Additional submissions of Ms. Gibney follow:]

[From the San Rafael, CA, Independent Journal, March 7, 2007]

30 Illegal Immigrants Targeted in Canal Neighborhood Raid

By MARK PRADO

Armed with 30 arrest warrants, federal immigration officers swept into the Canal neighborhood in San Rafael at dawn Tuesday and arrested illegal immigrants.

"They went right into buildings and pulled people from their homes," said Edgar Hernandez of the sweep, which began about 5 a.m. and lasted until 8:30 a.m. "These are just working people, not criminals. Everyone in the Canal is now afraid."

Caught up in the sweep was 7-year-old Kevin Reyes, an American citizen, who was with his family in an apartment on Belvedere Street when officers made the arrests, according to his uncle, Rey Reyes.

"They put handcuffs on him, he is only 7," Reyes said through an interpreter.

At Bahia Vista Elementary School, Principal Juan Rodriguez reported two students were separated from their parents because of the raid and that 77 children did not come to school, likely out of fear. On a typical day, eight to 10 students are absent.

The sweep was part of a stepped-up Immigration and Custom Enforcement program called Operation Return to Sender, which aims to arrest people in the country illegally.

The effort is part of the Department of Homeland Security's plan to secure borders and reduce illegal immigration. Since it was launched in June 2006, Operation Return to Sender has resulted in more than 18,000 arrests nationwide.

The 30 people targeted in the Canal sweep had been ordered deported, immigration officials said. They did not say exactly how many people were arrested.

"These are people who are here illegally," said Lori Haley, immigration spokeswoman. "Our first priority is to find these people who have ignored their final order of deportation."

But if officers incidentally find other illegal immigrants in their sweeps, they are arrested as well. Haley said the program "normally" targets adults, but had no further comment.

The raid in the Canal was one of many that have occurred throughout the country in recent weeks, Haley said.

Haley wouldn't disclose how many officers were involved in the operation, but residents counted as many as 15 green-and-white immigration vans. San Rafael police were not involved.

In the past year, immigration officials have nearly tripled the number of fugitive operations teams from 18 to 52 nationwide, and the number is expected to grow to 75 by the end of the year. There are now two teams in the Bay Area.

"This is an ongoing operation," Haley said.

Word of the sweep spread quickly in the close-knit Canal.

"Everyone is panicked," Hernandez said. "They do not want to be out onto the streets. They do not want to go to their jobs."

Tom Wilson, director of Canal Community Alliance, was disturbed.

"This is horrible and inhumane treatment," he said. "The fact they go in and they take people incidentally is reprehensible at best. They used to pick people from the street and now they go right into people's homes. Some people were taken out in their boxer shorts into the cold without a chance to put clothes on."

Rodriguez called the raids "an emotional type of terror" that separated families and upset the education process at school.

"How can the kids take tests?" Rodriguez asked. "All they can think right now is 'will my parents be taken?'

"And these children are American citizens."

[From the San Rafael, CA, Independent Journal, March 8, 2007]

Canal Community Fearful After Immigration Raids

By JENNIFER UPSHAW

It was around 7 a.m. Wednesday when Fernando Quezada first spotted the red Chevrolet Impala with no license plates at the corner of Larkspur and Alto streets in San Rafael's Canal neighborhood.

Snapping pictures of the scene with his digital camera, Quezada, a community leader and local business owner, watched as immigration officials went to work.

"He just walked up to a guy, he didn't ask him any questions, and he pulled him out of his truck and hauled him away," Quezada said.

"He said, 'Are you taking pictures of me?'" Quezada recalled saying to the immigration official. "I said, 'I'm part of the community here and we want to know what's happening. We don't know why you're doing this.' He didn't say anything."

The incident was part of a flurry of reports surrounding a two-day roundup of dozens of Canal area residents by federal Immigration and Custom Enforcement officials. The raids, and another one in Novato, are part of a stepped-up campaign dubbed Operation Return to Sender to send illegal immigrants home.

"It is complete chaos in the community," said Douglas Mundo, head of the Canal Welcome Center, who said he worked until midnight Tuesday after he said an estimated 40 people were detained. He returned to pay house calls and reopen the center at 5 a.m. Wednesday after just a few hours' sleep.

Many have not left their homes since the raids began, he said. Some are without food. Many that called on the Welcome Center—about 50 by mid-afternoon Wednesday—were crying, Mundo said.

"We feel impotent," Mundo said. "We'd like to do something. What can we do?"

Over at Pickleweed Park Community Center, the halls of the typically bustling neighborhood gathering spot were silent.

"Everyone is so scared," said Jeannette Sotomayor as she staffed the reception desk in the silent lobby. "The center is usually full of people."

An English-as-a-second-language class with 20 students had two participants on Wednesday, she said. One student who takes a computer class at the center has a brother who was taken, she said.

The rack that holds brochures and fliers is normally stocked with leaflets about immigrants' rights. On Wednesday it was close to empty.

Sotomayor is "mad, frustrated, very frustrated, because there isn't anything I can do about it. It's like a feeling like you don't belong anywhere. * * * We're not criminals. We're workers."

Children are feeling the pressure as well.

At Kid's Club, an afterschool program run by Catholic Charities CYO's Canal Family Support Program, officials said the kids are spooked, too.

"It's affecting the children a lot," afterschool teacher Maria Stein said. "They don't concentrate as well as they usually do."

"What we are trying not to do is add fuel to the fire," program director Carlos Garcia said. "They are definitely anxious. They have wild imaginations, they probably imagine the worst because of what they see on TV. We just try to keep the kids calm."

At Bahia Vista School, many of the 76 students absent Tuesday returned to the classrooms the next day, leaving only 11 missing, Principal Juan Rodriguez said.

In addition to meeting with the roughly 20 children directly affected by the raids, school representatives and community members were escorting students from their front doors to the classroom, he said.

"We continue to believe school is a safe place for them," he said. "To me it is inhumane that they would disrupt this educational process. It's disturbing their right to get a free and appropriate and safe education."

Also on Wednesday, city officials told residents at a meeting of the Pickleweed Park Advisory Board they and county Supervisor Steve Kinsey planned to meet with ICE officials to air the community's concerns.

Mayor Al Boro told a crowd of about 50 that he understood ICE officials have a job to do, but he disagreed with the methods they've used, such as entering homes early in the morning and creating a climate of community fear.

Many are concerned that Canal residents will mistake federal enforcement officials for local officers, shattering years of trust both sides have worked to establish.

"There is a difference between and ICE officer and a San Rafael police officer," Boro said.

City leaders assured residents they were uninvolved in the federal deportation dragnets. Police do cooperate with ICE officials on gang and white collar crime, city officials said.

"Your police department is not going to be picking people up for immigration status," police Chief Matt Odetto said.

Resident Alberto Martinez said the children were scared and the parents unsure how to comfort them. Concern also was raised about leaving children to fend for themselves if a parent is detained.

"We are here to hear some comments from you to assure us and make them feel safe," he said.

"I just think people will not stop making noise about this. People will be asking tough questions," Pamela Torres said.

She said the community was looking to the city "to have the confidence to say it's OK to our kids. I think you guys should take that responsibility very, very seriously and I know you guys will."

Snatching people off the street with no word on who they are or where they are headed has sent a chill as well, many noted.

"That's called disappearing people and it's a dangerous approach," said longtime Canal resident Dorothy Vesecky, a member of the advisory board. "I'd like to know how many people, their ages and who is gone."

Resident Olivia Beltran called for a list to establish "who was taken and where they were taken."

"At this moment it's calling to their human side," she said of federal officials. Halting a process that made people vanish into thin air is "breaking that cycle of our ancestors," she said.

City leaders said they will seek answers.

"We will find out who the people are and we'll find out what the procedure is to notify the community," Boro said of the missing residents. "We will ask these questions."

[From the Marin, CA, Independent Journal, March 8, 2007]

Second Day of Immigration Raids Includes Novato and San Rafael

By RICHARD HALSTEAD

Federal immigration officers were back in San Rafael and Novato Wednesday to make another round of arrests.

San Rafael police received a call from Immigration and Customs Enforcement, the largest investigative branch of the Department of Homeland Security, about 5 a.m. indicating they would be making additional arrests, said San Rafael police spokeswoman Margo Rohrbacher.

On Tuesday, ICE agents swept into San Rafael's Canal neighborhood at about 5 a.m. and arrested an unspecified number of people—rousting some from their homes.

Novato police Chief Joseph Kreins said his department was tipped by ICE that they would be serving arrest warrants in Novato on Wednesday.

An ICE truck was spotted outside the Marin Square shopping center in the Canal between 10:30 and 11 a.m., said Tom Wilson, director of Canal Alliance.

Federal authorities told San Rafael police on Tuesday they had warrants to arrest 30 illegal immigrants. ICE also arrests other illegal immigrants it identifies in such raids.

"We're not releasing daily arrest statistics," said Lori Haley, an ICE spokeswoman. "It is an ongoing initiative."

The arrests are part of Operation Return to Sender—an initiative launched by the Department of Homeland Security in June 2006 to identify and arrest immigrants who have been ordered deported. Since the operation began, ICE has made more than 18,000 arrests nationwide. Two of ICE's 52 national teams are based in the Bay Area.

Wilson expressed outrage at the way in which some Marin arrests have been made. In some cases, ICE agents have arrested whomever is residing at the address of an individual they are seeking, Wilson said. He said ICE agents have sometimes failed to provide for the care of children when their parents were arrested.

Kevin Reyes, a 7-year-old San Rafael resident who was swept up in an ICE raid Tuesday, was later released.

Rick Oltman of Novato, a longtime advocate of tighter controls on immigration, said he was glad to see some enforcement of immigration laws but added, "It would be better if they spent their time on the employers. They're the ones that are attracting people."

Marin Supervisor Steve Kinsey, whose district includes San Rafael's predominantly Latino neighborhood, and Supervisor Judy Arnold, whose district encompasses Novato, were bombarded by calls and e-mails from concerned constituents.

Panic caused by the arrests caused many children in the San Rafael school system to miss school, which could pose an economic impact on San Rafael city schools, Kinsey said. He said he was working with San Rafael Mayor Al Boro to arrange a meeting with ICE officials to express concerns.

"I'm distressed by the reckless manner in which the federal government is pursuing its legitimate law enforcement duties," Kinsey said. "The collateral damage is showing up everywhere."

Supervisor Arnold said she has asked Sen. Dianne Feinstein to find out "what protocol if any there is for these raids."

Haley, the ICE spokeswoman, said people can obtain information regarding family members who have been taken into custody by calling 844-5526. Haley said the information is provided in written form at arrest sites.

But Kinsey said he has been getting a different story from constituents.

"We're hearing no information is being left at the houses," Kinsey said. And if family members lacking adequate documentation go to the Santa Clara facility where the ICE prisoners are taken, those family members are taken into custody, he said.

On Wednesday, Ron Rentner and Pamela Griffith-Pond, pastors at the All Saints Lutheran Church in Novato, distributed brochures outlining immigrants' legal rights to restaurants and markets frequented by the Latino community in Novato.

"There are a number of people who are interested in making sure that people at least know their rights," Rentner said.

The handouts explain that people do not have to let immigration agents or police officers into their homes unless they have a search warrant, and anyone who is arrested may refuse to answer questions until they've had a chance to talk to a lawyer.

"But when you're cornered and there is somebody big and powerful yelling at you, it's very, very difficult to maintain your right to remain silent," said Margo Dunlap, executive director of the International Institute of San Francisco, which serves immigrant and refugee families.

[From the Marin, CA, *Independent Journal,* March 8, 2007]

Fate of Detained Becomes Clearer

By RICHARD HALSTEAD

Some of the undocumented immigrants arrested in San Rafael and Novato this week may have been deported the same day, a federal immigration official said Thursday.

As federal immigration officers returned to San Rafael for a third consecutive day Thursday, the picture of what happens to the people they arrest became clearer.

Police were notified that Immigration and Customs Enforcement agents would be making arrests near the downtown area of San Rafael on C Street between 7 and 8 a.m., said police spokeswoman Margo Rohrbacher.

Novato police Chief Joseph Kreins said he was not contacted by ICE Thursday and knew of no arrests in Novato since Wednesday.

ICE is the largest investigative branch of the Department of Homeland Security. The arrests are part of Operation Return to Sender—an ambitious initiative launched by the Department of Homeland Security in June 2006 to identify and arrest undocumented immigrants who have been ordered deported.

ICE officials have declined to say how many people have been arrested in Marin since the organization began its raids on Tuesday. ICE told San Rafael police on Tuesday that it had warrants to arrest 30 undocumented immigrants. It is difficult to say how many people have been detained because ICE also arrests other undocumented immigrants it identifies in such raids.

Between Oct. 1, 2006, and Jan. 26, ICE arrested 838 undocumented immigrants in Northern and Central California, ICE spokeswoman Lori Haley said. More than a third of them, 338, were taken into custody in the process of pursuing the other 500, whom a judge had ordered to be deported. Since Operation Return to Sender began, ICE has made more than 18,000 arrests nationwide.

On Thursday, Haley provided some information about what happens to people after they are arrested. All those apprehended initially are taken to ICE's facility at 630 Sansome St. in San Francisco for processing. After that, Haley said, the procedure differs depending on whether a judge has previously ordered the arrested immigrant be deported.

If there is no deportation order pending against the individual, ICE offers the person the choice of signing an agreement that commits them to leaving the country voluntarily. Once they sign the agreement, they are released.

Haley said, "A lot of people take voluntary departure so they can legally (re-enter) the country if they so choose. It's not a deportation."

But immigrant advocates take a different view.

"My understanding is that people are being offered things to sign that are basically giving up all of their rights, period. It could affect their immigration status in the future," said Paul Cohen, executive director of Legal Aid of Marin.

"Many times, they intimidate people into signing these voluntary departure agreements," said Evelyn Sanchez, a spokeswoman for the Bay Area Immigration Rights Coalition in Oakland. "What they're doing is expediting the deportation of immigrants without any due process procedures whatsoever."

If the arrested immigrant has an outstanding deportation order or a criminal conviction, they are typically kept at nearby county jails while they await deportation or further judicial review. Sanchez said anyone arrested should receive a new hearing because their residency status may have changed since the deportation order was issued.

Haley, however, said these people have already received due process. Jails that have been used include the Santa Clara County Jail, the Santa Rita County Jail in Dublin and the Yuba County Jail in Marysville, Haley said. Family members of those arrested can call 844-5526 to find out where their loved ones have been sent. But some immigrants are jailed farther away.

But some immigrants are jailed farther away. Some are sent to an ICE facility in Eloy, Ariz., Sanchez said.

"That is literally the layover before you get deported to your country of origin," Sanchez said.

"People can be sent to any of our facilities if they're being held in custody, anywhere in the country," Haley said. "It depends on bed space."

Haley said ICE has detention facilities in Texas and Arizona where families, including children, are housed together.

"In some cases, if there is a deportation order pending against an immigrant, the person is transported out of the country the same day they are arrested," Haley said.

"Many times, Mexican immigrants are bused to the border," Haley said. "They can also be taken by plane. We have planes that go to various places. It isn't just to the southern border. People are deported back to countries all over the world."

[From the San Rafael, CA, Independent Journal, March 9, 2007]

Immigration Raids Handled Poorly

THE HEAVYHANDED tactics used by federal immigration agents in Marin this week simply were not appropriate.

Federal officers, armed with 30 arrest warrants and a fleet of green-and-white immigration vans, swept through the Canal area of San Rafael early Tuesday and Wednesday mornings. More arrests were made in Novato.

Federal officers, as part of Operation Return to Sender, used those warrants to arrest illegal immigrants who have been ordered deported. There have been 18,000 such arrests nationwide since June.

The illegal immigrants named on the warrants were arrested in houses and apartments—along with any others suspected of being in this country illegally. In San Rafael, those put in handcuffs and taken away apparently included a 7-year-old boy who is a U.S. citizen.

Local activists have expressed outrage at what they viewed as unacceptably harsh tactics.

They have reason to be angry.

The immigration raids have created a climate of fear in the Canal neighborhood. This is wrong.

San Rafael officials have worked hard over the past several years—including building a new Pickleweed Park Community Center—to earn the trust of the densely populated neighborhood that many immigrants call home.

City leaders are justifiably fearful that these raids, which they had nothing to do with, will make Canal residents wary of all officials, including local police officers.

That will make it harder for cops to control and solve crime and make it easier for

Canal residents to be victims.

San Rafael officials, including Mayor Al Boro and Police Chief Matt Odetto, met with residents and activists Wednesday night at the Pickleweed center to reassure them that the city had nothing to do with the raids.

At Bahia Vista Elementary School, where many Canal children attend, 76 students were absent Tuesday, compared with eight to 10 on a typical day. Two students had parents swept up in the raids. The school's principal worried about the palpable sense of fear among the children.

The raids achieved one goal: Illegal immigrants who had been ordered deported were taken into custody. Federal officials, however, have declined to tell the IJ how many arrests were made, saying that daily totals are not being released.

Marin residents deserve to know how many people were detained. Refusing to release such basic information just adds to the cloak of secrecy that has surrounded these sweeps. It is understandable why residents of the Canal and other parts of Marin, even those who are U.S. citizens, are afraid.

Immigration and Customs Enforcement officials, who are part of the Department of Homeland Security, say the sweeps are necessary to find people who are here illegally and who have ignored their final deportation orders.

We agree that those who are here illegally and have ignored their final deportation orders should be arrested and face the consequences. That's the law.

We simply don't think it was necessary to deliberately terrorize an entire neighborhood and disrupt the lives of so many Marin families to arrest a small number of people, including a small boy who happens to be an American citizen.

Illegal immigration is a difficult and divisive issue facing this country. These kinds of raids do nothing to create any consensus.

[From the San Rafael, CA, Independent Journal, March 9, 2007]

Immigration Raids Draw Dawn Protest

By JIM STAATS

About 75 community members and clergy leaders clogged San Rafael's Canal district sidewalks at dawn Friday to offer solidarity for the community—with plans to continue morning protests until the immigration raids which began this week are stopped.

Protesters gathered at the Country Club Bowling Alley on Vivian Street at 5 a.m. Friday, many with candles in hand, and dispersed to various intersections throughout the neighborhood for a three-hour morning vigil in support of immigrants in the Canal neighborhood.

Marinwood resident Bob Owen, 67, who arrived at 5 a.m. with his wife Jill, said he was moved by the stories he heard from talking with people who live in the Canal area.

"A woman who has a child here was crying as she told me about what has been going on," he said. "It's been so terrible for them. They're afraid to go to school, to the store. They're being told not to answer the door. I'm here out of a feeling of solidarity."

"We know people have been feeling afraid and we want them to know they're not alone," said Jill Owen, 63.

Agents from the Immigration and Customs Enforcement, the largest investigative branch of the Department of Homeland Security, have swept into the Canal neighborhood in the early morning hours this week and arrested an unspecified number of people, many rousted from their homes, as part of a stepped-up campaign dubbed Operation Return to Sender to send illegal immigrants out of the country.

The Rev. Carol Hovis, executive director of the Marin Interfaith Council, which organized the protest, said the early-morning arrival was timed to meet the early-morning raids by officials of the Immigration and Customers Enforcement.

"We wanted to be here to say to the children and families it's safe," she said.

Marjorie Delgadillo, 23, a counselor at the Marin Childcare Council in San Rafael and Petaluma resident, arrived at 5 a.m. to show her support for community members with whom she lived shortly after arriving from Nicaragua at the age of 5.

"I feel that it could have easily been me," said Delgadillo, who earned her residency at the age of 16. "I could have been one of the residents of the Canal who went through this horrible ordeal. It just hit so close to home for me. I'm a kid from the neighborhood."

Though raids have also taken place in Novato this week, Hovis said protesters came to the Canal "because this neighborhood is such a close-knit neighborhood.

"It means a lot but it also means this has become a target," she said.

The protesters who planned to remain through 8:30 a.m. did not see any immigration officials arrive on Friday.

Hovis said they will return at 5 a.m. every weekday morning next week.

As people congregated below on the sidewalks of the Medway Drive and Canal Street intersection, residents in surrounding apartment buildings peered down from their balconies and the occasional driver tooted a horn in support.

The Rev. Julianne Stokstad, pastor of the First Congregational Church in San Rafael, stood on the sidewalk with candle in hand and fully adorned in her religious garments.

"I understand our laws but the methods are wrong," she said. "I don't approve of the methods used particularly with the children. I'm here to show my solidarity and support."

Julie Long, owner of Bellam Produce Market at the corner of Bellam Boulevard and Belvedere Street, said the raids have created a ghost town out of the neighborhood and dropped her daily sales from $3,000 a day to about $700.

"I've been here 10 years and it's the worst I've ever seen it," she said. "It's pretty scary. There's nobody on the streets and I don't have one single person in my store right now."

"This is just the beginning," said Sister Marion Irvine, of the Dominican Convent in San Rafael. "We're going to be here until ICE decides this is not the place to be."

[From the San Rafael, CA, Independent Journal, March 13, 2007]

March and Rally Draw Hundreds in San Rafael

By JENNIFER UPSHAW

Hundreds of protesters chanting slogans in Spanish filled the streets of San Rafael on Monday before attending a community gathering that served as a rallying cry against recent immigration raids in Marin.

More than 200 people gathered at St. Raphael's church on Fifth Avenue for the march to Pickleweed Park Community Center, where more than 500 packed a hall to hear from elected leaders, activists and community leaders.

"I can't believe they're here now, in 2007," said Tom Wilson, Canal Alliance executive director, moments before the march began. "Having this kind of demonstration, I thought we were way beyond this. It's something you would expect from a third-world country."

Federal Immigration and Customs Enforcement agents conducted a series of raids in San Rafael last week, as well as one in Novato. No raids were reported over the weekend, Wilson said. The arrests are part of Operation Return to Sender—an initiative launched by the Department of Homeland Security in June 2006 to identify and arrest undocumented immigrants who have been ordered deported.

Immigration officials have not released how many people have been detained since the raids in Marin began, saying such data is not broken down by county.

"Our ICE officers are sworn to enforce immigration laws," ICE spokeswoman Lori Haley said. "They're doing their jobs."

"I don't get it. I'm really old, and I still don't get it," said Woodacre resident Veta Jacqulin, 70, who participated in the march. "I think if we have laws I don't understand in the first place, there's a better way to carry them out.

"I'm sad," she said. "It hurts my heart what we do."

"The fact that the children are scared, that parents are afraid to leave their homes—I feel kind of mad about it, also sad at the same time. They're too scared to go back home; they're too scared to go to school," said Rebecca Coleiro, 17, a senior at San Rafael High School who lives in the Canal.

"It's sad. I'm very sad," said Isabella Mendoza, a Spanish teacher at Terra Linda High School. Pointing to her placard, which read: "Take our papers, not our families."

"The sign, it breaks my heart," Mendoza said.

San Rafael resident Edith Yates carried as many signs and placards as she could hold. A native of Mexico who immigrated 17 years ago, Yates said she wanted the legal process for those detained to move more quickly.

"We are immigrants," she said. "We have feelings."

Lead at times by a young man waving an American flag, the throng of marchers was greeted with occasional honks and waves, even from motorists traveling on the freeway as the group moved down East Francisco Boulevard.

Police maintained a subtle presence on the periphery: A California Highway Patrol helicopter hovered above, following the group during the roughly 2.3-mile journey. Once in the neighborhood, marchers were observed by many dozen residents, many of whom watched the display from balconies with children in their arms.

"It feels so good that you're with your people," Luis Mejia, 15, a student at San Rafael High School, said as he cooled down at Pickleweed after marching in the

record heat. "We're hoping President Bush will get the message and give us papers so we have the same rights."

The marchers were joined by hundreds more demonstrators at a community meeting Monday evening.

News photographers were kept out, barred from taking photographs during the public event.

Dignitaries, some of whom participated in the march, included Assemblyman Jared Huffman, D-San Rafael; county schools chief Mary Jane Burke; Marin Community Foundation President Thomas Peters; county Supervisor Steve Kinsey; author Isabel Allende; Mayor Al Boro; Vice Mayor Paul Cohen; and City Manager Ken Nordhoff.

Organizers urged people to send letters to their senator. Sign-up sheets on the walls solicited people's help with public relations, crisis management, legal assistance and other issues stemming from the raids.

Many elected leaders took to the podium to calm fears and empower the community.

"The city of San Rafael has no control over what (ICE) does," Boro said. "The city of San Rafael will not enforce immigration laws."

The crowd, wildly energized at times, broke into frequent applause and chanted "si se puede," or "yes we can," several times during the program.

"I've just driven almost 100 miles from Sacramento to be with you," Huffman said. "I would have driven another 100 miles to show my support for this community and my outrage at the tactics being used to enforce our immigration laws.

"You don't enforce the laws by sending armed agents into our homes to terrorize our community," he said.

Kinsey said that, as sad as the situation was, he was proud the events united the community.

"We will make change happen," he said.

Author Allende recalled her experience immigrating from Chile.

"I lived in fear," she said.

Still, her message was upbeat, urging Canal residents to continue to tell their stories.

Despite the recent raids, Allende said "the U.S. is still the land of opportunity."

"Each one of you is a treasure," she said.

Meeting

A youth forum aimed at hearing from children and youth on the recent immigration raids is at 4 p.m. Wednesday at the Marin Youth Center at 1115 Third St. in San Rafael.

MARCH 14, 2007 WEDNESDAY WWW.MARINIJ.COM

Marin IJ Attachment #8

"Our police don't enforce immigration laws in our community. We asked (immigration agents) not to identify themselves as police, but they said they will continue to do so."

— San Rafael Mayor Al Boro

"The historical analogy I'd make is to 1930s Nazi Germany. Xenophobia in Germany led to the death camps. We need to stop that at its earliest instance."

— Supervisor Charles McGlashan

Marin officials rip immigration tactics

Supervisors want Boxer, Woolsey to review policy

By Rob Rogers
IJ reporter

TWO VIEWS: Dario D'Arrigo of Novato speaks out against the recent sweeps through the Canal area of San Rafael and Novato by the Immigration and Customs Enforcement agents during a Board of Supervisors meeting on Tuesday. At left, Rick Oltman of Californians for Population Stabilization, defends the agency's actions.

IJ photos/Jeff Vendsel

Marin supervisors blasted federal immigration agents Tuesday for their actions during raids in San Rafael and Novato, and will send letters of condemnation to federal authorities.

While the board recognized the government's authority to enforce immigration laws, supervisors said the tactics used by Immigration and Customs Enforcement (ICE) agents struck fear into the community, causing social chaos comparable to the 2005 floods that ravaged Marin.

"A year and a half ago, some of us lived with the devastation those floods created — their entire world changed — while the rest of us went about our lives as normal," Supervisor Steve Kinsey said. "Today, we're trying to understand the consequences of these raids coming through Novato and the Canal, and what we can do to try to stitch our community back together."

San Rafael Mayor Al Boro, in particular, criticized immigration agents for identifying themselves as police officers, despite repeated requests by city officials not to do so.

"Our police don't enforce immigration laws in our community. That's not our job," Boro said. "We've worked long and hard to build a sense of trust with the members of our community so that if a crime has been committed, people will be willing to help us. We asked (immigration agents) not to identify themselves as police, but they said they will continue to do so."

Federal agency spokeswoman Lori Haley said ICE officials did not believe their actions eroded trust in the community.

"ICE agents are federal law enforcement officials, and 'police' is a globally understood term," Haley said.

Boro, who met with immigration officials in San Francisco last week, said that agents did not arrest and handcuff a 7-year-old boy, as some residents claimed.

"They arrested the father on a warrant, and he was a single dad, with nowhere to leave his son, so he stayed with his father in a separate cell," Boro said.

But the mayor took the agency to task for refusing to disclose the names or even the number of people arrested in last week's raids, many of whom have since been transported to San Francisco, Santa Clara, Sacramento and Arizona.

"I ask that people who are

See Immigration, page A9

IMMIGRATION: Supervisors, San Rafael mayor criticize raids

From page A1

arrested be allowed time to take a change of clothing, and to look for their family's phone numbers," said Olivia Beltran of the Grassroots Leadership Network. "Also, I'd ask ICE to leave a note behind saying who was taken and where. Otherwise, it's the same as what happened in El Salvador and Chile with the death squads."

But ICE spokeswoman Haley said the decision to keep names secret was done on behalf of those arrested.

"This is an administrative arrest, not a criminal arrest," Haley said. "It's not a matter of public record, based on the privacy rights of the individuals arrested."

Rick Oltman, a member of the Santa Barbara-based California Population Stabilization, said the county shouldn't attempt to "micromanage" immigration agents participating in Operation Return to Sender, a nationwide hunt to track down undocumented immigrants who had already received deportation orders.

"Operation Return to Sender was looking for absconders, 400,000 illegals who had been ordered to be deported," Oltman said. "That's 400,000 people who should be deported," he said. If they are allowed to stay, "what is this country going to be like in another 15 years?"

Mariluz Arredondo, who worked for the U.S. Census in 2000, noted the raids seemed exclusively directed at Marin's Spanish-speaking community, despite the number of immigrants from other cultures.

"In 2000, there were more than 11,000 people here from 16 different countries," Arredondo said. "And yet this was directed at the Hispanic community."

Advertising executive Flor Emert said she talked to one Canal resident whose husband was arrested while she was giving birth to twins.

"She's scared that if she goes to anyone for help, they're going to come after her, take away her babies, and kick her out of the country," said Emert, president of Campos-Emert Marketing and Promotions in San Rafael. "And I can't tell her no. I thought I lived in a civilized country, but it seems as though we're proceeding in another direction."

IJ photo/Jeff Ve

KEEPING TABS: Jim Geraghety, who lives in the Canal area of San Rafael, videotapes the Board of Supervisors me on Tuesday during the public comment portion on the recent immigration sweeps in the Canal and Novato.

Supporters of the raids objected to the notion that those who were arrested were victims.

"Does anybody not understand the word 'illegal?'" said Novato resident Jerome Ghigliotti. "Their first act upon coming to this country was to violate federal law. There are tens of thousands of people who come here legally, and to them I say welcome. But there's about 10 percent of our population, a significant proportion, that's here illegally. They don't pay taxes, they take our public services, and they're overwhelming emergency rooms throughout the Bay Area."

Mill Valley resident Margaret Moody, a researcher on Latino immigration, said the number of undocumented immigrants is about 10 million.

"They do pay taxes," Moody said. "And the vast majority of academic studies show that undocumented immigrants are a boost to the economy."

San Rafael Superintendent of Schools Laura Alvarenga said the raids terrified many students, causing them to miss school during a crucial day of testing.

"Monday morning was business as usual, but by Tuesday, everything had changed," Alvarenga said. "Bahia Vista normally has about 10 to 11 absences, but on Tuesday we had 79. At San Pedro, which has an enrollment of 400, we normally have 10 to 12 absences. On Tuesday, we had 50. At Laurel Dell, we had 25 out of 150 students absent.

"On Tuesday and Wednesday, we had writing tests for the state assessment procedure," Alvarenga said. "Even for those students who were present, it's difficult to ascertain their mental alertness for taking the test, considering all they had seen that morning."

Alvarenga said many San Rafael teachers rode the bus with their students on Wednesday to help reassure them. She praised those parents who returned their students to school on Wednesday, despite concerns that a trip to the bus stop could be a trip to an immigration cell.

"At the secondary school level, we've tried to deliver the message that our students are safe, that no one will pick them up," Alvarenga said.

"When the principal of San Rafael High School made that presentation and asked if there were any questions, one student raised his hand. He said, 'If the school is a safe place, can I bring my parents here, too?'"

Supervisors unanimously resolved to request a review of immigration agency policy by Sen. Barbara Boxer and Rep. Lynn Woolsey, D-Petaluma.

"The historical analogy make is to 1930s Nazi Germa Supervisor Charles McGlas said. "Xenophobia in Germ led to the death camps. We nee stop that at its earliest instan

In addition, Legal Aid Marin offered to collect sto of abuses or violations by im gration agents for possible l action, while the Canal Welc Center is seeking supplies, s as food, clothing and diapers, those who have been afraid leave their homes.

"It happened to me in 19 said Mariluz Arredondo, wh helping to organize the relief fort. "They took me at 3 a.m Bakersfield. They never let use the phone."

Haley said that ICE's O eration Return to Sender wo continue through June.

"We're targeting individu who have been given their fi order for deportation by a jud We're trying to bring integrity the immigration system," Ha said.

"Those who are arrested h their right to due process, to fi their deportation in court. Bu they lose, they ought to abide the rules."

Contact Rob Rogers via e-mail rrogers@marinij.com

[From the San Rafael, CA, Independent Journal, March 15, 2007]

65 Arrested, 23 Deported in Raids, North Bay Congresswoman Says

By JENNIFER UPSHAW

Immigration agents arrested 65 people and deported 23 in raids conducted last week in San Rafael and Novato, congressional officials said Thursday.

An aide in Rep. Lynn Woolsey's office met with U.S. Immigration and Customs Enforcement officials, who released the figures at her request, spokesman Chris Shields said.

It was not clear if a list of those detained and their locations would be forthcoming, he said.

"I know she's asked for it, I don't know if she's received it," Shields said.

Last week, federal officials conducted a series of raids in San Rafael, and one in Novato as part of a national crackdown dubbed Operation Return to Sender, which aims to send illegal immigrants home.

"I wish I could trust it," Canal Alliance Executive Director Tom Wilson said of the figures. "The way they've been operating, the way they've been holding back information and the way they've been refusing to give information to elected officials up to this moment—I don't trust it.

"For every one they picked up, 12 are not named on the warrant. That means it's more about people not named in the warrant," he said. "That's really scary—that tells me they're just using the warrant as a way to get in a door into a house."

An ICE spokeswoman did not return a call seeking comment.

Raid proponents said the actions are legal and justified.

"The numbers aren't the issue—it's the activity, it's the arrests that are important," said Novato resident Rick Oltman, spokesman for Santa Barbara-based Californians for Population Stabilization.

He said he has heard a lot of rhetorical remarks, such as an assertion by Supervisor Charles McGlashan during a public hearing Tuesday that likened ICE enforcement actions to tactics used in Nazi Germany in the 1930s.

"It's bad enough that community activists need to sensationalize legitimate law enforcement by comparing it to the death squads, but when public officials compare law enforcement officers to Nazis, this is just pure sensationalism," Oltman said. "This is a legitimate law enforcement operation. It leaves me speechless that elected officials would be so ill-informed.

"It's really unbelievable how far we have sunk," he said.

[From the San Rafael, CA, Independent Journal, April 5, 2007]

Civic Leaders Prepare for Likelihood of Future Raids

By TAD WHITAKER

Top managers from San Rafael's city government and schools held an informal meeting this week to discuss ways to win back the trust of Hispanic families and limit the strain on children during future immigration raids.

Ideas discussed by Mayor Al Boro, San Rafael schools Superintendent Laura Alvarenga and close to a dozen others included creating a campaign that would help parents set up notarized guardians who could be responsible for children if their parents are deported.

Although local officials can't prevent future raids, several said they had an obligation to help children—legal or not—before the next round.

"It's like a terrorist attack," said Greg Knell, president of the San Rafael Board of Education. "It's not if, it's when."

Federal agents with Immigration and Customs Enforcement conducted raids targeting illegal aliens in Marin beginning at 5 a.m. March 6 and 7. They arrested 65 people and deported 23 from San Rafael and Novato.

Local school attendance suffered and school officials said the raids came at a particularly bad time, because officials were administering standardized tests that week.

At Bahia Vista Elementary School in San Rafael, 79 students skipped school one day, compared with the usual 10 or so on a normal day. At Laurel Dell Elementary, 25 out of 150 students were absent.

"When these types of things are going on, it's hard to take tests and study," Knell said.

Others who attended Wednesday's meeting included City Manager

Ken Nordhoff, Police Chief Matt Odetto, Associate Superintendent Becky Rosales, schools trustee and city planner Linda Jackson, and representatives from the Pickleweed Park Community Center.

Cindy Fox, director of Pickleweed Children's Center, said the two most important developments were creating the notarized guardian program and helping undocumented parents obtain passports for their children. She said children whose parents are deported can't leave the country without a passport and they can't obtain one without parents.

"It's pretty important," she said.

San Rafael spokeswoman Lydia Romero said the city has a particular need to rebuild the image of the police department among Hispanics.

She said city leaders are considering school tours by police officers who could explain they did not cause the raids or participate in them. As part of the tours, officers would also show students how their uniforms and cars differ from those worn by federal agents.

"Nobody knows who to trust anymore," Romero said.

[From the San Rafael, CA, Independent Journal, April 26, 2007]

ACLU Sues Over Seizure of Boy in Immigration Raid

By MARK PRADO

SAN FRANCISCO—The American Civil Liberties Union filed a lawsuit Thursday on behalf of a 7-year-old San Rafael boy who was taken from his bed as part of an early-morning Immigration and Custom Enforcement sweep of the Canal neighborhood last month.

The father of Kebin Reyes said Thursday that Kebin, an American citizen born in Greenbrae, has nightmares from the incident.

"Kebin is still showing signs of trauma," Noe Reyes said through an interpreter at a press conference at ACLU offices. "He always needs to be next to his dad or another adult.

"What I want is justice so this doesn't happen to any other child."

In its suit, the ACLU alleges Nancy Alcantar, the U.S. Immigration and Customs Enforcement (ICE) San Francisco field office director, and officers under her command violated the boy's constitutional rights.

The suit, filed in U.S. District Court in San Francisco, specifically cites the Fourth and Fifth amendments, the right to be secure in one's home against unreasonable search and seizure, and that no person shall be deprived of liberty without due process.

ACLU attorneys allege the federal government did not have a search warrant for the boy's home. But an ICE spokeswoman said warrants are obtained for all arrests.

Armed with dozens of arrest warrants, federal immigration officers swept into the Canal neighborhood in San Rafael at dawn March 6 and arrested illegal immigrants.

Caught up in the sweep was Kebin, who was with his family in an apartment on Belvedere Street when officers made the arrests. Agents were targeting Noe Reyes, who was in the United States illegally from Guatemala and had been ordered deported in 2000, according to ICE.

Noe Reyes gave the ICE agents his son's U.S. passport identifying Kebin as a U.S. citizen, according to the ACLU. An ICE agent then told Noe to wake up his son, saying they would take them in for only an hour or two. Noe Reyes asked several times to make a phone call to arrange for a family member or family friend to care for Kebin. Each of the requests was denied, and Kebin was forced to watch as his father was handcuffed and taken away.

Immigration officers then told Kebin to place his own arms behind his back, like his father's, but he was not put in handcuffs. The pair were taken to San Francisco, according to the ACLU.

ICE officials said they took Kebin to San Francisco for his well being until a relative could pick him up.

"He was not arrested," said Lori Haley, immigration spokeswoman. "We didn't want to leave that little boy alone."

The agency's policy on dealing with children is to allow the adult being detained to make arrangements for the minor's care. If that's not possible, the arresting officer's supervisor makes arrangements that vary according to the situation.

At the ICE processing center in San Francisco, additional requests to make a phone call were denied, and the boy and his father were placed in a locked room for about 10 hours and given bread and water, according to the ACLU.

Kebin was released that evening after his uncle learned about the incident from neighbors. The uncle had to wait several hours before Kebin was finally released, ACLU attorneys said.

"ICE's treatment of children is not in line with American values of decency and fairness," said Julia Harumi Mass, staff attorney with the ACLU. "In addition to Kebin's case, we have heard reports of children left without care after their parents are detained, immigration agents targeting areas around elementary schools, and children too upset to participate in class after witnessing early-morning raids in their communities. The human cost of these tactics is unacceptable."

The suit seeks unspecified damages, and would require federal immigration officials to develop a policy on caring for children they might find during enforcement so cases like Kebin's aren't repeated, attorneys said.

The sweep was part of a stepped-up Immigration and Custom Enforcement program called Operation Return to Sender, which aims to arrest people in the country illegally.

Immigration attorneys and others said Kebin's case is the most serious example of how children are being harmed by immigration policy.

About 18,000 people have been detained by this enforcement action since it began last year. From Massachusetts to Colorado and California, children have been left without their parents when the adults were seized, civil rights attorneys said.

Noe Reyes is dealing with his immigration issue in court and has a hearing set for June. Kebin's mother lives outside the country.

Kebin's citizenship does not give his parents any legal standing as residents in the United States, ICE officials said.

"Having a child here is a risk people take, and then they are faced with decisions," Haley said.

Chairwoman WOOLSEY. Mr. Romo.

STATEMENT OF SIMON ROMO, CHIEF COUNSEL, NEW MEXICO CHILD PROTECTIVE SERVICES

Mr. ROMO. Chairwoman Woolsey, distinguished members of the subcommittee, thank you for allowing me to be here this morning testifying on behalf of the children, youth and families of New Mexico.

A little bit of context, from 2000 to 2005, the foreign-born population grew in New Mexico 28 percent. The national average for the same period was approximately 18 percent.

In New Mexico in 2005, the total population of the State was 1,887,200 people. Foreign-born residents numbered 168,000, or roughly 9 percent, of whom approximately 115,000, or 6 percent, were noncitizens. In 2005, only 10.5 percent of the foreign-born population of New Mexico was under 18, while more than half of that at the time, 53 percent, almost 54 percent, was of childbearing age, between the ages of 18 and 44. The great majority, almost 80 percent, was of working age.

Today, of the foreign born in New Mexico, an estimated 40 to 55,000 are undocumented. The majority of children in New Mexico who have noncitizen parents were, themselves, born in the United States; and it is therefore likely that the majority of children affected by immigration and enforcement operations are, in fact, U.S. citizens.

Children of immigrants are at high risk for entering into the child welfare system. They are more likely to live in linguistic isolation, live in a single-parent family, have a mother with a less than high school education and be economically deprived.

The Children, Youth and Families Department currently has 18 noncitizen children in protective custody, a figure that has remained pretty much constant throughout the past several years. The Department has not been able to reliably track citizenship status of parents in our data system, but of the 2,300 children in care in New Mexico, it's estimated that a significant number have at least one parent who is not a U.S. citizen. Given the high percentage of foreign nationals of child-bearing age living in New Mexico, it is unknown how many of these children came into care as a result of their parent being deported.

Immigration raids and enforcement activities in New Mexico have been documented, though CYFD has not been notified to respond, nor have any children come into custody as a direct result of these activities. The Department is not informed of enforcement operations before they happen, and so is not able to respond to chil-

dren and assess for their safety in a timely manner. Instead, relatives, neighbors, friends and community agencies have been absorbing the responsibility of caring for children left without parents.

This lack of initial involvement of the State agency responsible for assuring the safety, permanency and well-being of children places those who were separated from their parents at an additional risk of entering into the system later, as they are often shuffled around in unstable situations with minimal support and minimal resources.

On November 16, 2007, the Office of Immigration and Customs Enforcement in the Department of Homeland Security released guidelines for identifying humanitarian concerns among administrative arrestees when conducting work site operations. The new humanitarian guidelines put into ICE's policies regarding notifying appropriate social service agencies of work site raids targeting more than 150 employees, but this has had a minimum effect on enforcement activities and may not be implemented effectively in New Mexico, given that it's primarily a rural State.

The Department has not been contacted before or after any work site operations in New Mexico to identify individuals requiring assistance, as spelled out in the guidelines.

Of particular concern to the Department is trauma to children. The limitation of the humanitarian guidelines on the identification of individuals who have dependent children places these children at particular risk. While we have had few raids that have detained approximately 20 to 30 immigrants at a time, the most common practice that we see by ICE in New Mexico is that it's operating on a smaller scale with increased presence in homes and on the streets of certain communities such as border towns and high population centers in which Latino families have been targeted.

The times when children are most vulnerable to experiencing trauma as a result of immigration enforcement operations are those when a parent goes to a store and never comes back or when parents are taken away from their homes.

The disruption of a safe holding environment and the separation of children from their caretakers can severely and permanently damage a child. Traumatic experiences such as these frequently lead to further negative relational behavioral and educational outcomes. The Department does not generally find out about enforcement activities until after the fact; and it is, therefore, not able to respond to mitigate the negative effects on children.

In terms of our recommendations, CYFD supports keeping immigrant families together if at all possible when there are no active signs of abuse or neglect. Immigration enforcement operations are inherently traumatic for children, and they need support.

Immigrant enforcement activities are especially problematic in the child welfare system when the children are of an undocumented worker who is deported is a U.S. citizen. Existing ICE guidelines that emphasize keeping families together if the parent in question is a sole caretaker or if the child has special needs are not being uniformly implemented in New Mexico.

The Department believes that notice of enforcement operations should be required in all instances, regardless of the size of the employee workforce to avoid causing trauma to even one child.

Thank you very much, Chairwoman Woolsey.

Chairwoman WOOLSEY. Thank you very much.

[The statement of Mr. Romo follows:]

Prepared Statement of the Simon Romo, Chief Counsel, New Mexico Child Protective Services

Immigration in New Mexico

From 2000–2005, the foreign born population grew in New Mexico by 28.2% (the national average for the same period was 17.9%). In New Mexico in 2005, the total population was 1,887,200. Foreign born residents numbered 168,640, or 8.9%, of whom 115,119, or 6.1%, were noncitizens. In 2005, only 10.6% of the foreign born population in New Mexico was under 18,1 while more than halfat that time(53.7%) was of childbearing age, between ages 1844, and the great majority (79.1%) was of working age (1864).

Today, of the foreign born in New Mexico, an estimated 40,000 55,000 are undocumented immigrants. The majority of children in New Mexico who have noncitizen parents were themselves born in the U.S. It is likely, therefore, that the majority of children affected by immigration enforcement operations are U.S. citizens.[1]

Children of Immigrants Children of immigrants are at high risk for entering into the child welfare system. They are more likely to live in linguistic isolation, live in a singleparent family, have a mother with less than a high school education, and be economically deprived 1. CYFD currently has 18 noncitizen children in protective custody, a figure that has remained consistent over the past several years.[2] CYFD has not been able to reliably track citizenship status of parents in our data system, but of the 2,300 children in care, it is estimated that a significant number have at least one parent who is not a US citizen, given the high percentage of foreign nationals of childbearing age living in New Mexico.[1] It is unknown how many of these children came into care as a result of their parent being deported.

Lack of CYFD Involvement in Immigration Enforcement Operations in New Mexico Immigration raids and enforcement activities in New Mexico have been documented, though CYFD has not been notified to respond nor have any children come into custody as a direct result of these activities.[3] CYFD is not informed of enforcement operations before they happen, and so is not able to respond to children and assess for their safety in a timely manner. Instead, relatives, neighbors, friends, and community agencies have been absorbing the responsibility of caring for children left without parents.[4] This lack of initial involvement of the state agency responsible for assuring the safety, permanency and wellbeing of children places those who are separated from their parents at an additional risk of entering into the system later, as they are often shuffled around unstable situations with minimal supports/resources.[5]

On November 16, 2007, the Office of Immigration and Customs Enforcement (ICE) in the Department of Homeland Security released Guidelines for Identifying Humanitarian Concerns among Administrative Arrestees When Conducting Worksite Enforcement Operations.[6] The new humanitarian guidelines put into ICE's policies regarding notifying appropriate social service agencies of worksite raids targeting more than 150 employees has a minimal effect on enforcement activities, and may not be implemented effectively in New Mexico. CYFD has not been contacted before or after any worksite operations in New Mexico to identify individuals requiring assistance as spelled out in the guidelines.

Critique of Ice Strategies and Guidelines: Trauma to Children CYFD questions the limitation of the humanitarian guidelines to the identification of individuals who have dependent children to worksite operations targeting the arrest of more than 150 people. The current provisions for notice of enforcement activities are largely irrelevant to the situation in New Mexico, a rural state whose economy does not support large worksites as described in the ICE guidelines. While New Mexico has had a few raids that have detained 2030 immigrants at a time, the most common practices by ICE here are seen on a smaller scale in their increased presence in homes and on the streets of certain communities, such as border towns and high population centers, in which Latino families have been targeted.

The times when children are most vulnerable to experiencing trauma as a result of immigration enforcement operations are those when a parent goes to the store and never comes back, or when parents are taken away from their homes. The dis-

ruption of a safe holding environment and the separation of children from their caregivers can severely and permanently damage a child. Traumatic experiences such as these frequently lead to further negative relational, behavioral, and educational outcomes. CYFD does not generally find out about enforcement activities until after the fact, and is therefore not able to respond to mitigate the negative effects on children.

Child welfare agencies do not limit the reports we respond to based on the number of children allegedly involved in a case. Whether the number of children involved is one or one hundred fifty, every single child and every single case are important. The notice of immigrant enforcement operations to child welfare agencies should be required in all instances regardless of where they take place and regardless of the size of the employer workforce to avoid causing trauma to every child.

State Child Welfare Agency Needs to Respond to Immigration Enforcement Activities CYFD is the agency responsible for the safety and wellbeing of children in our state. In only one documented case has ICE notified CYFD when detaining a parent.8 When children come into custody because their parents are detained/deported, the attempt to reunify families places a great strain on they system. These circumstances frequently involve emergency interventions, emergency relative searches, collaboration with foreign government agencies, and the use of other placement resources.

CYFD has also struggled with cases of parents whose children are in CYFD custody and are involved in a reunification plan when they are deported.[9] These circumstances significantly delay permanency, demand extra staff time and resources to alter the plan, locate the parent and transfer services, and makes the transition extremely difficult for children and parents.

CYFD Recommendations CYFD supports keeping immigrant families together if at all possible where there are no signs of active abuse/neglect. Immigration enforcement operations are inherently traumatic for children, and they need support. Immigration enforcement activities are especially problematic in the child welfare system when the children of an undocumented worker who is deported are U.S. Citizens.

Existing ICE guidelines that emphasize keeping families together if the parent in question is the sole caretaker, or if a child has special needs, are not being uniformly implemented in New Mexico. CYFD believes that notice of enforcement operations should be required in all instances regardless of the size of the employer workforce to avoid causing trauma to even one child.

Additional federal monies should be allocated to ensure that state welfare agencies have the necessary resources to address the additional challenges involved in working with children whose parents may be in the U.S. without appropriate documentation.

ENDNOTES

[1] Immigration in New Mexico. A KID'S COUNT Special Report. October 2007.

[2] CYFD PS 301 Report, May 2008.

[3] There have been several raids documented. Operation "Return to Sender", conducted from Feb.26-28, 2007, arrested thirty undocumented individuals throughout Santa Fe, in workplaces, apartment complexes and trailer homes. Only 2 of the detained had criminal charges, one for DUI and the other for drug possession (La Voz, 3/2/2007). On September 10, 2007, ICE raids at the Chaparral schools resulted in 28 people deported. Eleven were children taken by Sheriff's deputies and Border Patrol (El Paso Times, 9/15/07; Over Raided, Under Sieged. National Network for Immigrant and Refugee Rights. January 2008). On December 10, 2007, ICE raided Proper Foods Inc., in Deming, and arrested 22 undocumented workers (Las Cruces Sun, 12/12/2007; Over Raided, Under Sieged. National Network for Immigrant and Refugee Rights. January 2008).

[4] According to the Religious Order of the Assumption, based in Chaparral, on September 10,2007, Francisco Rodriguez and his wife were detained and deported by local county law enforcement, and handed over to immigration enforcement., forcing them to leave their 5 children with a neighbor. (*http://www.aclunm.org/PDF/COMPLAINT—FILED—10—17—07.pdf*) The neighbor contacted their church, and a member of their congregation took in all five children, who had lived in the U.S. their whole lives. The parents signed over guardianship to this congregation member so that the children, who were excelling in school, could remain together in their community. The guardian started taking the children to Juarez to visit their parents, a place unknown to them before then. Before long, the two youngest children, who wanted to stay with their parents, moved to Mexico, while the older three remained with the guardian in Chaparral to continue their studies. When the middle child, the 12 year old, began getting into trouble at school and acting out at home, the guardian decided he could no longer handle her. She was sent to live in Mexico with her parents, and missed the majority of the 2007-2008 school year. The two oldest children remain with the guardian in Chaparral attending school, separated from the rest of their family. (Over Raided, Under Siege. National Network for Immigrant and Refugee Rights. January 2008)

[5] FACTS 466104 Law enforcement gave CYFD custody of a 3-year-old US citizen child on April 18, 2008. A passerby had found the child walking on the street wearing only a diaper. The child had been staying with a paternal aunt, and the home was extremely dirty and possibly unsafe for a child. Both of the child's parents had been deported soon after the child's birth, and are believed to be in Juarez, though exact whereabouts are unknown. The aunt believes the parents were deported because they didn't have documentation of residence in the U.S. The aunt placed the child with another sister temporarily until the home situation was remedied. The family is now receiving In Home Services.

[6] The guidelines dictate that prior to conducting a worksite enforcement operation targeting the arrest of more than 150 persons, ICE should develop a comprehensive plan to identify, at the earliest possible point, any individuals arrested on administrative charges who may be sole care givers or who have other humanitarian concerns, including those with serious medical conditions that require special attention, pregnant women, nursing mothers, parents who are the sole caretakers of minor children or disabled or seriously ill relatives, and parents who are needed to support their spouses in caring for sick or special needs children or relatives.

[7] Where practical, at the direction of the Assistant Secretary, ICE will continue to implement these guidelines in all smaller worksite enforcement operations.

[8] FACTS 459768 & 459769. Immigration enforcement raided a motel and found several adults and 2 children. The children were 1 month and 6 years old. Several adults were arrested and deported for not having documentation in the U.S. One of the adults arrested was the father of the baby and uncle to the six year old. The father of the baby reported to immigration that the mother was residing in Taos, as well as the parents of the 6 year old, and we were able to obtain their contact information. Immigration wanted CYFD staff to tell them when the other parents arrived in Deming, and when staff refused, they said that they would not give CYFD custody of the children. CYFD informed immigration that they could keep custody of the children, and they then changed their minds and turned over custody of the children to CYFD. The children came into custody on a 48 hour hold and were put into foster care. The parents, who were in Taos, were contacted and they came to Deming the following day to pick up the children.

[9] FACTS 404939-Two children came into care in Las Cruces on October 12, 2006. Mother was incarcerated at the time the children were placed into custody. She had voluntarily placed the children with her sister at the time of her incarceration . At time of this report, maternal aunt wasn't caring for the children nor meeting the needs of the children. The father of the children was incarcerated in Estancia due to re-entry into the US. The children's service plan included release to the father upon his release from prison. However, upon his release from incarceration on June 17, 2007, he was deported to Mexico. The case plan had to be altered for the father to be able to work the plan from Mexico, and permanency of the children was delayed. The father was ordered to move from Tijuana to Juarez so that he could work reunification plan with his children. the father is currently working successfully with CYFD's counterpart in Mexico, attends treatment reviews by phone, contacts his children by phone and the children are taken to visit with him at port of entry on weekends.

Chairwoman WOOLSEY. I thank all four of you.

This has been very informative. I have so many questions I don't even where to start, but I will begin, and we might have a couple rounds of questions unless we get everything covered to the best of our ability.

First, I would like to ask you, Mr. Acting Deputy Assistant Director Spero, is an ICE agent a police officer?

Mr. SPERO. Congresswoman, an ICE agent is—an ICE special agent with the Office of Investigations is a criminal investigator. We have Federal agents, criminal investigative special agents, and we also have deportation officers as well.

Chairwoman WOOLSEY. Then, "knock, knock, knock, police", is that accurate? Or is that calling themselves something that they are not?

Mr. SPERO. Congresswoman, in many cases, if an ICE officer identifies themselves as police, it's to make the person aware that they are law enforcement. In some cases, the person may not understand what ICE is, but it's an ICE policy to quickly identify themselves as an Immigration and Customs Enforcement agent.

Chairwoman WOOLSEY. But they really aren't police. Okay.

Now here is another question. If they have a document for somebody that they want to do knock, knock, I came to get so and so, and that person is not in the house, in the facility, can they pick

anybody they want out of that apartment or that house and take them with them?

Mr. SPERO. Congresswoman, I was invited to talk to you about work site enforcement issues. I believe that if we are talking about things that happen outside of the work site, that might be something that I would prefer to answer in writing.

Chairwoman WOOLSEY. Okay. Well, I would like to hear back from you about the fact that if they aren't invited into the apartment, into the house, they really have no right to go in, if that individual they are looking for is not in there. So we can talk about that later.

Okay, Ms. Murguía, this has to cost—these kinds of actions have a huge cost on our communities. I mean, there's no question, the costs to our schools, our churches, the faith organizations, the foster care system, and to the psychological well-being of these young children. Would you like to take more time and talk about that?

Ms. MURGIA. Thanks, Chairwoman Woolsey.

I think, you know, what we highlighted in this report was really an effort to document what some of those costs might look like. I think it's fair to say that we ought to be looking at more data to look at the impacts.

You can set aside the emotional and mental trauma and distress that this causes in the short term. But in the long term, you know, there are latent effects on these children that I think have to be not only impacting their ability to learn, to concentrate, to focus in these school systems. To keep them in these systems where something like this has happened is a broader social cost.

But then there are the actual physical and mental costs that we see that occur on these children in the short term and in the long term and just how disruptive this is to communities overall when you have the social safety net of faith-based institutions or churches and schools having to pick up the pieces when we have come in and seen some of these raids occur.

I just think it's fair to say you can look at the benefits of when you do any sort of enforcement action, but you should also look at the cost, and not just the immediate cost of that enforcement action, but the broader costs on those communities. And there are many, and we have attempted to try to document what those costs might be to us as society. But certainly in the short term and in the long term, when you see traumatic effects not just not on the children and what's in the best interests of the children being placed in question, and we shouldn't offset one enforcement action certainly with another.

That's what we saw happening in Iowa, when you had a labor enforcement action superseded or trumped by another related action. What would have been the better payoff there?

So there are all kinds of costs, and there are costs and benefits. I appreciate trying to weigh those.

Chairwoman WOOLSEY. Thank you.

Ms. Gibney, talk about the cost of assimilating into the community after young people and their families have been traumatized. What impact does that have on gangs that come along later?

Ms. GIBNEY. Well, I am not an expert on that, but I do know that our students are fearful of gangs, our families are fearful of gangs,

and that it's a burgeoning presence in the Canal community. I can't assure you of this, but I doubt very much the gang members were the ones who were seized during those raids. I think they are really good at hiding.

But the children talk to me about parks they can't play in or, you know, there's the color issue of the red and the blue and that sort of thing. So, really, the element that we deal with at our schools are the families that are working hard to establish their lives here in this country.

Chairwoman WOOLSEY. Thank you.

Mr. Wilson.

Mr. WILSON. Thank you all for being here. I appreciate your sincerity.

Director Spero, from your testimony I understand that ICE works with Federal and State agencies and, I would assume, County and State DSS, with foster care review boards, family courts that may have interest in any enforcement action that the agency undertakes. Do you find these diverse agencies are cooperative with your efforts? Are there any impediments to ensure that each agency is working with you?

Mr. SPERO. Thank you, Congressman.

We, to every extent possible, we do work with both State and, in some cases, local social services as well.

The majority of our experience has been, our partnership and relationship with both the social services and the NGOs, has been beneficial. It has helped us get our word out, essentially alleviate fears in the community as to what, exactly, what the nature of the operation that ICE is conducting. So if we are conducting a targeted work site enforcement operation, the community can understand that we aren't going out into the community and knocking on doors. It is a work site enforcement operation.

Social services, the State governments, have been helpful in assisting us in getting those words out, getting that word out.

Mr. WILSON. Additionally, in the instance where an individual caught in a sweep is released for humanitarian reasons, can you explain what ICE does to ensure the person returns for legal processing of their case? Do you have statistics on what happens to these individuals?

Mr. SPERO. Congressman, I don't have statistics with me, and I think that we would be happy to provide that in writing. But, in general, what ICE does is on a case-by-case basis make a determination to ensure—a Customs determination to ensure that the person will show up for their—any subsequent immigration proceedings. That may include releasing an individual on their own recognizance or an alternative to detention, such as electronic monitoring.

Mr. WILSON. Do you have any situation where persons could be under the care or control of another person?

Mr. SPERO. Such as third-party custodian?

Mr. WILSON. Yes.

Mr. SPERO. That is typically not one of the conditions that we would release someone into. It's a bond determination, electronic monitoring or release on their own reconnaissance.

Mr. WILSON. How common is electronic monitoring?

Mr. SPERO. It is fairly common. I think that that would actually be maybe a better question for my colleagues on our deportation side, and we would be happy to provide that in writing.

Mr. WILSON. With the advances in technology, it's very unobtrusive. I have seen it work for other issues. It's respectful of people but also understanding that we have laws that should be enforced or can be enforced. So I am actually happy to hear there is an effort at electronic monitoring.

With the technology and GPS technology we have today—it's phenomenal—it can be done, being respectful of a person's rights but yet not making a mockery of notice of appearance to return?

Mr. SPERO. That is correct, Congressman. One thing that I can say with certainty is that we are increasing our capacity to use the alternative to detention such as the electronic monitoring.

Mr. WILSON. Can you outline again what ICE considers an humanitarian exception for detainment? Are there instances where this would not be honored, for example, if the detainee was also found to have committed crimes other than the immigration violations for which they have been retained?

Mr. SPERO. Some circumstances would be if the individual has a criminal history that would affect or have an impact on our custody determination. In other instances, the individual may not be arrested solely for administrative immigration charges, but for Federal felony violations as well.

Mr. WILSON. I yield back the balance of my time.

Chairwoman WOOLSEY. Mr. Hare.

Mr. HARE. Thank you, Madam Chair.

Mr. Spero, just a couple of things maybe you can clear up for me. I have heard stories of ICE vans being parked outside of schools and ICE agents entering Head Start facilities. I also have heard of two cases last year, one in Ohio and one in Tucson, where agents went on campuses to remove specific students. I am troubled by the idea that these children might be used as bait to capture parents who are undocumented and the intimidation that ICE presence on school campuses causes.

What is the ICE's policy regarding agents entering schools?

Mr. SPERO. ICE has issued guidance to remind our field offices to remind our agents that schools are considered sensitive institutions, as are other institutions; and to whatever extent possible, if an agent is to go to a school, that they brief up their chain of command and get concurrence from senior field leadership.

I have also heard recently about events where potentially agents were staking out schools or performing surveillance on schools, and for the most part, we weren't necessarily able to track that back or lend any validity to it.

One of the things I will tell you, when we are conducting surveillance, for the most part we are trying to be covert, like any other law enforcement agency. So we wouldn't or shouldn't be, necessarily, in any kind of marked vehicles. The majority of our vehicles, both in the Office of Investigations and our Deportation Section, are unmarked.

Mr. HARE. So you are not aware of any ICE agents entering any Head Start facilities?

Mr. SPERO. I am not aware of any ICE agents entering a Head Start facility. That's correct, I'm not aware of that, Congressman.

Mr. HARE. Given the high number of mixed families across the United States, how do ICE agents make sure that they don't apprehend children who are actually U.S. Citizens or permanent residents or in lawful status?

When agents raid a home, let's say during predawn hours, how do you determine the child's status? Do you demand birth certificates, naturalization certificates, or other documentation? And what happens if the parent can't locate or produce the documentation? Do they presume the children have unlawful status and apprehend them?

Mr. SPERO. ICE has several different ways to attempt to determine alien or immigration status of adults and children. Some of them are on direct questioning, and others are reviewing case files or alien registration files.

For the most part, if someone does claim to be a U.S. citizen, the ICE officer in the field would make every effort to determine the validity of that claim; and sometimes it is also done with the help of consular officers from their home country.

Mr. HARE. Ms. Gibney, what are the lasting effects on the emotional well-being and academic performance of the kids in your school now, 1 year after the San Rafael raid?

Ms. GIBNEY. Well, I would say that it is a very heavy presence in our school, both for staff and children and families.

One of the things that families most want help with is immigration status, support around that, among many other things they want to help their children with. And it is really difficult to ascertain in numbers and percentages exactly how profoundly our children are affected because they verbalize a lot of fear and concern on a regular basis. So what we do is give them the opportunity to speak with a counselor, with teachers, to write about their fears, draw about their fears, but try to keep them focused on academics at the same time.

Mr. HARE. Mr. Romo, what sort of impact do these raids have on the community at large? What could we be doing differently?

Mr. ROMO. There is a State senator from Dona Ana County, which is a border county in southern New Mexico, who in November of last year, when asked that question, expressed her concern for the fear of communities being terrorized by raids. There was a raid in an adjacent county, in Chaparral, which I have footnoted in my testimony to the subcommittee. The long-lasting impact of this, from what we are learning from the brain science on child development, can be extremely traumatic. It is a basis for post-traumatic stress disorder; the residue, if you will, the silent little bombs that go off as children develop and reach varying developmental milestones can be extremely traumatic and contribute to all kinds of relational problems—that impact, not just on children, but the impact on families and the impact on communities, the fear, the distrust, the failure to reach out for help and the failure to achieve potential, the failure to integrate.

The reality is, particularly in border areas, in New Mexico, for example, the integration of individuals into their communities is highly dependent on their willingness and ability to trust, and

reach out for help when they need it and be able to maximize their contributions.

So these kinds of activities are extremely problematic, particularly when we have 60 percent of the children being American citizens, to have their parents removed. One of the things that we have learned in child protective services, when we have parents arrested or incarcerated for any period of time, children need to see their parents. The fact that they are told that they are okay isinsufficient. They need to see them, and when you remove a parent from the life of a child and you leave the child wondering, and you set off these little bombs that will go on throughout their development and into their adulthood, we are creating very problematic situations in our communities, not just in our border areas, but throughout the State and, I believe, throughout the country.

This is extremely problematic policy enforcement, if we are looking at it solely from an enforcement standpoint.

Mr. HARE. Thank you.

Chairwoman WOOLSEY. Mr. Kline.

Mr. KLINE. Thank you, Madam Chair, and ladies and gentlemen for being here and for your testimony and for your patience.

Director Spero, I noticed that Ms. Gibney was somewhat alarmed that ICE agents would show up suddenly and without warning. ICE agents are law enforcement officers, right, trying to enforce the law?

Mr. SPERO. That is correct, Congressman.

Mr. KLINE. I am trying to think of a case where law enforcement officers wouldn't show up suddenly and without warning, and it doesn't come to me.

If we could go to the May 12 raid in Iowa, I believe you said, Director, you gave a number of 389 arrests?

Mr. SPERO. That's correct, 389 administrative arrests.

Mr. KLINE. And of those, 304 were criminal violations, that is, violation of immigration law or other laws? What is in that 304?

Mr. SPERO. The 304 individuals were charged with criminal Federal violations in the Northern District of Iowa, with various felonies, such as aggravated identity theft and possession of fraudulent documents.

Mr. KLINE. I see. And 85, presumably, then, were properly documented?

Mr. SPERO. I'm sorry?

Mr. KLINE. I'm going to get the numbers. There were 389 administrative arrests; 304 were criminal violations and 85 presumably had correct documentation?

Mr. SPERO. I'm sorry, the other 85 were arrested solely on immigration administrative violations. They were either presented and not accepted for lack of evidence to the U.S. attorney for Federal criminal prosecution or released on humanitarian—with humanitarian issues.

So they were arrested. They did not have proper documentation, and were arrested for being illegally in the United States.

Mr. KLINE. Okay. I think I understand.

In that raid there were 62 released for humanitarian purposes. So again I just want to understand the process because what this hearing is about is ICE workplace raids and their impact on chil-

dren and families and communities. We are focusing on the workplace raid.

In this workplace raid you made 389 administrative arrests; 304 had criminal violations and 62 were released for humanitarian purposes. And so your agents talked to each of the 389 to make these determinations, as to which would be released for humanitarian purposes?

Mr. SPERO. That's correct. On no less than three occasions—well, on one occasion, our agents would speak to the aliens to determine if there were any humanitarian concerns. We had also—Public Health Services as well asking humanitarian screening questions. So that totaled—on three separate occasions we attempted to ascertain any humanitarian concerns, including sole-caregiver issues.

Mr. KLINE. Thank you.

The La Raza study is highly critical of ICE not making public guidelines and procedures related to workplace raids. Why don't you? Is there a concern that these documents would prejudice other or compromise future operations?

Mr. SPERO. The guidance itself is public. But as far as making prenotifications to the public prior to conducting any enforcement operation, it would potentially cause fear in the community, and it would certainly be a danger to our officers.

Mr. KLINE. I see.

Thank you, Madam Chair. I yield back the balance of my time.

Chairwoman WOOLSEY. Thank you.

Mr. Bishop.

Mr. BISHOP. Thank you, Madam Chair. I appreciate the opportunity to be here, and I want to thank our witnesses.

Mr. Spero, over 300 workers were arrested in one form or another at the raid at Agriprocessors?

Mr. SPERO. 389, yes.

Mr. BISHOP. How many owners or people associated with the operation of the plant were arrested?

Mr. SPERO. I believe that every one of those people that we arrested were workers in the plant.

Mr. BISHOP. Is it not reasonable to assume that if over a third of the workforce employed at this plant violated labor law in one form or another that management has to have some complicity in those violations?

Mr. SPERO. Congressman, I can't comment on a potential ongoing investigation.

One thing I can tell you from listening to my counterparts on the panel, I would like to make clear that when we are conducting work site enforcement operations, they are not haphazard. We are not out in the community. The goal for our work site enforcement operations is to target and develop cases against egregious employers who are committing violations.

Mr. BISHOP. This clearly appears to be an egregious employer, someone who has a long history of violating various of our laws, including labor laws, at several of their facilities.

I am just curious. We clearly as a country have adopted, I would say by default, an enforcement-only immigration policy. My own view is, that policy is very unwise, but to the extent we are pursuing enforcement only, why is it that so much of our enforcement

focuses on the workers and doesn't focus in an equal fashion on those who are profiting from the work of those that they employ?

And is this within your purview or is this within the purview of another agency within Homeland Security, or is this Department of Labor?

Mr. SPERO. With respect to work site enforcement, I can tell you that our focus is on egregious employers. But in many cases our investigations into egregious employers take time to develop. Sometimes they are comprehensive, full-scale investigations, and we look at all of the potential violations when we are conducting these investigations.

A perfect example is, recently we have conducted an investigation into a company called RCI. We arrested several hundreds of their workforce, and then it was some time later on, months later down the road, that we were able to make and develop a case against the owners.

Mr. BISHOP. Do you know in this—in the Postville case, do you know if any employment records were seized?

Mr. SPERO. In the Postville case, we served two search warrants, a criminal and a civil search warrant; and as part of the criminal search warrant, we seized many documents with regard to the company.

Mr. BISHOP. So is it reasonable to assume that charges may be forthcoming at some future point against management and ownership?

Mr. SPERO. I couldn't say.

Mr. BISHOP. I certainly hope so. Not that you can't say, but that charges will be forthcoming.

This may be beyond what you were asked to come here to testify on, but as I said, by default it seems, because of the inability of this Congress to agree on a way forward in terms of comprehensive reform, we have adopted an enforcement-only strategy. I will just cite one example.

I am from New York. The Farm Credit Bureau of New York, not exactly MoveOn.org, has conducted a study in which they estimate that the pursuit of an enforcement-only immigration policy will result in over 800 farms in New York State going out of business at a loss of approximately 25,000 jobs.

Is this kind of issue something that is being discussed within your department? Is there some broader concern that we may be pursuing a strategy that is not in our broader national interest?

Mr. SPERO. Congressman, I can only speak for Immigration and Customs Enforcement, and that is the enforcement arm of the Department, and we are charged with enforcing the laws. And among those, the immigration and customs laws that we enforce are laws pertaining to work site enforcement.

I can tell you that we do just that; we enforce the Nation's immigration laws as they are written.

Mr. BISHOP. My time has expired. Thank you, Madam Chair.

Chairwoman WOOLSEY. I would like to introduce Mr. McKeon, who is the ranking member of the education and workforce committee, the full committee, and offer time for questions, if you have any.

Mr. MCKEON. Thank you, Madam Chair.

I appreciate your calling this hearing. This is a very important issue in my district at home, and I am sure it is a very important issue for the Nation.

I understand that the topic of this hearing is ICE workplace raids, their impact on U.S. children, families and communities. Do you all agree that if someone is in the country, that has entered the country illegally without proper documentation, or overstayed the limit of the documentation that they enter the country with, they are breaking the law? Do you all agree with that?

Mr. ROMO. Congressman, clearly, in terms of the law itself, there is violation there. The question from our perspective, as the Child Protective Services Division——

Mr. MCKEON. I would just like to get the fact, do you agree, if someone enters the country illegally or overstays their legal status, they are breaking the law? Can you just answer that yes or no?

Mr. ROMO. Yes.

Mr. MCKEON. Thank you.

Ms. GIBNEY. Yes, I would say so.

Ms. MURGUÍA. Yes.

Mr. SPERO. Yes, Congressman.

Mr. MCKEON. One of the things that seems to bother my constituents is, to this point in time, we seem to have been ignoring any breaking of that law.

For instance, if a person runs a red light and there is a policeman there, I have never known of an instance where they don't stop them and probably give them a ticket; and we would probably all agree that is correct enforcement of the law, is that correct? But it seems like we totally look the other way when it is pretty apparent that an immigration law has been broken.

Now I understand that a raid may cause some real turmoil, some real problems with the children, who may be here legally. They may have been born here and may be citizens. But if we go back to where this first starts, a person that enters the country illegally or overstays their legal status, they are really the ones that are putting those children in jeopardy by their own actions, and they should take those children into account, I would think.

We have seen lots of publicity recently on the raids of the polygamist compound in Texas, and I looked at that and my wife and I, talking about it, have great concern for those children who are torn from their parents through no fault of their own. It came from apparent illegal action on the parents' part, still causes much turmoil for the children, much as the cases we have heard about today; and I think we all have compassion for the children.

The thing that bothers my constituents is, we are not enforcing the law or we are selectively enforcing the law. So when pressure was put on ICE to enforce the laws that are currently on the books, how else would you expect them to enforce the law?

I mean, it seems to me that they made the raid. I think the point was made by one of the members earlier, that's how law enforcement works when they think that a law has been broken. They don't give advance warning that they are going to show up and check; they show up. That is how we find out if laws have been broken; and if they have been broken, they make arrests. Then we

have other agencies that are responsible for what happens after that arrest.

Are there other ways that you would suggest that they perform their responsibilities of carrying out the law?

Ms. MURGUÍA. I would like to respond. Thank you, Congressman McKeon.

You point out what I think a number of people see when they see a system in this country that has a broken system with regard to immigration. It creates a lot of frustration and anxiety. Everyone wants to see our laws better enforced. We start first by reforming our immigration law system.

Mr. MCKEON. Let me state this, and then I will give you a chance to finish. We do have a bill that was introduced. Granted, there was earlier failure to get a bill passed, a comprehensive reform, but we have a bill right now introduced by a member of the majority party that we have put a discharge petition out on because we would like to bring it forward. And we have 187 Members who have signed that.

If we could get the Members who have sponsored that bill to sign it, we could bring that to the floor and move forward on that bill. It is being held up by the majority leadership. I think that it is time that we get to really working on this issue.

Ms. MURGUÍA. There are several bills that have been introduced. I certainly believe that. Congressman Gutierrez has also offered a bill, and there are several bills that offer a solution. But you are talking about what to do now without that kind of effort.

I guess I would like to put a broader context on another perspective. That is, there are people who come here and who are desperate and they feel like coming to this country is one of the few answers they have. They don't have a means by which they can legally come here to this country.

Mr. MCKEON. There are people who are desperate and rob banks.

Ms. MURGUÍA. I am not making the same comparison. The reason they are here is because they are desperate, and they want to make sure that those children are taken care of. They want to make sure that their children have better lives and have an opportunity to be taken care of. But I don't think anybody is suggesting we should punish these kids for the actions of their parents.

We need to make sure that we look at not whether we enforce our laws; it is how we enforce our laws. That is really the issue today.

What I had mentioned was, we had a law enforcement effort under way in Postville through a labor law investigation, through labor law authorities, and I guess I would question, are we asking our agencies to better coordinate so that we can optimize the impact of having an enforcement action and dealing with the root of the problem?

But why is it that in 2007 we have seen that, in fact, there are 7 million undocumented workers. There are 6 million employers in the United States, and in 2007, DHS fined a grand total of 17 employers. During that same year, 98 percent of all workplace arrests were of employees, not employers. We are suggesting, there needs to be balance, and as we look at how we enforce those laws, we should measure the benefits and the costs.

But no one is suggesting, certainly not me or my organization, that we shouldn't enforce our laws. We are suggesting that we take a hard look at how we enforce our laws.

Mr. MCKEON. I agree totally. It should be the employer. It is difficult many times for somebody to tell, if somebody brings forged documents, that they are here legally. But where that can be found, the enforcement should be across the board. I have no problem with that. That is the only way we are going to stop the magnet.

Chairwoman WOOLSEY. Thank you, Mr. McKeon.

Mr. Payne.

Mr. PAYNE. That was the concern I had. I was looking at the fact that there seem to be very few employers who are arrested. First of all, people don't make their way to a particular plant just by mistake.

Mr. Spero, is there any concern about the employer who is actually the magnet for people? If we are talking about how bad illegal people are and that it should be stopped, has ICE ever thought about the employer, the one that sort of invites them in? Are there certain firms that seem to have a disproportionate number of illegal workers?

Mr. SPERO. Sir, removing the magnet of employment, of illegal employment, is the primary target of work site enforcement; and work site enforcement, our strategy, does include and is focused primarily on targeting egregious employers.

Mr. PAYNE. Okay, how many have you arrested?

Mr. SPERO. I'm sorry?

Mr. PAYNE. How many of those egregious employers have you arrested?

Mr. SPERO. The distinction we have to make, being in Immigration and Customs Enforcement, is that some of our arrests are for criminal Federal felonies and others are for administrative arrests.

Our criminal Federal arrests made last year totaled 863, out of which, I believe, over 90 were people who were not merely workers of the companies.

Mr. PAYNE. I really have no idea what you said.

Who are these teams? You have—what are they called, fugitives? See, in New Jersey we have some fellows—and do they work for ICE, the fugitive operations teams? What are they?

Mr. SPERO. Fugitive operations teams do work for us. They are officers who do work for ICE. They are assigned to our Deportation Removal Operation Section.

Mr. PAYNE. And they are primarily supposed to be finding criminal—they are more looking for criminal actors? That is why they are sort of specialists?

Mr. SPERO. They are specialists in that their primary mission is to look for people who have been ordered removed by an immigration judge.

Mr. PAYNE. I have information that they are supposed to go after people who they think are criminal, you know, first of all, people who may have stolen identities and things of that nature. From what I understand, anyway in New Jersey, teams arrested 2,079 people last year, twice as many as they did the year before.

From what information we were able to get, they were supposed to be going after the criminal element. However, 88 percent of the people that they arrested had no criminal histories. So, therefore, I am misled to feel that this special posse are supposed to go after the hardened criminal.

Mr. SPERO. Congressman, I do understand that they do prioritize. Our Deportation Section does prioritize their workload, and among top priorities are aliens who have been convicted of crimes.

Mr. PAYNE. So they are pretty unsuccessful?

Mr. SPERO. They are aliens convicted of crimes and subsequently ordered removed by an immigration judge.

Mr. PAYNE. Well, they are 88 percent; if they were baseball players, they would be batting 100. As you probably know my alma mater, Seton Hall Law School, has filed a suit regarding the U.S. Constitution violations. In New Jersey, they pick up almost anyone—legal residents up in North Bergen arrested by an agent, did not ask to check their paperwork, detained for 24 hours without food or water. Another ICE agent and police from Penns Grove stormed into a house, guns drawn, looking for a man ICE had to deport 2 years earlier.

In New Jersey, the raids are conducted by four fugitive operations teams as part of a nationwide program. It is to round up illegal immigrants, but it is supposed to be the criminal element.

The thing that is annoying, and we all believe people should abide by the law, but I just am appalled by the way that justice is meted out. The magnets, the ones that are encouraging the people to break the law, walk away—sort of curbside justice. In inner cities, people are just taken down to the precinct, and in communities of affluence they are driven home and told to stop driving drunk.

So we have a difference in the way that laws are applied, and I think that if your agency is going to have any kind of respect, you ought to have a level playing field and take those business people who are abusing, in some instances, illegal people, and put them in handcuffs with the cuffs behind their backs and some ankle chains, like they do the illegals—do that to them, too; and maybe then they won't do that, and we can come up with some kind of immigration policy that makes sense.

My time has expired.

Chairwoman WOOLSEY. Thank you.

Mr. Hinojosa.

Mr. HINOJOSA. Thank you. My first question is to James Spero. Thank you for your participation.

On April 29, the Congressional Hispanic Caucus sent a letter to Assistant Secretary Julie Myers of Immigration and Customs Enforcement, asking to stop the action on reported enforcement activities near migrant and seasonal Head Start centers.

I would like to ask you—and, in fact, Madam Chair, I would like to ask unanimous consent that this letter be made a part of the record.

Chairwoman WOOLSEY. Without objection.

[The information follows:]

Congress of the United States
Washington, DC 20515

April 29, 2008

The Honorable Julie Myers
Assistant Secretary
Immigration and Customs Enforcement
U.S. Department of Homeland Security
425 I Street, NW
Washington, D.C. 20536

Dear Ms. Myers,

We, on behalf of the Congressional Hispanic Caucus, write to express our grave concern regarding reports that Immigrations and Customs Enforcement (ICE) agents have engaged in enforcement and intimidation tactics near Head Start programs geared toward serving the children of farmworkers. While we support enforcement of our immigration laws, we cannot support actions that have no other perceived benefit than hindering the participation of very young children – the vast majority of whom are U.S. citizens - in critically important early learning programs.

It has come to our attention that, beginning last year, Migrant and Seasonal Head Start (MSHS) programs began reporting the following situations:

- ICE agents parking near MSHS centers during drop off and pick up times;
- ICE agents and local law enforcement following buses of very young school children during pick up and drop off times, beginning as early as 4 am. In some instances, ICE followed the school bus for the entire route as long as two hours;
- ICE agents and local law enforcement following MSHS center staff to and from the Head Start center during lunch breaks;
- Armed ICE agents and local law enforcement bringing detained parents to a Head Start center and forcing them to sign out their children.

As a result of such actions, MSHS programs have begun registering low rates of attendance. This has even garnered the attention of Department of Health and Human Service officials, who monitor Head Start participation and sanction programs for under-enrollment. MSHS programs, across the U.S. reported declined enrollment because parents were fearful of ICE's presence near the centers. When farmworkers lack access to, or are prohibited in anyway from, participating in MSHS, children go to the fields where they are exposed to harsh weather conditions and other occupational hazards that threaten their health, safety, and well-being.

For these reasons, when Congress reauthorized the "Improving Head Start for School Readiness" earlier this year, Members from both sides of the aisle supported an expansion of MSHS. It is clear to us that ICE's actions are in direct conflict with our

policy goals of protecting the children of farmworkers and ensuring their access to sound education programs. Therefore, we are requesting that ICE enforcement and intimidation tactics near MSHS centers cease immediately. Moreover, we request that you inform us of what actions you have undertaken to safeguard against these practices in the future.

The Department of Homeland Security resources for immigration enforcement are finite. Therefore, ICE should prioritize immigration enforcement actions that target criminals and others who would do America harm. This is the wrong approach to enforcement and only serves to instill fearfulness and intimidation in young children and families and undermine our education and social policy goals aimed at protecting some of the most vulnerable children in the nation.

Sincerely,

Joe Baca	Luis V. Gutierrez	Ruben Hinojosa
Chair	Chair	Chair
Congressional Hispanic Caucus	CHC Immigration Task Force	CHC Education Task Force

Cc: The Honorable Michael Chertoff
Secretary, U.S. Department of Homeland Security

The Honorable George Miller
Chair, Committee on Education and Labor

The Honorable Bennie Thompson
Chair, Committee on Homeland Security

The Honorable Loretta Sanchez
Chair, Subcommittee on Border, Maritime, and Global Counterterrorism

---

Mr. HINOJOSA. Thank you.

I would like to ask you, please share with me how and when ICE plans to respond to our letter?

Mr. SPERO. Congressman, I would like to be able to respond to that question in writing.

Mr. HINOJOSA. In writing, okay.

Then I will move on to Ms. Janet Murguía. As president of one of the top ten nonprofit corporations in the Nation, your participation in this congressional hearing is very important.

In your testimony you give a number of specific instances of ICE enforcement activities at Head Start programs and schools. We have a long and growing list of reports of enforcement, near and around migrant and Head Start programs in many locations across the Nation. We have also seen that the humanitarian guidelines have been woefully inadequate to ensure that the children are adequately protected and cared for.

What recommendations do you have for us, for recommendations or legislation to put Federal policies in place that will protect our children?

Ms. MURGUÍA. Thank you, Congressman Hinojosa. In my longer testimony, we cite, according to the National Migrant Head Start Association, about a dozen instances where we have seen——

Mr. HINOJOSA. I have studied them. They include 2008 and 2007?

Ms. MURGUÍA. Right. We had one of our affiliates located in New Mexico, called HELP, that documented a particular instance where ICE enforcement agents entered that migrant Head Start program accompanying a parent, four agents, taking that child. It was a very traumatic experience there.

We would like to see those incidents be responded to, and I appreciate the leadership of the caucus. But what we would like to see today is, one, those guidelines are not enforced on a consistent basis. Your continued oversight as a committee is extremely important in making sure that we are holding our agencies accountable for enforcing these guidelines in a consistent way. That is important.

We may want to look at strengthening those guidelines and perhaps creating legislation that would put them in place in a way that they would strictly adhered to, and not in a discretionary way. We want to see the opportunity to make sure that humanitarian guidelines are consistently followed, and that there may be legislation that is comprehensive that would allow for the systematic interest of the child to be protected in any of these types of incidents.

We are seeing burdens on the churches and schools. We should clarify what exactly those roles can be, but also what are the resources that are going to be necessary when those particular institutions have to step up.

So I do think that there is an opportunity to strengthen those guidelines, in addition to making sure that they are more consistently enforced, and maybe seeing legislation that comes of it.

Mr. HINOJOSA. I hope other Members of Congress hear that response that you gave because it strengthens the need for comprehensive immigration reform legislation.

I would like to ask Ms. Gibney from San Pedro Elementary Schools—you provided compelling testimony. Please describe for us how the immigration raids have affected your ability to carry out your responsibilities in the education settings and in the child welfare setting.

Ms. GIBNEY. Thank you, Congressman.

That is a many layered response I would give. I would like to use an example of how it has affected me and my staff when we were compelled to drive buses to deliver children safely to their homes. Our workload is completely shifted when these events occur, and all of our focus, all of our time, all of our energy is put on the welfare of the children.

So we rode buses until 6 at night three days in a row. This was my entire staff. They put aside preparatory time to be prepared for their classes, and after-school programs became something more of a huge counseling session than actual instruction.

I would say that the whole system is broken, and our children are suffering terribly for it, as are we. It is so difficult for us to see the absolute impacts on our children in terms of their learning and their proficiency; and I think the level of anxiety for myself and my staff is profound as we try to seek ways to support our students better and still give them an adequate education.

I am not sure that I answered your question very well.

Mr. HINOJOSA. No. I can understand how frustrating it must be to carry out your responsibilities and those who work under your

guidance, the teachers, and so I sympathize on how difficult it must be.

My time has run out because this is certainly informative and necessary that we share with our Members of Congress so we can expedite and move forward with the issue of immigration reform, so we can give you some relief.

Thank you, Madam Chair, for letting me ask my questions.

Chairwoman WOOLSEY. I yield to Mr. Wilson for a request.

Mr. WILSON. Thank you, Madam Chair.

The Immigration and Customs Enforcement has published its 2007 accomplishments, which can be picked up at www.ice.gov; I would like to introduce these accomplishments for the record, and I would like to quote from it regarding work site enforcement.

This shows there is a significant effort against employers, not just employees, and particularly the subsection Strengthening Work Site Enforcement. "ICE's more aggressive work site enforcement strategy targeted the jobs magnet that attracts illegal aliens seeking employment in the U.S. In FY07, ICE dramatically increased penalties against employers whose hiring processes violate the law, securing fines and judgments of more than $30 million while making 863 criminal arrests and 4,077 administrative arrests."

Thank you, Madam Chair.

Chairwoman WOOLSEY. Without objection, we will enter that into the record.

I want to thank all of our witnesses for an excellent hearing. Thank you for coming and for being open and honest with us. You have confirmed what we all know, we need to do better by our children. The administration must take the necessary steps to ensure that these raids are conducted in a humane fashion, and they are protective to kids, not harmful; which apparently won't happen until humanitarian guidelines become mandatory instead of voluntary, because despite initial hopes that discretionary guidelines would help, they are not being followed on a consistent basis.

I commend Senators Kerry and Kennedy and Representative Delahunt for their initial actions in negotiating these guidelines, and I look forward to working with them to strengthen the measures. Senator Kerry and Representative Solis have introduced the Families First Enforcement Act. This legislation, which I cosponsor, takes an excellent first step. It mandates that a workplace raid targeting 50 or more people consider the release of detainees on age-, medical- or family-related humanitarian grounds. It also requires that ICE give State agencies advance notice of raids and afford detainees access to social service agencies to determine if medical risks or risks to families exist.

We need to take action and do it now, and we need to protect our kids. With all of us working together, I am confident that we can come up with the best solution and a solution that is much better than what we have now.

Thank you for being part of informing us what you think would be a better solution.

As previously ordered, members will have 14 days to submit additional materials for the hearing record. Any member who wishes

to submit follow-up questions in writing to the witnesses should coordinate with majority staff within 14 days.

[The information follows:]

[Additional submissions of Ms. Woolsey follows:]

Prepared Statement of the American Psychological Association

On behalf of the 148,000 members and affiliates of the American Psychological Association (APA), we thank you for convening the May 20, 2008 hearing to investigate ICE workplace raids and their Impact on U.S. children, families, and communities. APA advocates and promotes efforts to increase the availability of and access to educational, health, mental health, and social services for immigrant children, youth, and families.

APA is the largest scientific and professional organization representing psychology in the United States and is the world's largest association of psychologists. Comprising researchers, educators, clinicians, consultants, and graduate students, APA works to advance psychology as a science, a profession, and as a means of promoting health, education and human welfare. Psychologists play a vital role in our society's understanding of the cognitive, social, and emotional development of children. As such, we appreciate the opportunity to share our comments regarding this important issue with members of the Subcommittee.

The American Psychological Association (APA) is concerned about the potential impact of Immigration and Customs Enforcement (ICE) raids on children and families. ICE raids are a method of enforcement of United States immigration laws through the detention of undocumented immigrants who are then placed into removal proceedings. These ICE raids have resulted in the involuntary separation of children from parents/caregivers indicted for violating immigration laws. The potential implication of these situations can result in an adverse impact on the family unit, and can also have a detrimental effect on childhood growth and development, health, and education.

Prior to experiencing potential ICE raids, children constantly fear not finding their families when they return home from school, which can be detrimental to their mental and physical health. It has been reported that intimidation and fear are frequently utilized methods during ICE raids. Reported use of excessive physical force against parents/caregivers during raids can also result in an adverse psychological impact on children and adolescents. Overwhelming distress associated with trauma subsequent to ICE raids has the potential to cause long-term adverse psychological affects on children's mental health.

Nationwide, 4.7 million children currently have at least one undocumented parent. Of those 4.7 million children, 66% are U.S citizens. In 2005 alone, the ratio of children to undocumented adults was 53 percent, meaning that the number of children affected by ICE raids would equate to half (or more when multiple children are affected in each family) the number of detained adults. In this regard, numerous children who are U.S. citizens have been and continue to be effected by ICE raids. As a result, many of children throughout our nation's communities have been consistently found to be suffering from anxiety, depression, and post-traumatic stress disorder (PTSD).

APA believes it is imperative to address the many biopsychosocial implications that raids could have on children and their families. Workplace arrests of undocumented parents/caregivers place children and adolescents at-risk of family separation, psychological and economic distress, poor health, and developmental delays. Specifically, ICE raids can increase children's vulnerability resulting from abrupt events that hinder their dependence on adults for psychological, physical safety, and stability.

Raids can impact children on many levels. Infants, toddlers, and preschoolers' development can be negatively impacted by workplace arrests due to lack of caregivers attending to their biological needs (i.e., breastfeeding, medication) while parents/caregivers are in detention. For youth and adolescents, academic performance and matriculation can also be impacted by the raids. These circumstances have the potential to create poor outcomes for children by increasing the likelihood of their involvement in at-risk behaviors such as delinquency and dropping out of school. This not only negatively impacts the individual but also society at-large due to poor quality of life and the inability to effectively contribute economically to society.

APA understands and appreciates ICE's main objective to uphold the security of our nation. However, it is essential to address ongoing gaps in ICE internal control standards regarding the enforcement of humanitarian procedures when conducting raids that may help eliminate traumatizing children and communities. While on No-

vember 16, 2007 ICE placed voluntary guidelines to ensure humanitarian procedures when conducting raids, ICE officials are not encouraged to implement them effectively and consistently. Policies and procedures permit ICE officers to exercise their discretion throughout the detainment and removal process. According to the Government Accountability Office, officers have indicated their use of discretion when encountering undocumented immigrants who have humanitarian circumstances. However, numerous reports regarding stranded children after ICE raids is indicative that officers do not utilize humanitarian procedures consistent with ensuring that no children are left unattended during ICE raids.

APA promotes and supports public policies that recognize and provide for the psychosocial needs of immigrant children, youth, and families. Updated ICE standards that require appropriate coordination of child care with social service agencies that will be implemented and consistently enforced are essential. In addition, measures such as having detention of immigrants in nearby facilities are important to preserve the family unit and to meet basic biological needs of vulnerable infants and caretaking of special needs children.

In closing, the APA would like to thank Chairwoman Woolsey for the opportunity to share our comments on the impact of ICE raids on the health of children, families and communities. We appreciate the Subcommittee's ongoing commitment to addressing the health, education, and psychological needs of all children and look forward to serving as a resource and partner as you work on this and other important issues affecting immigrant families.

APA Resolution on Immigrant Children, Youth, and Families

Whereas the largest proportion of the population of the United States of America is composed of people whose ancestors immigrated to this country from other lands (Fix & Passel, 1994);

Whereas immigrants to the United States, categorized as foreign-born in the U.S. Bureau of the Census reports, are a diverse group including both documented and undocumented individuals who make up 8 percent of the current population (U.S. Bureau of the Census, 1993) and include 2.1 million foreign-born children who together with second-generation immigrant children constitute the fastest-growing segment of the U.S. population under age 15 (Fix & Zimmerman, 1993; U.S. Department of Health and Human Services, 1996);

Whereas the experience of immigration has immediate implications for the psychological and social well-being of individuals and families (Beiser, 1988; Westermeyer, Williams, and Neguyen, 1991) which are especially intense for children, people of color, people of the impoverished socioeconomic classes (Fix & Passel, 1994), as well as women (Yee, 1997; Yee, Huang, & Lew,1998), lesbian, gay, and bisexual persons (Espin, 1997; Patterson, 1995), and individuals with disabilities;

Whereas immigrants to the United States experience unique stresses, prejudice, and poverty and can be considered at-risk subpopulations for health, emotional and behavioral problems (Eisenbruch, 1988; Williams & Berry, 1991) as well as, in the case of children, learning and academic difficulties (Rousseau, Drapeau, and Corin, 1996);

Whereas 23.4 percent of all foreign-born residents including children and youth, who entered the United States from 1980 to 1990 are now at or below the poverty level, as compared to 9.5 percent of the native (i.e., U.S.-born) population (U. S. Bureau of the Census, 1993);

Whereas, in addition to poverty, the challenges of exploitation and isolation are faced by some immigrants, such as service workers from Asia and Haiti (Andersen, 1997; Amott & Matthaei, 1991); and migrant farm workers from Mexico and Central or South America (Olivera, Effland, & Hamm, 1993) whose children often leave school to enter the migrant stream to work with their parents, since few states set minimum age limits for child farm labor (Fuentes, 1974; DiPerna, 1981; Martinez, Scott, Cranston-Gingras, & Platt, 1994; Wilk, 1986);

Whereas mental health-related issues, particularly stress associated with trauma, acculturation to language, economics, health care, education, religion, as well as encounters with both individual and institutional bias, are faced consistently by foreign-born residents of this country (Kraut, 1994; Portes & Rumbaut, 1996) and differential degrees of acculturation within immigrant families can negatively affect family communication and even evoke conflict, particularly between parents and their adolescent offspring (Pedersen, Draguns, Lonner, and Trimble, 1996; Ponterotto, Casas, Suzuki, and Alexander, 1995);

Whereas health, disease-specific prevention—particularly HIV prevention and treatment (Ryan, Tapscott, Carde, Havenner, Keene, Smith, & Bell , 1992)—mental

health, and social services are under-utilized by foreign-born resident populations (Beiser, 1988), especially refugees (Beiser, 1988), migrant workers, and undocumented immigrants (Wilk, 1986), and such services are unavailable in many locations;

Whereas foreign immigration has periodically evoked in the citizenry negative perceptions and feelings that find expression in executive and legislative initiatives that attempt to limit immigrants' civil rights and access to public benefits such as education and other human services for children, youth, and families (Board on Children and Families, 1995; Degler, 1970; Goldenberg, 1996);

Whereas a review of the literature in American psychology journals shows scant attention to these issues while policies and programs for immigrant children, youth, and families are being established despite the paucity of scientific data on this population (Board on Children and Families, 1995);

Therefore, be it resolved, That the American Psychological Association, an organization that is committed to promoting the psychological well-being of children, youth, and families:

(1) advocates for the development of a scientific data base concerning the adaptation, development, education, health, and mental health, as well as the social impact and contributions, of immigrant and refugee populations;

(2) supports efforts to increase funding for research about the adaptation, development, education, health, and mental health of diverse immigrant children, youth, and families;

(3) promotes and facilitates psychologists' acquisition of competencies, including relevant cultural knowledge, attitude, and skills in providing services to and conducting research on immigrant children, youth, and families;

(4) advocates and promotes efforts to increase the availability of and access to educational, health, mental health, and social services for immigrant children, youth, and families; and

(5) promotes and supports public policies that recognize and provide for the psychosocial needs of immigrant children, youth, and families. (Levant, in press).

REFERENCES

Andersen, M.L. (1997). Thinking about women: Sociological perspectives on sex and gender. Boston: Allyn & Bacon.

Amott, T.L., & Matthaei, J. A. (1991). Race, gender, and work: A multicultural history of women in the United States.

Boston: South End Press.

Beiser, M. (1988). After the door has Opened: Mental health issues affecting immigrants and refugees in Canada. Ottawa: Health and Welfare Canada.

Board on Children and Families, Commission on Behavioral and Social Sciences and Education, National Research Council, Institute of Medicine (1995). Immigrant children and their families: Issues for research and policy. The Future of Children, 5, 72-89.

Degler, C. (1970). Out of our past: The forces that shaped modern America. New York: Harper & Row.

DiPerna, P. (1981, July 27). The lethal cloud of indifference. The Nation, 786-789.

Eisenbruch, M. (1988). The mental health of refugee children and their cultural development. International Migration Review, 22, 282-300.

Espin, O. (1997). Crossing borders and boundaries: The life narratives of immigrant lesbians. In Greene, B. (Ed.), Psychological perspectives on lesbian and gay issues: Vol. 3. Ethnic and cultural diversity among lesbians and gay men (pp.191-215) Thousand Oaks, CA: Sage.

Fix, M., & Passel, J. S. (1994). Immigration and immigrants: Setting the record straight. Washington, DC: The Urban Institute.

Fix, M., & Zimmerman, W. (1993). Educating immigrant children: Chapter 1 in the changing city. Washington, DC. The Urban Institute.

Fuentes, J. A. (1974). The need for effective and comprehensive planning for migrant workers. American Journal of Public Health, 64, 2-4.

Goldenberg, C. (1996). Latin American immigration and U.S. schools. Social Policy Report, Society for Research in Child Development, 10, (1). Ann Arbor, MI: Society for Research in Child Development.

Kraut, A. M. (1994). Silent travelers: Germs, genes, and the "immigrant menace." New York: Basic Books.

Levant, R.F. (In press). Proceedings of the American Psychological Association, Incorporated, for the year 1998: Minutes of the meeting of the Council of Representatives, August 14 and 17, 1997, Chicago, IL, and February, 20-22, 1998, Washington, DC. American Psychologist.

Martinez, Y. G., Scott, J., Cranston-Gingras, A., & Platt, J. S. (1994). Voices from the field: Interviews with students from migrant farm worker families. Journal of Educational Issues of Language Minority Students, 14, 333-348.
Olivera, V., Effland, J. R., & Hamm, S. (1993). Hired farm labor use on fruit, vegetable, and horticultural specialty farms. Washington, DC: U.S. Department of Agriculture.
Patterson, C.J. (1995). Sexual orientation and human development: An overview. Developmental Psychology, 31, (3-11).
Pedersen, P. B., Draguns, J. G., Lonner, W. J., & Trimble, J. E. (1996). Counseling across cultures (4th ed.). Thousand Oaks, CA: Sage.
Ponterotto, J. G., Casas, J. M., Suzuki, L.A., & Alexander, C.M. (1995). Handbook of multicultural counseling. Thousand Oaks, CA: Sage.
Portes, A. & Rumbaut, R. G. (1996). Immigrant America: A portrait (2nd.ed.) Berkeley, CA: University of California Press.
Rousseau, C., Drapeau, A., & Corin, E. (1996). School performance and emotional problems in refugee children. American Journal of Orthopsychiatry, 66, (2), 239-251.
Ryan, C., Tapscott, J., Carde, H., Havenner, S., Keene, D., Smith, M., & Bell, D. (1992). Language, cultural and psychological barriers to access. Agency for HIV/AIDS, District of Columbia Comprehensive HIV/AIDS Plan 1992-1996. p.3-3. Agency for HIV/AIDS: District of Columbia.
U. S. Bureau of the Census (1993, July). The foreign-born population in the United States, 1990 census of the population. Washington, DC: U.S. Department of Commerce.
U.S. Department of Health and Human Services (1996). Trends in the well-being of America's children and youth: 1996. Washington, DC: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation.
Westermeyer, J., Williams, C. L., & Neguyen, A. N. (1991). Mental health services for refugees. DHHS Publication No. [ADM] 91-1824). Washington, DC: US Government Printing Office.
Williams, C. L. & Berry, J. W. (1991). Primary prevention of acculturative stress among refugees: Application of psychological theory and practice. American Psychologist, 46, 632-641.
Wilk, V. A. (1986). The occupational health of migrant and seasonal farm workers in the United States (2nd edition). Washington, DC: Farm worker Justice Fund, Inc.
Yee, B. W. K. (1997). The social and cultural content of adaptation of aging among Southeast Asian elders. In J. Sokolovsky (Ed.), The cultural context of aging, 2nd Edition, New York: Greenwood Publishers.
Yee, B. W. K.; Huang, L. N. & Lew, A. (1998). Family Socialization. In L. L. Lee & N. Zane (Eds.), Handbook of Asian American Psychology, Vol. I, pp 83-136. Newbury Park, CA: Sage Publications.

The Protection of Children During Immigration Enforcement Actions: Lessons From Recent Large Scale Worksite Raids

By Randy Capps, Rosa Maria Castañeda, Ajay Chaudry and Robert Santos, The Urban Institute

There are now an estimated 12 million migrants living in the United States without legal authorization. Recent large scale migrations to the United States—particularly from Mexico and Central America—have brought to light the incapacity of the country's current immigration system to adequately address this growing problem. While there is some consensus that current immigration policies should be revised, there is a lack of political consensus about how to do so—especially regarding whether the unauthorized migrants should be allowed to remain in the country. This unsettled policy environment has contributed to an increasingly hostile social and political climate for unauthorized migrants, including stepped up enforcement of immigration laws by U.S. government authorities.

There are about 5 million U.S. children who live with at least one unauthorized parent, and in the current enforcement climate, these children are increasingly vulnerable. Researchers at the Urban Institute have been focusing on the health, well-being and social rights of children in U.S. immigrant families over the past several years. In a recent study we described the experiences of some of the most vulnerable children—those with parents arrested in U.S. immigration raids. We also made recommendations on how the U.S. federal government, state and local government agencies, civil society, and migrants' home country consulates could work to protect children in these troubling circumstances.

2007 Urban Institute Study of Worksite Raids

During Spring 2007 Urban Institute researchers visited three locations where the U.S. governments' Immigrant and Customs Enforcement (ICE) agency had arrested large numbers of unauthorized migrants working in manufacturing plants. We visited New Bedford, Massachusetts; Greeley, Colorado; and Grand Island, Nebraska, between two and six months after the raids took place. In each of these sites, we spoke with arrested immigrants, their family members, consular staff, immigration lawyers, public and private service providers, and others in the community. The research focused on the raids' short-term impacts on families with children.

Across the three sites, for every two persons arrested, about one child was directly affected. Altogether, 900 migrants were arrested, including parents of over 500 children. Two-thirds of these children are U.S. citizens by birthright. The majority of children in these sites were also young—two thirds were ages 10 or under; almost three-quarters of the children affected in New Bedford were age five or under. Most children lived with both parents prior to the raids.

In New Bedford, most of those arrested were Central Americans—the largest group from Guatemala's Maya Kiche people. Many had fled Guatemala's poverty and civil unrest. Most were young families, and in some cases, those arrested were single parents. In Greeley and Grand Island most arrested migrants were from Mexico, but there were also a significant number from Guatemala.

Consequences of the Raids for Migrant Parents

According to lawyers and consular officials interviewed for the study, a large number of arrestees were deported within a few days, in some cases without contact with families, lawyers or home country consulates. Mexican migrants were more likely than those from Central America to sign "voluntary" departure papers because they knew they would be deported to the U.S.-Mexico border. For instance in Greeley, over 100 arrested migrants were deported to the Arizona-Sonora border within 48 hours, before the Mexican Consulate could reach them.

Other arrestees were held in detention for days or weeks, and in a few cases there were still people in detention when we visited two of the sites six months after the raids. We were told that most Guatemalans appealed their deportation. Because of dire home country conditions, they attempted to remain in the United States as long as possible.

Most long-term detainees were moved out of the state in which they were arrested, for instance from Massachusetts to Texas, or Nebraska to Georgia. Arrested migrants were not allowed to make phone calls on the day of the raid, and those held for longer periods had difficulty gaining access to telephones. As a result, it was difficult for them to get into contact with their children and other family members.

In all three sites ICE released small numbers of migrants on the day of the raids or within a few days because they were single parents or parents of very young or sick children. ICE has stated that their policy was one of "humanitarian release" in these cases, but at the time of our research there was no written policy, and we found the policy implemented inconsistently across the sites. Indeed for the New Bedford raid, it required the intervention of the Governor of Massachusetts, two U.S. Senators, and over 30 social workers to obtain the release of 21 parents who fit the humanitarian criteria based on ICE's statement but who instead had been transferred to Texas.

Some parents had also been afraid to divulge to ICE officers that they had children for fear that the children could be taken away or deported. They were more likely to reveal this information to consular officials, lawyers or social workers.

Impacts on Migrants' Children

Our research focused on the short-term impacts of these three worksite raids on children; follow-up work we are conducting will examine longer-term outcomes. The children in the study experienced a variety of challenges, including separation from parents, significant economic hardship, emotional difficulties, isolation, and social stigma.

Family Separation. Most of those arrested came from two-parent homes, which are a particular strength of migrant families in the United States. But since many parents were detained for a long period of time, children went from living with two parents to living with one. Many arrested immigrants were in detention for up to six months after the raids, during which time the remaining parents often had difficulty maintaining the household independently. For example, some spouses did not have access to or familiarity with bank accounts or other financial resources.

In other cases, both parents or a single parent was arrested, and children wound up living with relatives, close acquaintances, or even babysitters for a period of

days, weeks or months. Many children felt abandoned and could not understand why a parent had simply "disappeared."

Economic Hardship. Because many families lost the adult with the better job, household incomes plunged. For instance, the meat-packing jobs in Greeley and Grand Island paid more than $10 per hour, were full- or overtime unionized jobs, and offered full benefits. With the arrest of a working parent, families fell back on savings, and assistance from social service agencies, churches, informal networks in the community, and informal jobs.

For a while, these sources provided economic support while extended families helped provide child care, thus keeping the majority of children from living without supervision or becoming homeless. Other than three adolescents who were themselves arrested at the New Bedford work site, no children wound up being referred to child protective services or taken into foster care.

Over time, however, these sources of support weakened and families increasingly needed assistance from public or other private sources. Most families received some form of community assistance for three or four months after the raids. By about six months, most of the forms of community assistance raised from private or public funds had expired. Some families lost their homes, utilities were temporarily cut off for some families, and many experienced difficulty affording food. Some other families moved in with other families, which tended to lead to crowded housing conditions.

Fear and Social Isolation. The raids created a climate of fear—especially in Grand Island where ICE continued to conduct follow-up raids in people's homes for over a week. (ICE returned to the worksites to arrest a small number of migrants in both Greeley and Grand Island more than a year after the initial raids.) Researchers spoke to families that hid in their homes for days or weeks; some hid in closets or basements. Many were fearful of seeking help—even at trusted locations such as churches. Some would not open the doors for people who brought food baskets and other assistance.

Social Stigma. Parents and caregivers struggled to explain to children what had happened. It was especially difficult for younger children to understand. One child said that his parent was "arrested for working."

Some of the older children, mostly high school students, went to the work sites and saw their parents taken away in handcuffs. Some children faced hostility by teachers and other adults in the community, or were taunted by their peers. Greeley was especially polarized, with many native-born Americans expressing support of the raid, and many migrants feeling increasingly isolated.

Children's Emotional and Mental Health. The separation, economic hardship, fear, isolation, and stigma led to behavioral changes in nearly all of the children, including children showing more aggressive behavior, changes in sleep patterns and appetites, mood swings, and prolonged bouts of crying. Mental health professionals that the researchers interviewed spoke of elevated stress in children, signs of depression and even suicidal thoughts. The researchers were unable to interview a random sample of parents and could not document the prevalence of mental health effects; however, we plan to return to these raid sites to investigate ongoing mental health impacts on children in more detail.

Community Responses

All three communities initiated intensive and broad response efforts to assist immigrant families after the raids. The relief effort was especially well organized in New Bedford, where the Massachusetts Immigration and Refugee Advocacy (MIRA) coalition led an effort to bring together state and local government officials, representatives from the Honduran and Maya Kiche communities, faith leaders, foundations, community-based organizations and home country consulates to plan the relief effort. Local foundations and individual philanthropists raised a significant amount of money. In Greeley and Grand Island, the employer—Swift and Company—provided financial support for services. Assistance and services were mostly delivered through local community-based organizations and churches. These groups distributed assistance to help families cover the cost of rent, food, utilities, clothing and diapers for kids, and other necessities.

Public health and social service agencies also assisted families, though their roles varied substantially across the three sites. The New Bedford city government was very supportive of families in need, and Massachusetts DSS social workers were involved in linking parents with children and distributing relief. In Greeley, however, a state law had been implemented just before the raid that many respondents said deterred migrants from seeking public assistance. The state law requires parent identification for receipt of public services and the reporting of unauthorized migrants to ICE, and setting jail time and other penalties for presentation of fraudu-

lent documents. There was a sign posted in the local social services office about this law.

In all three sites, public assistance through cash welfare, food assistance, and health coverage was limited to U.S. citizens and legal residents. Most adults did not qualify, and many families were afraid to apply for those government programs for which their U.S. citizen children qualified.

Churches emerged as central distribution points for relief because they generally had a trusting relationship with immigrant families. In all three sites, public agencies and nonprofit service providers stationed their staff at churches. Staff from home country consulates also stationed themselves at churches and participated in meetings there with the local public and private service providers. Many religious and community leaders went door-to-door to provide assistance.

Finally, the public schools played important roles in protecting children. The Grand Island public schools had developed a plan in advance of the raid. They also made public statements that they would not allow immigration enforcement agents to come to the schools and arrest children or their parents. The public schools in all three sites made efforts to ensure that no children were dropped off by buses to empty homes, and even kept teachers and classrooms available for students who would need to be picked up later than usual. In the end, only a few of the older children in our study went home from school to empty homes.

Conclusions and Recommendations for Protecting Migrants' Children

Children are among the most vulnerable members of society, and the United States—like most other nations—has developed systems to protect them. These systems are designed to meet children's basic needs such as food, shelter and health care, and to keep them safe from psychological and physical harm. Yet, these systems cannot replace parents when they are taken away from children.

In the increasingly complex environment of international migration, it is essential that systems be developed to protect migrants' children. These systems should ensure that children are not unnecessarily separated from parents on account of migration or repatriation, and that children remain in safe and economically secure environments. Cooperation between receiving countries such as the United States and sending countries such as Mexico and Guatemala is an important element of protection, as displayed in the central role that Mexican and Guatemalan Consulates played in the aftermath of the raids we studied. But ultimately the U.S. government must take responsibility for the well-being of all children living within our borders.

Aside from a general call for the protection of children during immigration enforcement operations, the report offers some specific recommendations:

- The U.S. Congress and the Department of Homeland Security's Office of Inspector General should provide oversight of immigration enforcement activities to ensure that children are protected.
- ICE should work on the presumption that there will always be children—generally very young children—affected by raids. ICE should develop consistent, written policies for parents' release—single parents and other primary caregivers should be released on the same day of any enforcement action. These guidelines should apply to all enforcement activities, not only those of a certain type or scale.
- ICE should assume many parents will not divulge they have children, so the agency should allow access to intermediaries such as consular officials, lawyers, and social workers.
- ICE should allow contact between arrested migrants and their families by providing access to working telephones at reasonable cost, and not moving parents to remote detention facilities, where it is more difficult for them to contact family members.
- Schools should develop systems to help ensure that children have a safe place to go in the event of a raid, and to reduce the risk that children will be left without adult supervision.
- Social service agencies should prepare to respond to immigration raids and develop outreach plans. Assistance may need to be provided for months (up to six months in our study sites), until parents are released and their cases are resolved.
- Because religious institutions are trusted, they should be considered central points for assistance and outreach to families. Consulates and social service providers should coordinate assistance with churches and other religious institutions.
- Immigrant parents and other relatives, friends, and community leaders, and service providers should develop plans in the event of arrests (e.g., school pick up) and assemble children's documents.

• Consulates should work with immigrant families and communities to help them develop these plans and assemble such documents in advance of a raid, or if necessary, following one.

Enforcement Actions since the Release of Our 2007 Report

ICE raids on worksites and other locations have continued at a rapid pace since our report was released in October 2007, and have occurred all over the country. There have been two large scale raids thus far in 2008: one with over 300 arrests in five different Pilgrim's Pride poultry processing plants in Arkansas, Tennessee, Texas and West Virginia during April, and a second with almost 400 arrests at a single meat processing plant in Iowa during May. Manufacturing plants have also been raided in California, Pennsylvania, and Utah. There have also been numerous smaller scale arrests: for example, in one operation targeting a cleaning and grounds maintenance contractor, almost 200 immigrants were arrested in more than 64 locations in 18 states and the District of Columbia.

In November 2007, just after the release of our report, ICE issued guidelines concerning the treatment of parents after arrest and the safeguarding of their children. These guidelines partially address some of the recommendations from our original report, but are limited to worksite operations of 150 or more arrests, and other operations at the discretion of the Assistant Secretary. Among other things, the guidelines suggest that single parents or other primary caregivers be released on the same day as the raids; that parents be allowed to contact their families by telephone and be given access to social services workers (either federal, state or local); and that parents not be moved to remote detention facilities from which it would be difficult to contact their families.

The Urban Institute has received follow-on funding from several foundations to investigate the long-term impacts of immigration raids on children. For this study we plan to return to some of our 2007 study sites, and to go to some of the newer sites with both large-scale and smaller-scale raids. We plan to investigate worksite raids as well as raids on homes and other locations. Key questions include how ICE conducts raids and whether procedures are in accordance with ICE's guidelines; how communities are responding to the raids; and short- and longer-term impacts on children separated from their parents—particularly in terms of their academic performance, and emotional and economic well-being.

We expect to release findings from this next phase of research in late 2008 or early 2009. In the meantime, we sincerely hope that the Congress will further investigate enforcement activities by ICE and provide oversight of future operations. We also hope that at some point in the near future the Congress will consider strengthening protections for children with unauthorized parents in U.S. immigration law.

Randy Capps is a Senior Research Associate at The Urban Institute in Washington DC. Rosa Maria Castañeda is a Research Associate at the Urban Institute. Ajay Chaudry is the Director of the Labor, Human Services and Population Center at the Urban Institute. Robert Santos is a Senior Methodologist at the Urban Institute. The report "Paying the Price: The Impact of Immigration Raids on America's Children" can be found at *http://www.urban.org/UploadedPDF/411566—immigration—raids.pdf.* This study was sponsored by the National Council of La Raza, with support from Atlantic Philanthropies and the Annie E. Casey Foundation. Ongoing Urban Institute research on this topic is being supported by the Foundation for Child Development, Peppercorn Foundation, and the A.L. Mailman Family Foundation.

FIRST FOCUS
MAKING CHILDREN & FAMILIES THE PRIORITY

1100 VERMONT AVE., NW
SUITE 500
WASHINGTON D.C., 20005
T: 202.657.0670
F: 202.657.0671
WWW.FIRSTFOCUS.NET

WRITTEN TESTIMONY FOR SUBMISSION TO THE
WORKFORCE PROTECTIONS SUBCOMMITTEE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

ICE WORKPLACE RAIDS:
THEIR IMPACT ON U.S. CHILDREN, FAMILIES, AND COMMUNITIES

BRUCE LESLEY
PRESIDENT
FIRST FOCUS

MAY 20, 2008

On behalf of First Focus, a bipartisan advocacy organization committed to making children and their families a priority in federal policy and budget decisions, I thank Chairwoman Lynn Woolsey (D-CA 6th) and Ranking Member Joe Wilson (R-SC 2nd) for holding this important hearing on the impact of immigration raids on children. Earlier this year, we joined the National Council of La Raza (NCLR), the National Education Association (NEA), and others in calling for hearings on this issue so I sincerely thank you for your attention to this pressing matter.

Numbering over 15 million, children of immigrants make up 20 percent of the U.S. population.[1] This figure includes undocumented and legal immigrants, as well as the U.S.-born children of immigrants who, at 80 percent, make up the majority of these children.[2] Still, while most children of immigrants are native-born U.S. citizens, many of these children live in families where one or more of their parents are noncitizens. In 2005, 64 percent of children living in undocumented families were U.S. citizens by birth.[3] While the debate over comprehensive immigration reform has often overlooked these citizen children, inaction on immigration reform and increased enforcement are having large impacts on some of America's most vulnerable children.

Particularly in the last five years, U.S. Immigration and Customs Enforcement (ICE) has increased worksite immigration enforcement measures. Between fiscal year (FY) 2002 and 2007, worksite enforcement arrests, both criminal and administrative, have proliferated 869 percent from 510 to 4,940.[4] In the last week, the largest single-site workplace raid took place in Postville, Iowa. Nearly 400 of 1000 workers at Agriprocessors, Inc., the largest producer and distributor of kosher beef and poultry in the country, were arrested. On the day following the Agriprocessors raid, approximately 150 of the 600-student Postville Community School District were missing from school. Clearly, the impact of the raid extended beyond the walls of Agriprocessors plant.[5]

Although undocumented adult workers are the direct targets, the rights of American citizens, those who need to be safeguarded the most – children – are being compromised. According to a recent

report released by the NCLR and the Urban Institute, "on average, the number of children affected by worksite raids is about half the number of adults arrested."[6] The majority of these children are U.S. citizens. In one of the worksite raids profiled in the NCLR-Urban Institute report, two-thirds of the children who had a parent detained were U.S. citizens.[7] In addition, the children affected are among the youngest. At the site of a worksite raid in New Bedford, Massachusetts, 88 percent were under the age of 10, and 71 percent were under the age of six.[8]

The impacts on children resulting from these raids are immeasurable. They include separation from one or both parents due to detention, interruptions in schooling because parents fear sending their children to school, and economic hardship because the family breadwinner has been detained. In most of these cases, schools, early learning and child care centers, social service agencies, and communities are understandably unprepared to respond adequately to the effects of these immigration raids since they have no notice of the impending raids, further exacerbating the crisis.

Other immigration enforcement measures affecting children include the detention of immigrant families and children. Currently, two family detention centers are in operation – the Berks County Shelter Care Facility in Berks County, Pennsylvania, and the T. Don Hutto Residential Center in Williamson County, Texas. In both of these facilities, a substantial number of those detained are children. In February 2007, media reports indicated that approximately 200 children were being housed in Hutto, a 512-bed facility.[9] In addition, many of the children are young, mostly under the age of 12.[10] The Hutto facility has been under extensive scrutiny after a report found that children were being forced to sleep in prison cells, surrender their toys and drawings, receive inadequate and limited education, and even don scrubs as clothing.

Despite such documented observations and having to settle a lawsuit with the American Civil Liberties Union, ICE is currently accepting bids for up to three new family detention centers.[11] We urge federal policy-makers and the Administration to reconsider this ill-advised proposal. Alternatives to detention exist, including the Intensive Supervision Appearance Program (ISAP), which has been encouraged by the U.S. House of Representatives Committee on Appropriations and has demonstrated that more than 90 percent of the individuals participating in the program are present for their required court dates. With such existing alternatives, it is inexcusable, inhumane, and unnecessary to invest in the further incarceration of innocent children. Attached, please find a recent letter to the U.S. House of Representatives signed by more than 80 organizations, including the Children's Defense Fund, NEA, and the Episcopal Church, that are concerned about the well-being of detained children at Hutto and at Berks and oppose the development of increased immigrant family detention centers.

America has a responsibility to protect and support these children. In response to the heightened focus on immigration enforcement, Congresswoman Hilda Solis (D-CA 32nd) has introduced H.R. 3980, the Families First Enforcement Act. This common-sense proposal will help ensure that the needs of children and families affected by U.S. immigration enforcement measures are appropriately considered. For example, it encourages the release of detainees, including pregnant women, nursing mothers, parents who are the sole caretakers of minor children, and children who are under the age of 18, and encourages increased use of ISAP for these detainees. First Focus supports the Families First Enforcement Act, and I hope that you will consider sponsoring this important legislation.

As a national children's advocacy organization, First Focus finds it necessary to highlight the impact that increased immigration enforcement measures, such as worksite raids and family detention

centers, are having on children of immigrants in America, the majority of whom are U.S. citizens. I thank you once again for bringing this matter before Congress and for the opportunity to submit testimony for the record. First Focus believes that enforcement of America's immigration laws can also uphold America's values for children and families, and we look forward to working with Congress to achieve this vision.

ENDNOTES

[1] Urban Institute, *Children of Immigrants: Facts and Figures.* Washington, DC: Urban Institute, 2006.

[2] *Ibid.*

[3] Passel, Jeffrey S., *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey.* Washington, DC: Pew Hispanic Center, 2006.

[4] U.S. Immigration and Customs Enforcement, *Frequently Asked Questions about Worksite Enforcement*, Washington, DC: U.S. Department of Homeland Security, 2007.

[5] "Iowa Immigration Raid Called a 'Man-Made Disaster,'" *Education Week*, May 15, 2008.

[6] Capps, Randy, Rosa Maria Castañeda, Ajay Chaudry, Robert Santos, Urban Institute, *Paying the Price: The Impact of Immigration Raids on America's Children.* Washington, DC: National Council of La Raza, 2007.

[7] *Ibid*

[8] *Ibid.*

[9] "Small Children in Detention Centers: Awaiting, with their Families, Action on their Immigration Status," *CBS News*, February 22, 2007. Retrieved (May 19, 2008) Online: http://www.cbsnews.com/stories/2007/02/22/national/main2502298.shtml

[10] Lutheran Immigration and Refugee Service and Women's Commission for Refugee Women and Children, *Locking Up Family Values: The Detention of Immigrant Families.* Washington, DC: Women's Commission for Refugee Women and Children, 2007.

[11] "Immigration Agency Plans New Family Detention Centers," *Los Angeles Times*, May 18, 2008.

April 21, 2008

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

We, the undersigned organizations, write to express our strong opposition to the Secure America through Verification and Enforcement (SAVE) Act, H.R. 4088, and highlight its significant negative impact on children. The bill, sponsored by Reps. Heath Shuler (D-NC), Brian Bilbray (R-CA), and Tom Tancredo (R-CO), explicitly calls for the creation of a family detention facility modeled after the T. Don Hutto Family Residential Facility, which for all, intents and purposes, leads to the "incarceration" of innocent children. We urge you to oppose the SAVE Act and decline to sign the petition to discharge the bill.

The SAVE Act runs counter to recommendations made by Congress in relation to the detention of families and children. The 2005 House Committee on Appropriations Report (H. Rep. 109-79) accompanying the Department of Homeland Security (DHS) Appropriations Act, 2006, maintained that "[t]he Committee expects DHS to release families or use alternatives to detention…whenever possible." Congress further opposed the use of family detention centers one year later in the 2006 House Committee on Appropriations Report (H. Rep. 109-476) accompanying the 2007 appropriations bill funding DHS:

> The Committee encourages ICE to work with reputable non-profit organizations to consider allowing family units to participate in the Intensive Supervision Appearance Program, where appropriate, or, if detention is necessary, to house these families together in non-penal homelike environments until the conclusion of their immigration proceedings.

The SAVE Act disregards these recommendations and instead encourages the practice of detaining children, who are often caught in the crossfire of U.S. immigration policy, in facilities that resemble prisons instead of nurturing home environments.

A 2007 report by the Women's Commission for Refugee Women and Children and the Lutheran Immigration and Refugee Service that examined Hutto and a similar facility in Pennsylvania concluded that "[t]he penal setting at Hutto is clearly an inappropriate and disturbing setting in which to hold families" and that both facilities "place noncriminals in facilities modeled on the criminal justice system, with little regard to national and international standards for the care and protection of children and families." Children detained in Hutto were forced to the following:

- sleep in prison cells where there is no partition separating the beds from the toilet, sometimes separated from their parents
- go without toys, stuffed animals, crayons, pencils, and pens in their cells, and refrain from keeping or posting the pictures they have drawn or colored in their cells
- withstand as many seven head counts a day, in which even toddlers were forced to remain in place, sometimes as long as one hour

- make due with limited and inadequate education (children received only one hour of education at Hutto until recently), and in elementary classes, children "just sing and color"
- make due with one hour of recreation Monday through Friday (none on the weekends)
- wear scrubs as clothing
- make due with inadequate or unresponsive medical care, including inadequate prenatal care
- suffer threats of separation from their parents as a means of discipline
- make due with inadequate nutrition, including being denied food at night outside of regular meal times, where reports of children losing weight were not uncommon

In late last year, the American Civil Liberties Union reached a settlement with the U.S. Immigration and Customs Enforcement, which resulted in some improvement of the living conditions for children and families detained in Hutto. Nonetheless, Hutto and other family detention centers, which have been constructed for use as prison facilities for adults, continue to be an inappropriate means of detaining families and their innocent children awaiting the outcome of their immigration cases. The extensive changes that have had to be implemented are evidence that Hutto is not an appropriate model for detaining immigrant families. The T. Don Hutto Family Residential Facility is instead an exemplification of policies affecting children deeply gone awry. So, too, is the SAVE Act, which identifies Hutto as a model for further replication.

Again, we urge you to oppose the SAVE Act and decline to sign the petition to discharge the bill from its committees of jurisdiction.

Sincerely,

National Organizations
ACORN
American Immigration Lawyers Association
Campaign for Youth Justice
Center for Community Change
Center for Law and Social Policy
Child Welfare League of America
Children's Defense Fund
Coalition on Human Needs
Evangelical Lutheran Church in America
Fair Immigration Reform Movement
First Focus
Irish Apostolate USA
Jewish Labor Committee
Lutheran Immigration and Refugee Service
Mennonite Central Committee Washington Office

Mexican American Legal Defense and Educational Fund
National Advocacy Center
National Black Child Development Institute
National Council of La Raza
National Education Association
National Head Start Association
National Laywers Guild, National Immigration Project
National Migrant and Seasonal Head Start Association
National Puerto Rican Coalition, Inc.
NETWORK, a National Catholic Social Justice Lobby
The Episcopal Church
United Church of Christ, Justice and Witness Ministries
USAction
Voices for America's Children
Wider Opportunities for Women
Women's Commission for Refugee Women and Children
Workmen's Circle/Arbeter Ring
Xaverian Brothers USA

State and Local Organizations

Advocacy and Training Center, Cumberland, MD
Arizona Advocacy Network, Phoenix, AZ
ATAP Services, Raytown, MO
Blauvelt Dominican Sisters Ministry of Social Justice, Blauvelt, NY
Catholic Charities, Houston, TX
Catholic Charities of Onondaga County, Syracuse, NY
Center for Public Policy Priorities, Austin, TX
Citizen Action/Illinois, Chicago, IL
Citizen Action of New York, Albany, Binghampton, Massapequa, New York, Syracuse, Buffalo, Rochester, NY
Citizen Action of Wisconsin, Madison, Milwaukee, Green Bay, Eau Claire, WI
Colorado Progressive Action, Denver, CO
Colorado Progressive Coalition, Denver, CO
Communities United Against Police Brutality, Minneapolis, MN
Connecticut Citizen Action Group, Hartford, CT
Delaware Alliance for Health Care, Newark, DE
Department of Peace, Houston, TX

Florida Consumer Action Network, Tampa, FL
Georgia Rural Urban Summit, Decatur, GA
Greater Bridgeport Section, National Council of Jewish Women, Fairfield, CT
HIV/AIDS Services for African Americans in Alaska, Anchorage, AK
IHM Justice, Peace and Sustainability Office, Monroe, MI
Iowa Citizen Action Network, Des Moines and Iowa City, IA
Maine People's Alliance, Portland, Bangor, and Lewiston, ME
Maryknoll Sisters, Ossinig, NY
Michigan Citizen Action, Kalamazoo, MI
Missouri Progressive Vote Coalition, St. Louis, Columbia, Kansas City, and Springfield, MO
National Council of Jewish Women, Connecticut, Avon, CT
NDPeople.Org, Bismarck, ND
New Hampshire Citizens Alliance, Concord and Manchester, NH
New Jersey Citizen Action, Newark, Passaic, Highland Park, Toms River, and Camden, NJ
New Mexico Progressive Alliance for Community Empowerment, Albuquerque, NM
New York Immigration Coalition, New York, NY
Oakland County Welfare Rights Organization, Pontiac, MI
Ocean State Action, Cranston, RI
Oregon Action, Portland and Medford, OR
Pax Christi Metro New York, New York, NY
Pax Christi Northeast Florida, St. Augustine, FL
Philadelphia Jewish Labor Committee, Philadelphia, PA
Progressive Democrats of America, 14th District Progressives Chapter, DeKalb, IL
Progressive Maryland, Silver Spring and Baltimore, MD
Public Citizens for Children and Youth, Philadelphia, PA
Social Justice Center at Stony Brook University SSW, Stony Brook, NY
Spirit of Oneness, Inc., Dunwoody, GA
Tennessee Citizen Action, Nashville, TN
Transitional Living Services of Onondaga County, Inc., Syracuse, NY
United Methodist Appalachian Ministry Network, Hagerstown, MD
United Vision for Idaho, Boise, ID
United Way of Beaver County, Monaca, PA
Washington Community Action Network, Seattle, WA
Washington Defender Association's Immigration Project, Seattle, WA
West Virginia Citizen Action Group, Charleston, WV

American Psychological Association (APA) Factsheet

Background

The American Psychological Association (APA) is cognizant of ongoing concerns relating to the impact of Immigration and Customs Enforcement (ICE) raids. ICE raids are a method of enforcement of United States immigration laws through the detention of undocumented immigrants who are then placed into removal proceedings. These ICE raids have resulted in the involuntary separation of children from parents/caregivers indicted for violating immigration laws. The potential implication of these situations can result in an adverse impact on the family unit, and can also have a detrimental effect on childhood development (Capps, Castañeda, Chaudry, & Santos, 2007; Communiqué, 2007).

Findings

- Nationwide, approximately five million children currently have at least one undocumented parent (Capps, Castañeda, Chaudry, & Santos, 2007).
- In 2005, the ratio of children to undocumented adults was 53 percent, meaning that the number of children affected by ICE raids would equate to half (or more

when multiple children are affected in each family) the number of detained adults (Capps, Castañeda, Chaudry, & Santos, 2007).

• While the United States continues to receive great benefits from immigrants' productivity, innovation, and income (Immigrants and Health Coverage: A Primer, 2004; Immigration Policy Center (IPC), 2007), many immigrants encounter employee discrimination and are coerced into waiving their rights subsequent to ICE raids (National Immigration Forum, 2007).

• Workplace arrests of undocumented parents/caregivers place children and adolescents at-risk of family separation, psychological and economic distress, poor health, and developmental delays (Capps, Fix, Ost, Reardon-Anderson, & Passel, 2005; Capps and Fortuny, 2006; Capps, Castañeda, Chaudry, & Santos, 2007; Communiqué, 2007; Cooper, Masi, Dababnah, Aratani, & Knitzer, 2007).

• Infants, toddlers, and preschoolers' development can be negatively impacted by workplace arrests due to lack of caregivers attending to their biological needs (i.e., breastfeeding, medication) while parents/caregivers are in detention (Capps, Castañeda, Chaudry, & Santos, 2007).

• Rights and protections afforded by U.S. citizenship status, including access to social services and supports appear remiss for children who are U.S. born citizens of undocumented immigrants. Children in these "mixed-status" families are particularly vulnerable under current immigration enforcement efforts such as ICE raids and can lead to potential long-lasting negative impacts in their growth and development, health and education (Children of Immigrants: Facts and Figures, 2006; Capps, Castañeda, Chaudry, & Santos, 2007; Communiqué, 2007).

• The majority of young children of immigrants (93 percent) are citizens living in "mixed-status" families (Capps, Fix, Ost, Reardon-Anderson, & Passel, 2005).

• Often, immigrants endure challenging conditions and spend considerable amounts of time away from their families (Communiqué, 2007; National Immigration Forum, 2007) while in detention coupled with uncertainty about their future (Capps, Castañeda, Chaudry, & Santos, 2007).

• Reported use of excessive physical force against parents/caregivers during raids can result in an adverse psychological impact on children and adolescents (Capps, Castañeda, Chaudry, & Santos, 2007).

• Many immigrants do not disclose to ICE that they are parents/caregivers due to anxiety of having their child arrested or placed into foster care, which inevitably extends the period of family separation (Capps, Castañeda, Chaudry, & Santos, 2007).

• Economic and psychological stress coupled with the stigma attached to being arrested during an ICE raid can have a profound negative impact on the health, well-being and stability of families (Capps, Castañeda, Chaudry, & Santos, 2007).

• Immigrant children and adolescents' academic performance and/or academic matriculation are often interrupted (Reardon-Anderson, Capps, & Fix, 2002; Communiqué, 2007) subsequent to ICE raids (Capps, Castañeda, Chaudry, & Santos, 2007).

Recommendations

The American Psychological Association recommends:

• Public policies that increase the availability of and access to educational, health, mental health, and social services for immigrant children, youth, and families.

• Measures to meet basic biological needs of vulnerable children such as breastfeeding infants and caretaking of special needs children.

• Detention of immigrants in nearby facilities to preserve the family unit.

• Conditions of detention should maintain a facilitative stance, with a standard process that includes access to telephones, medical and psychological treatment, and basic legal counsel and legal services.

• Similar to paragraph (1) of section 1182 (a) of the Immigration and Nationality Act (U.S.C.: 8 Chapter 12 Subchapter II Part IV 1222), services of interpreters should also be provided for undocumented individuals during ICE raids.

• Clarification of eligibility for social and health services for mixed-status families.

• Provision of effective coordination with social services to facilitate child and family needs.

• Develop and implement emergency contact measures that permit children to have proper adult supervision (i.e., parent seeking custody, relative, legal guardian) subsequent to raids.

• Have public agencies extend services (i.e., Food Stamp Program, Temporary Assistance for Needy Families (TANF), Women, Infants, and Children (WIC) Program

to children in undocumented families to facilitate their growth and development while their parents/caregivers are in custody.

• Placement procedures of unaccompanied undocumented children with relatives in the United States as indicated in paragraph (4), section 103(a)(2), and section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)) be applicable to children who are United States-born citizens in undocumented families and undocumented children without immediate relatives in the United States until family reunification is possible.

• Consistent with the Immigration and Nationality Act (Sec. 212(a)(5)(A)), APA urges protection against employers taking advantage of raids by retaliating against immigrant workers for exercising their workplace rights.

• In order to ensure that our nation and all those impacted by child traumatic stress receive the critical resources, APA strongly urges Congress to appropriate full funding for the National Child Traumatic Stress Initiative at the originally authorized level of $50 million for Fiscal Year 2009.

For more information, please contact Day Williams Al-Mohamed, J.D., in the Public Interest Government Relations Office at (202) 336-6061 or dwilliamsalmohamed@apa.org.

REFERENCES

APA Resolution on Immigrant Children, Youth, and Families (1998). Retrieved January 14, 2008, from *http://www.apa.org/pi/cyf/res—imm.html.*

Capps, R., Fix, M., Ost, J., Reardon-Anderson, J., & Passel, J.S. (2005). The health and well-being of young children of immigrants (Immigrant families and workers: Facts and perspectives). Washington, DC: Urban Institute.

Capps, R. and Fortuny, K. (2006). Immigration and child and family policy (Paper 3 Prepared for the Urban Institute and Child Trends Roundtable on Children in Low-Income Families).

Capps, R., Castañeda, R.M., Chaudry, A., & Santos, R. (2007). Paying the price: The impact of immigration raids on America's children. A Report by The Urban Institute. For the National Council of La Raza. Washington, DC.

Children of Immigrants: Facts and Figures. (2006). Office of Public Affairs Fact Sheet. Washington, DC: Urban Institute.

Communiqué (2007). Psychological perspectives on immigration [Special section]. Office of Ethnic Minority Affairs-Public Interest Directorate. Washington, DC: American Psychological Association.

Cooper, J.L., Masi, R., Dababnah, S., Aratani, Y., & Knitzer, J. (2007). Strengthening policies to support children, youth, and families who experience trauma (Unclaimed children revisited: Working paper no. 2). National Center for Children in Poverty. Columbia University. Mailman School of Public Health.

Immigrants and health coverage: A primer. (2004, June). Retrieved November 27, 2007, from *http://www.kff.org/uninsured/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=44857.*

Immigration Policy Center (IPC). (2007, November). The Economic Impact of Immigration. Retrieved December 8, 2007 from *http://www.ailf.org/ipc/ipc—index.asp.*

National Immigration Forum. (2007). Backgrounder: Comprehensive reform of our immigration laws. Washington, DC.

Reardon-Anderson, J., Capps, R., & Fix, M. (2002). The health and well-being of children in immigrant families (Policy Brief B-52). Washington, DC: Urban Institute. Assessing the New Federalism.

Prepared Statement of the Lutheran Immigration and Refugee Service and Bishop Steven Ullestad, Northeastern Iowa Synod of the Evangelical Lutheran Church in America

We are deeply concerned about the impact of immigration enforcement raids on children and families. A prime example of that impact can be seen in the aftermath of an enforcement raid by agents of the Immigration and Customs Enforcement (ICE), an agency of the Department of Homeland Security (DHS), on May 12, 2008 in Postville, Iowa. Bishop Ullestad attended high school in Postville, where his father served as pastor.

ELCA Designated Postville, Iowa, a Domestic Disaster

The Evangelical Lutheran Church of America (ELCA) has designated Postville as a domestic disaster, responding to the emotional trauma experienced by the community. This is the first time that the ELCA has designated an immigration matter

a domestic disaster reckoning that the size and nature of the impact and trauma on children, families and the community is comparable to that of a natural disaster. St. Bridget's Catholic Church is the community crisis response center in Postville. Volunteers from the local St. Paul Lutheran Church and nearby Luther College and Wartburg College are contributing to the community wide legal, social services and pastoral response.

Postville, Iowa, has been a model community in many ways. It illustrates the positive role that immigration can have in revitalizing a local economy and the capacity of very diverse groups to live together in community. The town's population had declined to 800. Then Hasidic Jews from Brooklyn, N.Y., moved to Iowa and opened a kosher meat processing plant. With the subsequent migration of hundreds of immigrant workers from Guatemala, Mexico, Israel and Ukraine, the town was revitalized and the population tripled to nearly 2,300.

On May 12, 2008, Postville became a different kind of poster child. It now exemplifies the humanitarian and economic cost of our broken immigration system. In the largest raid of its kind in U.S. history, dozens of ICE agents descended upon Agriprocessors, the kosher meat processing plant, as two helicopters hovered outside. ICE arrested at least 313 men and 76 women and bused them to the Cattle Congress in nearby Waterloo, Iowa, for initial processing.

'Don't Take My Friends Away'

The impact on those arrested, their children and families, and the whole community is immediate and devastating. Adults were immediately separated from their children and families and detained. Parents, teachers, and Lutheran and other volunteers report disturbing signs of the impact. Following the raid, an estimated 65 percent of the Latino high school students and 90 percent of Latino students overall were absent from class. Some elementary classes shrunk from 25 children to six. One teacher estimates that at least 150 students are without one or both parents. Children wonder whether or when they will ever again see their arrested parent or parents. Children of U.S. citizen parents are also very traumatized by the action. These children are having nightmares about their own parents being taken away and they are creating drawings of the intervention with the words "Don't take my friends away." So far, only about a quarter of those in detention have been released to their families. Beyond the children, the entire town feels the impact. Nearly half of the workers in the town's main industry are detained; over 10 percent of the town's total population. Those who were arrested were active members of the community: shopping in Postville businesses, renting property or buying houses, attending the school functions for their children, and being good neighbors. People in Postville are asking if our government gave any consideration to the impact on this small town before they took this action. There simply must be a more humane way of addressing the concerns about undocumented workers. Most of the people picked up in the raid had charges related to using false identification to work. We do not condone people using false identification, but instead of arresting people, putting children at risk, tearing families apart and hurting local economies, we need to create viable means for hard workers to get documented. With the current system, there is a strong pull factor created because of the need for workers in the United States, and yet there are an extremely limited number of visas available. The impact on Postville, Iowa, underscores the need for comprehensive reform of immigration policy. The immigration law needs to protect children and unite families, safeguard human rights and worker rights, enable marginalized undocumented people to come out of the shadows and to live without fear, and provide a path to permanence for those who have put down roots. In Postville children are being put at risk and families are being divided, there are serious allegations of workplace abuse, families are being driven even further into the shadows, and people with deep roots here are being detained and deported instead of integrated into the community. We need to fix the broken system.

Protection of Children and Families Must Be Primary in Any Enforcement Actions

Meanwhile, we urge Congress to exercise rigorous oversight of workplace raids to assure that ICE does the following: 1) prioritizes and tailors the use of raids so that while addressing concerns of national security and/or danger to the community, ICE mitigates the sociological and economic impact, and emotional trauma on the community; 2) communicates and works closely with the community social service and pastoral care workers to mitigate the traumatic impact on children, families and the community; 3) facilitates access to legal counsel; 4) does not transfer people out of the area, but instead releases them from custody to go through their hearings outside of detention, and 5) develops streamlined communication mechanisms that

allow family members and lawyers to locate those in detention. Thank you for the opportunity to submit this testimony.

May 27, 2008.

Hon. GEORGE MILLER, *Chairman,*
Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: On behalf of the National Education Association's (NEA) 3.2 million members, we would like to submit the following comments for the record in conjunction with the recent Workforce Protections Subcommittee Hearing: "ICE Workplace Raids: Their Impact on U.S. Children, Families, and Communities." We thank the Subcommittee for holding a hearing on this important issue.

NEA members have long been concerned about the impact of immigration raids on children and staff in public schools. We have been working closely with our affiliates and other groups to ensure that states and school districts adopt and vigorously enforce policies that protect the right of undocumented immigrant children and the children of undocumented immigrant parents to obtain a free public education in a safe and supportive environment.

Recent enforcement efforts by the federal Immigration and Customs Enforcement agency (ICE) have resulted in the arrest, confinement, and deportation of many undocumented workers. Unfortunately, these raids have created challenges for the children left behind and the public schools they attend. For example:

• The raids have resulted in a significant drop in school attendance. School administrators report that children of parents affected by the raids missed between one-third and one-half of the week following a raid.

• Although attendance increases within two or three weeks, the initial absenteeism can have a long-term negative impact. A longitudinal study conducted by the Annie E. Casey Foundation indicates that school absence in kindergarten is associated with lower academic performance in first grade among all children, and more significantly for English Language Learners and poor children. The longer term relationship to academic performance depends upon income. Research indicates that chronic absence in kindergarten is associated with low fifth grade achievement for poor children but not their better-off peers.

• Teachers and school officials report that some of the children displayed emotional trauma signs of distress upon their return to school particularly if their parents, relatives, or acquaintance were directly involved in the raid. In such instances, school personnel are reporting difficulty in maintaining the students' attention on class work.

NEA members are working with parents and school administrators to develop systems to help ensure a safe place for children in the event of a raid. We are also working to identify and provide the additional academic and counseling services necessary to address the disruption the children are likely to experience.

NEA supports the Families First Enforcement Act (H.R. 3980) introduced by Congresswoman Solis (D-CA). This legislation will ensure that ICE raids are humane and include protections for children. Specifically, the bill:

• Requires ICE to afford access to state social service agencies to screen and interview detainees;

• Ensures that when possible those who have been detained are within the jurisdiction of the local ICE field office; and

• Addresses humanitarian needs of pregnant women, nursing mothers, caretakers of special needs children and sole caretakers of minor children.

Companion legislation (S. 2074) has been introduced in the Senate by Senator Kerry (D-MA). Neither the House nor Senate Judiciary Committee has taken any action on these bills.

We thank you again for holding a hearing on these very important issues. We look forward to continuing to work with you to ensure maximum protection for children impacted by ICE raids.

Sincerely,

DIANE SHUST,
Manager of Federal Advocacy.

RANDALL MOODY,
Director of Government Relations.

[Additional submissions of Mr. Wilson follow:]

U.S. Immigration and Customs Enforcement: FY07 Accomplishments

U.S. Immigration and Customs Enforcement (ICE), the largest investigative agency in the Department of Homeland Security (DHS), has achieved extraordinary results in its mission to ensure a safer, more secure America. Fiscal year 2007 (FY07) marked a break-out year for the agency as ICE set new enforcement records and launched several new initiatives to better fulfill its law enforcement mission. As a result, ICE can point to an unparalleled record of success in the last fiscal year.

The following is a selection of law enforcement and homeland security milestones ICE achieved in FY07.

Streamlining and Enhancing Immigration Enforcement

• ICE implemented a comprehensive interior enforcement strategy focused on more efficiently processing apprehended illegal aliens and reducing the numbers of criminal and fugitive aliens in the United States. In FY07, ICE removed a record 276,912 illegal aliens, including voluntary removals, from the United States.

• Under the Secure Border Initiative, ICE decreased processing time for aliens in expedited removal cases—from apprehension to removal—to approximately 19 days. This was accomplished by bringing greater efficiency to the immigration removal process through expanded detention capacity, greater use of expedited removal authority and increased use of the Justice Prisoner and Alien Transportation System (JPATS) for repatriating illegal aliens to their countries of origin.

• For the first time, ICE's Detention Enforcement and Processing Offenders by Remote Technology (DEPORT) Center made it possible to identify and screen criminal aliens incarcerated in federal prisons nationwide to ensure they are processed for removal from the United States upon the completion of their sentences. Launched in fiscal year 2006, the DEPORT Center was screening criminal aliens at all 114 federal prison facilities by the end of FY07, with 11,292 charging documents issued in FY07 to criminal aliens housed in federal prisons.

• ICE's Criminal Alien Program, which screens aliens in prison to ensure that they are removed from the United States upon the completion of their sentences, initiated removal proceedings against 164,296 criminal aliens.

• ICE targeted the infrastructure that supports the business of illegal immigration, including document and immigration benefit fraud, launching six new Document and Benefit Fraud Task Forces in cities nationwide. In FY07, ICE initiated a total of 1,309 document and benefit fraud investigations leading to a record 1,531 arrests and 1,178 convictions.

Targeting Fugitive Aliens

• In the last two years, ICE quadrupled the number of Fugitive Operations Teams (FOTs): special teams dedicated to identifying, locating and arresting fugitive aliens.These teams have increased from 18 in FY05 to 50 in FY06 and 75 in FY07. As a result, ICE eliminated more than 100,000 fugitive alien cases in FY07 and reduced the backlog of fugitive cases for the first time in history.

• ICE's Fugitive Operations Support Center (FOSC), a nationwide clearinghouse for information on fugitive cases, continued to make the processing of data on fugitive cases more effective. In FY07, the FOSC resolved more than 73,000 open fugitive cases, allowing ICE to target those fugitives who are still at large.

Strengthening Worksite Enforcement

• ICE's more aggressive worksite enforcement strategy targeted the "jobs magnet" that attracts illegal aliens seeking employment in the U.S. In FY07, ICE dramatically increased penalties against employers whose hiring processes violate the law, securing fines and judgments of more than $30 million while making 863 criminal arrests and 4,077 administrative arrests.

• The ICE Mutual Agreement between Government and Employers (IMAGE) program, announced in FY06 as a voluntary initiative to help employers ensure they are complying with hiring laws, welcomed nine charter members in FY07. For the future, ICE will be working to expand the program by recruiting business leaders from a wide range of industries that are typically susceptible to high levels of unauthorized employment.

Tracking and Arresting Visa Violators

• ICE investigators worked to ensure compliance with the nation's immigration laws among student and exchange visitors and other non-immigrant visitors to the United States.Thanks to data obtained from the Student and Exchange Visitor Information System (SEVIS), the electronic system for managing student and exchange student visas, ICE arrested 1,558 high-risk non-immigrant status violators in FY07.

• The SEVIS program continued to ensure integrity in the system for administering student and exchange student visas, with more than 917,647 non-immigrant students and visitors from nations around the world registered, along with 126,837 of their dependents.

Targeting Financial Crime and Export Violations

• ICE investigated and dismantled the schemes that criminal and terrorist organizations use to earn, move and store illicit funding for their operations. In FY07, ICE launched 3,069 financial investigations, resulting in significant increases in arrests.

• ICE's Cornerstone initiative developed working partnerships and information-sharing strategies with private industry to target exploitation of U.S. financial systems by criminal organizations. In FY07, Cornerstone liaisons conducted more than 1,250 outreach presentations to over 20,500 industry representatives.

• ICE's Shield America program continues to achieve new successes in intercepting illegal exports of weapons, military equipment and sensitive technology, significantly increasing results over the previous fiscal year. In FY07, ICE made 188 arrests and secured 127 convictions in these national security investigations.

• ICE worked with international partners in law enforcement to target money laundering, bulk cash smuggling and cross-border trade fraud. In FY07, ICE Trade Transparency Units (TTUs) provided case support and coordination in transnational investigations and ICE agents provided training in combating cash smuggling schemes to more than 700 international partners. A new TTU was established in Paraguay, the fourth South American nation to host an TTU.

• ICE's Operation Firewall, targeting criminal organizations involved in bulk cash smuggling over international borders, led to the seizure of more than $49.5 million in U.S. currency and financial instruments along with 142 arrests. Since its launch in 2005, Operation Firewall has realized seizures of more than $100 million and 260 arrests.

• ICE's intellectual property rights investigations continued to combat the flow of counterfeit goods and products. In FY07, ICE made 235 arrests and secured 117 convictions in intellectual property rights fraud cases.

• ICE targeted the flow of precious cultural and historical artifacts across international borders and repatriated seized artifacts to their countries of origin. In FY07, ICE launched 51 cultural property investigations and made 15 seizures of high-value items.

• A new ICE initiative targeted unlicensed money services businesses that illegally transfer funds. In FY07, ICE investigations of yielded 39 arrests, 30 convictions and seizures of more than $7.9 million.

Stemming the Flow of Illegal Drugs

• ICE continued efforts to combat drug smuggling organizations, resulting in significant seizures in FY07. ICE investigations led to seizures of 241,967 pounds of cocaine, 4,331 pounds of heroin, 2,731 pounds of methamphetamine and 1.3 million pounds of marijuana. Additionally, ICE drug investigations led to 8,920 arrests and 5,539 convictions of individuals associated with narcotic violations.

• ICE leads the "Tunnel Task Force" for investigations of cross-border tunnels used by criminal organizations to smuggle narcotics and other goods into the United States from Mexico. Since 2003, 26 tunnels have been discovered in the San Diego area alone.

Combating Human Trafficking

• ICE turned its combined legal authorities on the dangerous human traffickers who exploit the vulnerable, implementing a new Trafficking in Persons strategy in FY07 to emphasize investigation and prosecution of traffickers while providing services to assist trafficking victims. In FY07, ICE human trafficking investigations led to 164 arrests and 91 convictions.

Targeting Transnational Gangs and Sexual Predators

• ICE's Operation Community Shield anti-gang initiative targeted violent transnational gangs, with results bolstered by an enforcement surge in the summer of 2007. In FY07, ICE arrested a record 3,302 gang members and associates in cities nationwide.

• ICE's Operation Predator targeted sexual predators who prey on children, and arrests in the four-year old program topped 10,000 in June 2007, with more than 5,500 having been removed from the United States.

Securing Federal Facilities

• ICE's Federal Protective Service (FPS) was given lead responsibility for securing government facilities under the National Infrastructure Protection Plan. In FY07, ICE launched a major mission refinement effort for FPS to focus on enhancing security at government facilities, with a greater emphasis on risk-based security planning.

• ICE's FPS security and law enforcement officers -provided services at approximately 9,000 federal facilities nationwide. In FY07, ICE personnel were responsible for approximately 3,000 citations and arrests and intercepted roughly 760,000 prohibited items, including knives and firearms, from being brought into federal facilities.

Enhancing Intelligence Gathering and Analysis

• ICE completed a reorganization of intelligence functions to better serve the agency's national security and immigration enforcement mission, including the establishment of an International Intelligence Unit to support foreign operations and a new National Initiatives Support Unit to consolidate intelligence services such as geospatial analysis, document exploitation and visual analysis.

Working with Law Enforcement Partners

• ICE expanded its partnerships with state and local law enforcement agencies in a force multiplier approach to fighting criminal activity. In FY07, the ICE ACCESS program was launched as a collaborative effort to identify key crime-fighting needs and to develop solution action plans.

• ICE expanded the 287(g) program used to train state and local officers in limited immigration enforcement duties. In FY07, ICE trained 426 state and local officers under the program, bringing the total to 597 officers trained in 33 departments nationwide.

• ICE's Law Enforcement Support Center (LESC) continued to serve as the national point of contact for providing immigration status and identity information on suspects detained by federal, state and local officers in the field. In FY07, the LESC responded to a record 728,243 requests for information from law enforcement officials.

• ICE's Forensic Document Laboratory (FDL) continued to provide analysis and training to a wide variety of agencies in the effort to combat travel and identity document fraud. In FY07, FDL trained 3,810 federal, state and local officials in document analysis techniques and responded to 4,382 requests for analysis from the field.

• ICE increased its commitment to securing the border by boosting the number of Border Enforcement Security Task Forces (BEST).These task forces seek to address cross-border violence through shared intelligence and coordinated law enforcement operations. In FY07, the task forces were responsible for 526 criminal arrests and 1,093 administrative arrests, along with seizures of $2.5 million in cash and significant amounts of narcotics and weapons.

• ICE launched the Web-based Electronic Travel Document (eTD) program that enables the electronic transfer of travel document and identity information between ICE and participating foreign governments. Since its launch in January 2007 over 27,710 travel documents have been issued, and both costs and time for issuance, transportation, shipping, and detention and removal have been reduced. The program is slated for expansion in fiscal year 2008.

Aggressive Litigation and Prosecution

• ICE's team of attorneys provided legal support and training while representing the agency in administrative and federal courts. In FY07, ICE attorneys participated in the completion of 365,851 cases before immigration courts, including 323,845 removal cases.

Improved Management and Mission Support

• ICE continued to improve management and mission support functions. Among the achievements in these fields, the agency increased its workforce by more than 10 percent, enhanced information technology systems, expanded training and development opportunities, and improved contracting and acquisitions management.

• ICE's improved financial management under a multiyear financial action plan launched in the previous fiscal year led to the agency receiving the DHS Award of Excellence in FY07 as ICE strengthened internal controls, auditability of financial records and oversight.

• The ICE Freedom of Information Act (FOIA) Office, facing a significant backlog of FOIA requests, succeeded in reducing the backlog by 97 percent, earning praise

from DHS leadership and demonstrating the agency's commitment to openness and transparency.

ICE Fact Sheets, March 2007

Detention and Removal Operations: Alternatives to Detention

Every year the Department of Homeland Security arrests over 1.6 million aliens. Successful enforcement strategies and the requirement to manage within Immigration and Customs Enforcement's (ICE) operational budget have resulted in a situation where the Office of Detention and Removal (DRO) has exceeded its funded bed space level and therefore must apply rigorous criteria to determine which apprehended aliens are detained.

National security and public safety are ICE's first priorities. ICE detains all aliens who pose a threat to community safety or national security, and those required to be detained under the nation's immigration laws. In order to address those priorities and restore integrity to the nation's immigration system, while managing its limited detention space, DRO utilizes alternatives to detention. Those alternatives include release on an Order of Recognizance (ROR), release on bond, release using electronic monitoring devices (EMD) and the Intensive Supervision Appearance Program (ISAP).

In order to address those aliens who fail to appear in court or fail to depart under the court's order, ICE has created the National Fugitive Operations Program (NFOP). Designated NFOP Fugitive Operations Teams are strategically deployed around the country to work solely on arresting these immigration fugitives.

• Release on an Order of Recognizance: An alien in immigration proceedings is released from detention under certain restrictions. These restrictions include regular reporting to DRO officers and appearing at all immigration court proceedings. ROR is usually used when an alien does not possess the financial resources to post a bond, but do not pose a threat to the community or national security. If the alien fails to appear for their hearing they will be ordered deported and will be subject to mandatory detention when apprehended.

• An appearance bond: A more restrictive alternative than ROR, the alien posts a bond of not less than $1,500 dollars, which the alien forfeits if he or she fails to appear in court as required, or upon any other demand by ICE.

• Electronic Monitoring Devices: A new program to ensure compliance with appearance at court and removal orders. Under this program aliens awaiting immigration court hearings or removal wear either a monitoring ankle bracelet or report by telephone to a case manager. Originally available only at specific pilot sites, the EMD program is now being implemented nationwide.

• The Intensive Supervision Appearance Program: ISAP is a pilot program that will only be available to aliens who are not subject to mandatory detention; who are pending immigration court proceedings or awaiting removal from the United States; are residing within the managed area; and are not deemed a threat by the Department of Homeland Security. ISAP is a voluntary program and all participants must agree to comply with the conditions of their release. Case specialists are then assigned a limited caseload of participants and are responsible for monitoring those participants in the community by using tools such as electronic monitoring (bracelets), home visits, work visits and reporting by telephone. Case specialists will also assist participants in obtaining pro-bono counsel for their hearings and help them to receive other types of assistance to which they may be entitled. The ISAP pilot has the capacity to supervise approximately 200 aliens in each of nine cities: Baltimore, MD, Delray Beach, FL, Philadelphia, PA, Miami, FL, St. Paul, MN, Denver, CO, Kansas City, MO, San Francisco, CA, and Portland, OR.

Frequently Asked Questions About Worksite Enforcement

Why is worksite enforcement important?

• Employment is a primary driving force behind illegal immigration. By working with employers to ensure a legal workforce, ICE is able to stem the tide of those who cross our borders illegally or unlawfully remain in our country to work.

What's the harm of illegal aliens working in the U.S.?

• Illegal aliens often turn to criminal activity: including document fraud, Social Security fraud or identify theft, in order to get jobs. Such crimes adversely affect the lives of U.S. citizens and legal immigrants, and it can take years for victims to repair the damage.

• The demand for fraudulent documents created by illegal aliens creates thriving criminal enterprises that supply them.

• Every job taken by an illegal alien is a job taken from a lawful U.S. worker.

• Employers often exploit illegal aliens by ignoring worker safety and wage laws.

• Illegal aliens are easy targets for criminals who want to use them to gain access to sensitive facilities or to move illegal products.

How do businesses and communities suffer?

• Responsible employers who seek to conduct their business lawfully are put at an unfair disadvantage as they try to compete with unscrupulous businesses. Such businesses gain a competitive edge by paying illegal alien workers low wages.

How does ICE determine which employers to investigate?

• ICE does not randomly target employers. All investigations and arrests are based on specific intelligence obtained from a variety of sources.

Why aren't more employers arrested and charged?

• In 2007, more than 90 individuals in company supervisory chains were criminally arrested for charges, including harboring illegal aliens, knowingly hiring them or other criminal violations tied to illegal immigration.

• The presence of illegal aliens at a business does not necessarily mean the employer is responsible. Developing sufficient evidence against employers requires complex, white-collar crime investigations that can take years to bear fruit.

• ICE builds worksite investigations in stages.

For example:

• After receiving information that illegal aliens may be employed at a specific location, agents investigate to determine the merits of that intelligence.

• Once that intelligence is substantiated, ICE may conduct a worksite enforcement operation, arresting employees and collecting additional evidence such as computers and paperwork.

• ICE investigators then comb through the data to determine whether a business owner or managers are knowingly hiring illegal aliens. In some cases investigators do not find such evidence.

• After presenting evidence to federal prosecutors, ICE may be authorized to arrest managers or company owners for criminal violations.

What types of industries does ICE target?

• No industry, regardless of size, type or location is exempt from complying with the law.

• ICE focuses on employers who are egregiously violating immigration laws, especially when those violations can compromise our nation's security.

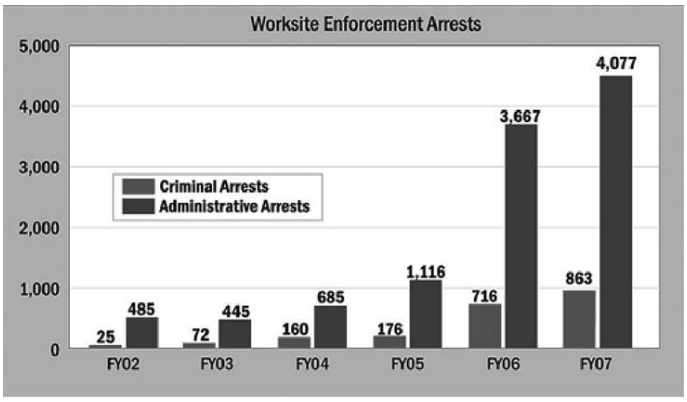
How successful has ICE been in its worksite enforcement efforts?

• In fiscal year 2007, ICE secured more than $30 million in criminal fines, restitutions, and civil judgments in worksite enforcement cases. We arrested 863 people in criminal cases and made more than 4,000 administrative arrests. That is a tenfold increase over just five years before.

• The number of criminal and administrative arrests has steadily increased over the past few years. Those arrested criminally include a variety of persons—corporate officers, employers, managers, contractors and facilitators. In criminal cases, ICE often pursues charges of harboring illegal aliens, money laundering and/or knowingly hiring illegal aliens. Harboring illegal aliens is a felony with a potential 10-year prison sentence. Money laundering is a felony with a potential 20-year prison sentence.

• ICE has found these criminal sanctions to be a far greater deterrent to illegal employment schemes than administrative fines.

• These arrests also include illegal aliens charged with criminal violations. Aliens have been charged with possession or sale of fraudulent documents, identity theft, Social Security fraud or re-entry after deportation.



Fiscal Year 2008 accomplishments so far (October 2007—May 2008):

• As of May, ICE made more than 850 criminal arrests tied to worksite enforcement investigations.

• Of the 850 individuals criminally arrested, 75 are owners, managers, supervisors or human resources employees facing charges including harboring or knowingly hiring illegal aliens. The remaining 775 workers criminally arrested are facing charges including aggravated identity theft and Social Security fraud.

• ICE has also made more than 2,900 administrative arrests for immigration violations during worksite enforcement operations.

What can employers do to help ensure they have a legal workforce?

• The law is clear—employers have an affirmative obligation to verify that their employees are legally able to work in the United States.

• ICE's goal is to help those companies that want to obey the law and use our investigative and regulatory authority to stop those companies that do not.

• ICE seeks to create a culture of compliance by enlisting responsible employers of every size and description in partnerships designed to prevent the hiring of illegal aliens in the first place.

ICE's IMAGE Program Assists Employers

• ICE unveiled the ICE Mutual Agreement between Government and Employers (IMAGE) program in July 2006. ICE recognizes that the majority of employers in this country want to comply with the nation's immigration laws. Yet, every day employers are confronted with illegal aliens attempting to secure jobs through fraudulent means, including the use of counterfeit documents and stolen identities.

• IMAGE fosters partnerships between ICE and businesses, promoting the use of screening tools, best practices, and continuing education to determine employment eligibility based on immigration status.The program begins with a self-assessment of hiring practices and helps uncover vulnerabilities to illegal activity that are related to immigration status. Technical tools to screen Social Security numbers and other information on job applicants and existing employees are integrated with best practices to lead to a high level of assurance that all of a participating business's employees are legally eligible for employment.

[From ICE Fact Sheets, December 4, 2007]

ICE Fugitive Operations Program

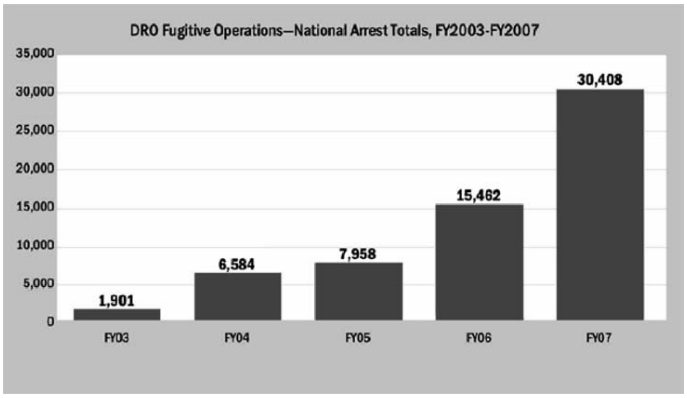
U.S. Immigration and Customs Enforcement (ICE) established the first Fugitive Operations Teams in 2003 to dramatically expand the agency's efforts to locate, arrest, and remove fugitives from the United States. An ICE fugitive is defined as an alien who has failed to depart the United States based upon a final order of removal, deportation, or exclusion; or who has failed to report to a Detention and Removal Officer after receiving notice to do so.

ICE's Fugitive Operations Teams give top priority to cases involving aliens who pose a threat to national security and community safety, including members of transnational street gangs, child sex offenders, and aliens with prior convictions for violent crimes. The Fugitive Operations Team officers and agents utilize intelligence-based information and leads to locate and arrest aliens who have been ordered to leave the country by an immigration judge, but have failed to comply.

The National Fugitive Operations Program is responsible for reducing the fugitive alien population in the United States. ICE's databases show the targeted enforcement strategy is paying off. Earlier this year, the nation's fugitive alien population declined for the first time. As of October 1, 2007, ICE's fugitive case backlog consisted of less than 595,000 fugitive aliens which is approximately 38,000 fewer fugitives than the population recorded on October 1, 2006.

Much of the credit for those results can be attributed to the rapid expansion of the program. When the initiative was launched in 2003, there were eight fugitive operations teams nationwide. ICE met its goal of deploying 75 teams by the end of this fiscal year; up from 52 teams at the end of FY 2006.

The deployment of the new teams has resulted in a dramatic increase in overall arrests. As the accompanying chart shows, the number of arrests made by ICE Fugitive Operations Team officers and agents has nearly doubled in the past year, exceeding 30,000 for the first time.



Last year, to further increase the efficiency of the Fugitive Operations Teams, ICE established the Fugitive Operations Support Center (FOSC) in Burlington, Vermont. The center aids with gathering and analyzing file information and electronic data on fugitive cases across the country. Since its inception, the center has disseminated more than 150,000 case leads to Fugitive Operations Teams in the field. This effort has also aided in reducing the reported number of existing fugitives by reconciling records to eliminate those who have left the country voluntarily, successfully adjusted their status, or were discovered to be incarcerated and therefore no longer fugitives. This accounts for the difference between the estimated decrease in fugitives and the number of reported fugitive arrests.

ICE's National Fugitive Operations Program is just one facet of the Department of Homeland Security's overarching strategy to secure America's borders and reduce illegal migration. Given the success of the fugitive operations effort, ICE is proposing to add six more Fugitive Operations Teams in fiscal year 2008.

[Questions for the record submitted by Mr. Hare and their responses follow:]

U.S. CONGRESS,
Washington, DC, May 23, 2008.

Hon. JAMES SPERO, *Acting Deputy Assistant Director,*
Office of Investigations, Critical Infrastructure and Fraud, Immigration and Customs Enforcement, Washington, DC.

DEAR ASSISTANT DIRECTOR SPERO: Thank you for testifying at the Tuesday, May 20, 2008 Workforce Protections Subcommittee Hearing on "ICE Workplace Raids: Their Impact on U.S. Children, Families, and Communitites."

At last week's hearing, Congressman Hare wanted to follow up with these questions:

1. There has been a longstanding policy, first established by the INS in the 1990s, that immigration agents should refrain from conducting enforcement actions in schools, places of worship, and during funerals and other religious ceremonies. In 2004 the Department of Homeland Security Customs and Border Protection ("CBP") section reaffirmed the INS policy and issued a CBP memorandum expressly stating this reaffirmation. Does ICE follow this same INS policy?

If so, has ICE issued written policy/guidance stating this? If ICE does not reaffirm the INS policy, please state what ICE's policy is with respect to conducting enforcement actions in schools, places of worship, and during funerals or other religious ceremonies. Does ICE recognize any specific places or specific situations where enforcement actions should be avoided?

2. In the enforcement action at Agriprocessors in Postville, Iowa last week, ICE uncovered a number of underaged workers who were working at the plant. Did ICE know that the Department of Labor had an ongoing investigation into possible violations of labor laws including child labor prior to the Agriprocessor's raid?

Were the ICE agents at the raid aware that the company had violated child labor laws by employing underage workers at dangerous jobs inside the plant? Was the DOL notified of the number of underaged workers you detained? If not, why weren't they notified?

3. Do ICE agents get any training in terms of looking out for other possible employer or employee violations inside a plant aside from immigration violations?

4. ICE has protocol that allows some workers to be released for humanitarian reasons. Are there other reasons for release like labor violations, trafficking or anything else?

5. The ICE humanitarian protocols apply to worksite raids only. What humanitarian protocols do ICE agents follow when conducting home raids? Are all children encountered by ICE agents placed in foster care? Do social workers from child welfare or child protective services accompany ICE agents during home raids? If not, how does ICE determine which children should be placed in foster care? If the parent(s) identifies another caregiver for the child, what requirements does ICE follow before releasing the child to the substitute caregiver? Does ICE check the immigration status of the substitute caregiver?

6. How does ICE ensure that appropriate agencies get involved to protect detainees who may have been victims of other crimes? What is done to ensure that detainees are not processed or deported at the expense of prosecuting other employer violations?

7. What is ICE or the Department of Homeland Security doing to insure that witnesses to potential large crimes are staying in touch with investigators from the Department of Justice and Department of Labor?

8. In terms of procedure, when and how is ICE notified that an investigation by another agency is occurring at a workplace or location where ICE plans to raid?

9. Does ICE notify other agencies prior to a raid to determine if other investigations are occurring at a workplace or location? When does information sharing occur—before or after the raids occur? What precautions does ICE take to ensure that the ICE actions are not done at the expense of another investigation? Are the actions done in cooperation with other agencies/departments?

10. Three hundred thirty nine (389) workers at the Postville plant have been arrested and are being held and charged with crimes but I have not seen anything about charges filed against the company. Could you tell me what charges have been filed against Agriprocessors—the company, its owners or management since the raid in Postville last week?

11. At one time, there was a Memorandum of Understanding between DOL and what was then known as INS, to govern the working relationship between the agencies and to ensure that both immigration and labor laws were enforced. Is that MOU still in place?

12. Since December 2006 how many U.S. citizen or permanent resident children have ICE agents apprehended while conducting enforcement operations?

13. What plans does ICE have to develop one uniform set of policies and procedures regarding immigration enforcement operations as they pertain to children and families? What training do ICE agents receive, if any, on how to deal with children encountered during enforcement operations or left behind without a caregiver? How many hours of training do ICE agents receive on these topics? Who provides the training? Are child welfare or child protective services involved in training ICE agents?

Please send your written response to the Committee staff by COB on Tuesday, June 3, 2008—the date on which the hearing record will close. If you have any questions, please contact the committee. Once again, we greatly appreciate your testimony at this hearing.

Sincerely,

LYNN WOOLSEY, *Chairwoman,*
Subcommittee on Workforce Protections.

GEORGE MILLER, *Chairman,*
Committee on Education and Labor.

Responses From Mr. Spero to Mr. Hare's Questions

Question: On November 16, 2007, ICE issued discretionary guidelines for identifying potential humanitarian concerns when conducting large worksite enforcement operations that target 150 persons or more. In certain cases in which the Department of Health and Human Services is unable to assist ICE in conducting these "humanitarian assessments," the guidelines suggest that ICE should coordinate with an appropriate state or local social service agency to conduct the "humanitarian assessments."

Could you please identify any workplace raids that have taken place since the guidelines were announced in which ICE has used a state or local agency at the time of the arrest for "humanitarian assessments."

Response: Since the release of the humanitarian guidelines in 2007, ICE is not aware of any instance when the Division of Immigration Health Services (DIHS) was unable to provide the requested support. Therefore, to date ICE has not used a state or local agency for "humanitarian assessments." DIHS has been very supportive and has been able to provide all the humanitarian and medical assistance and their subject matter expertise for all major worksite operations. If DIHS cannot perform the humanitarian screening, or it may be beneficial to supplement their efforts, ICE will seek assistance from state of local health and social service agencies.

Question: If the procedures detailed in your humanitarian guidelines are sound practices, why should those procedures not also be used in workplace raids of less than 150 persons? What was ICE's justification for creating this 150 person threshold for the guidelines?

Response: ICE developed written humanitarian guidelines to primarily assist agents and officers in preparing for large enforcement operations since these operations require a greater degree of coordination, however, ICE encourages that these guidelines be followed, as appropriate, for all worksite enforcement operations regardless of the number of expected arrests.

Many of the items in the guidelines are best practices, and as such, ICE generally utilizes most if not all of these guidelines in all worksite operations. However, these are law enforcement actions, and ICE must reserve its discretion to determine when the entirety of guidelines is necessary for the successful implementation of an operational plan, or when some variation of the guidelines might be more appropriate, given the size or other particulars of an operation. Where practical, ICE will continue to implement these guidelines in all appropriate smaller enforcement operations.

Question: There has been a longstanding policy, first established by the INS in the 1990s, that immigration agents should refrain from conducting enforcement actions in schools, places of worship, and during funerals and other religious ceremonies. In 2004 the Department of Homeland Security Customs and Border Protection ("CBP") section reaffirmed the INS policy and issued a CBP memorandum expressly stating this reaffirmation. Does ICE follow this same INS policy?

If so, has ICE issued written policy/guidance stating this? If ICE does not reaffirm the INS policy, please state what ICE's policy is with respect to conducting enforcement actions in schools, places of worship, and during funerals or other religious ceremonies. Does ICE recognize any specific places or specific situations where enforcement actions should be avoided?

Response: Under previous Immigration and Naturalization Service (INS) Policy HQ 807-P, Enforcement Activities at Schools, Places of Worship, or at Funerals or Other Religious Ceremonies (May 17, 1993), law enforcement personnel were directed to "attempt to avoid apprehension of persons and to tightly control investigative operations on the premises of schools, places of worship, funerals and other religious ceremonies." ICE's continued concern with conducting activities in sensitive locations is more recently reinforced in a December 26, 2007 Memorandum from Marcy M. Forman, Director, Office of Investigations, entitled Enforcement Actions at Schools. This field guidance expresses ICE views on these particularly sensitive actions:

"[I]t is important to emphasize that great care and forethought be applied before undertaking any investigative or enforcement type action at or near schools, other institutions of education, and venues generally where children and their families may be present."

Policies governing ICE Office of Detention and Removal (DRO) Fugitive Operations Teams have similarly discouraged enforcement actions in these sensitive locations.

Assistant Secretary Myers issued a memo on July 3, 2008, reminding law enforcement personnel of these policies and that they should refrain from conducting enforcement actions or investigative activities at or near sensitive community locations such as schools, places of worship, and funerals or other religious ceremonies, except in limited situations that include terrorism investigations, matters of public safety, or non-enforcement related actions such as when requesting routine student information from school officials. Furthermore, the memo provides more generally that ICE policies are in place to ensure that enforcement operations are conducted in a manner that is safe and respectful of all individuals.

Question: In the enforcement action at Agriprocessors in Postville, Iowa last week, ICE uncovered a number of underaged workers who were working at the plant. Did ICE know that the Department of Labor had an ongoing investigation into possible violations of labor laws including child labor prior to the Agriprocessor's raid?

Were the ICE agents at the raid aware that the company had violated child labor laws by employing underage workers at dangerous jobs inside the plant? Was the DOL notified of the number of underaged workers you detained? If not, why weren't they notified?

Response: Yes, ICE was aware that the DOL's Wage and Hour Division (WHD) was investigating Agriprocessors for alleged violations of child labor laws. Through the course of the investigation ICE was aware of possible labor violations, including possible minors who were employed at the facility. ICE coordinated its efforts with DOL's Office of Inspector General (OIG), a law enforcement agency within DOL with certain independent statutory authority to conduct investigations. DOL-OIG agents were present at the Agriprocessors facility during the execution of a search warrant on May 12, and at the processing location in Waterloo, Iowa, where undocumented workers were processed and made their initial court appearances. Additionally, DOL-OIG agents were able to interview employees who were potential witnesses as the OIG deemed necessary or as directed by the USAO in relation to its concurrent investigation into labor-related criminal violations by the employer—violations that are not under WHD's jurisdiction.

After the enforcement action, the USAO and ICE provided WHD and the Office of the Solicitor of Labor with results of the operation as well as information related to the location of detention centers that were holding employees of Agriprocessors so that WHD could interview workers, including minors.

ICE continues to work cooperatively with both DOL-OIG and WHD DOL and has confirmed that this enforcement action did not impede WHD's own investigation into labor standards at the plant.

Question: Do ICE agents get any training in terms of looking out for other possible employer or employee violations inside a plant aside from immigration violations?

Response: At the Federal Law Enforcement Training Center (FLETC) and throughout an agent's career, all ICE agents receive training that encompasses instruction in the enforcement of federal law, as well as general law enforcement procedures. Also, all ICE agents receive specialized training in customs and immigration law, and the associated ICE policies and procedures.

During investigations across all ICE programmatic areas, ICE works with other law enforcement and regulatory partners to ensure that subject matter expertise is available to identify any potential violations of law. ICE agents are trained to be attuned to violations of laws other than those enforced by ICE and to seek out the assistance of other federal and state agencies, such as the Department of Labor, the Office of the Inspector General for the Social Security Administration, and the U.S.

Department of Agriculture, or local state prosecutors which have the primary authority to enforce other laws.

Question: ICE has protocol that allows some workers to be released for humanitarian reasons. Are there other reasons for release like labor violations, trafficking or anything else?

Response: Determinations regarding release of an alien by ICE based on humanitarian concerns are made on a case by case basis. Whether a worker may be a victim of trafficking, or was subjected to labor violations are only two of many factors that are considered when deciding whether to release a worker for humanitarian reasons. When the violations are administrative in nature, ICE has more discretion in determining whether an individual will be released pursuant to an identified humanitarian reason.

Furthermore, should an individual be arrested for criminal violations ICE no longer has sole discretion and must work with the U.S. Attorney's office and courts with regard to potential release and/or bond issues.

Question: The ICE humanitarian protocols apply to worksite raids only. What humanitarian protocols do ICE agents follow when conducting home raids? Are all children encountered by ICE agents placed in foster care? Do social workers from child welfare or child protective services accompany ICE agents during home raids? If not, how does ICE determine which children should be placed in foster care? If the parent(s) identifies another caregiver for the child, what requirements does ICE follow before releasing the child to the substitute caregiver? Does ICE check the immigration status of the substitute caregiver?

Response: All juveniles are treated with dignity, respect, and special concern for their particular vulnerability. Therefore, before arresting any adult in the presence of a juvenile, an officer must take the time to learn a child's age, immigration status, and the relationship between adult and child. If a parent is not determined to be present, the parents' location and, if applicable, the name and address of a relative in the area are ascertained. The safety and well-being of the juvenile is paramount.

When possible, in all enforcement operations ICE officers ascertain whether juveniles will be present at a target location, and whether targeted aliens have juveniles in their care. This occurs during the initial investigation through surveillance, and research of available indices of the target alien. Social workers do not routinely accompany ICE's federal law enforcement officers during enforcement actions. However, in the event that juveniles are likely to be encountered at a particular residence, potential caregiver resources (such as family members, other care providers, community groups, and state and county entities) are identified, and a care plan for the juveniles will be developed before an arrest warrant is executed. To that end, ICE officers do not take custody of a known juvenile unless they are being processed for removal proceedings.

It is conceivable that while performing their duties, ICE officers may encounter fugitive aliens who are the primary caregivers to minor children. In the event that ICE officers encounter a fugitive alien who is responsible for a juvenile and there is no other immediate relative available to assume custody of the child, they must, in the following order of preference, coordinate the transfer of the juvenile into the safekeeping of (1) the nearest child welfare authority; (2) local law enforcement; (3) if options (1) and (2) are inconsistent with operational requirements, they must carefully document the fugitive's request to transfer the juvenile into the safekeeping of a verifiable third party. Before transferring to a third-party however, ICE will:

1. Document the inability of the welfare authority and local law enforcement to take timely custody of the minor;
2. Document in writing the fugitive's request to release the juvenile to an identified third party (preference is for the request in the fugitive's own handwriting);
3. Facilitate the fugitive alien's contact with the third party;
4. Verify the identity of the third party through government issued identity cards prior to transferring the juvenile into the safekeeping thereof; and
5. Forward copies of relevant documentation (inability of the welfare authority/local law enforcement to take timely custody of the juvenile) to the child welfare authority for further processing.

The use of the first two options is strongly encouraged as child welfare authorities and local law enforcement are best suited for making determinations related to child custody, including any decision concerning placement in foster care.

Question: How does ICE ensure that appropriate agencies get involved to protect detainees who may have been victims of other crimes? What is done to ensure that detainees are not processed or deported at the expense of prosecuting other employer violations?

Response: ICE has consistently undertaken efforts to coordinate, as appropriate, with non-governmental organizations and federal, state and local agencies such as the Department of Justice, the Department of Labor (see answers to questions 4 and 11), Office of the Inspector General for the Social Security Administration, and the U.S. Department of Agriculture, when conducting enforcement operations. In particular, ICE employs specially trained victim/witness coordinators in ICE field offices to ensure victims are identified and receive the appropriate services. With respect to detained aliens, ICE also works with other law enforcement agencies to provide deferred action, parole, work authorization and other immigration-related relief to detainees who may be working with other agency investigations.

As a matter of practice, if ICE is aware of an individual who may be a victim of other crimes, such as human trafficking, prior to or during an enforcement action, the ICE field office will coordinate with the local and/or headquarters victim/witness coordinator. After the enforcement action, ICE generally will inform WHD (and other relevant agencies) of the location of detainees. The ICE victim/witness coordinator will further ensure that ICE victim/witness procedures are followed and that the appropriate federal, state, local and/or non-governmental organizations are notified.

Question: What is ICE or the Department of Homeland Security doing to ensure that witnesses to potential large crimes are staying in touch with investigators from the Department of Justice and Department of Labor?

Response: As noted in response to questions # 4, 8, and 11, ICE, as appropriate coordinates with the Office of the Inspector General for the Social Security Administration, the Department of Labor and the Department of Agriculture. We also coordinate closely with the Department of Justice on an ongoing basis. Typically, ICE does not monitor another agency's witnesses. However, ICE makes every attempt to cooperate with other agencies, when requested.

Examples of such cooperation include: situations where ICE has detained a material witness in another agency's investigation, at the agency's request for the detained alien's release, ICE can offer alternatives to detention in order to allow the witness to cooperate in the investigation. Such alternatives may include an electronic monitoring device, appearance bond, or some form of supervised release. In addition, if the material witness has been ordered removed from the United States, the witness can be granted deferred action so that he/she may remain in the country in order to cooperate with the other agency.

Question: In terms of procedure, when and how is ICE notified that an investigation by another agency is occurring at a workplace or location where ICE plans to raid?

Response: With respect to any federal criminal investigations, including worksite enforcement investigations, ICE coordinates at the earliest appropriate time with the Department of Justice's local United States Attorney's Office having jurisdiction over the case. United States Attorney's are charged with and are often in the best position to notify ICE of any other federal and on occasion, local agency investigative interests. This close coordination occurs on the local level and in some instances involving multi-jurisdictional or large-scale enforcement operations takes place at the national level as well. I note, however, that the Department of Labor does not provide ICE information concerning employees' immigration status.

Additionally ICE agents are routinely instructed to attempt to coordinate at the earliest possible time with other federal, state and local agencies prior to any enforcement action, including worksite enforcement operations.

Question: Does ICE notify other agencies prior to a raid to determine if other investigations are occurring at a workplace or location? When does information sharing occur—before or after the raids occur? What precautions does ICE take to ensure that the ICE actions are not done at the expense of another investigation? Are the actions done in cooperation with other agencies/departments?

Response: As stated above, ICE coordinates at the earliest appropriate time with the Department of Justice's local United States Attorney's Office having jurisdiction over the case. United States Attorney's are charged with and are often in the best position to notify ICE of any other federal and on occasion, local agency investigative interests. This close coordination occurs on the local level and in some instances involving multi-jurisdictional or large-scale enforcement operations takes place at the national level as well

In addition, the nature of worksite enforcement operations generally involve cooperation with other agencies. When conducting worksite enforcement operations, ICE coordinates these operations with affected external entities and other law enforcement partners within the local area of responsibility as appropriate. After the enforcement action, ICE generally will inform WHD (and other relevant agencies) of the location of detainees.

Question: Three hundred thirty nine (389) workers at the Postville plant have been arrested and are being held and charged with crimes but I have not seen anything about charges filed against the company. Could you tell me what charges have been filed against Agriprocessors—the company, its owners or management since the raid in Postville last week?

Response: As a result of the worksite enforcement operation on May 12, 2008, ICE has arrested a total of six Agriprocessors Inc. managers/supervisors. Of the six arrested all have pled guilty to one or more criminal violations which include 8 USC 1324, aiding and abetting and harboring aliens at a place of employment; 8 USC 1546, document fraud; 8 USC 1324 (a)(3)(A) knowingly hiring ten or more undocumented aliens . Furthermore, there is currently an outstanding arrest warrant for a seventh manager/supervisor. ICE is unable to provide any additional information regarding these charges or any potential criminal charges against Agriprocessors Inc. as the matter continues to be under criminal investigation.

Question: At one time, there was a Memorandum of Understanding between DOL and what was then known as INS, to govern the working relationship between the agencies and to ensure that both immigration and labor laws were enforced. Is that MOU still in place?

Response: ICE honors the Memorandum of Understanding (MOU) between the former INS and the Department of Labor that is still in place. The November 23, 1998 Memorandum of Understanding (MOU) between the Department of Labor and the Immigration and Naturalization Service identifies four goals that ICE aggressively supports today: reducing the employment of unauthorized workers, reducing the economic incentive for the employment of unauthorized workers, avoiding the further victimization of unauthorized workers and promoting employment opportunities for legal authorized workers. ICE continues to fully implement this MOU in order to achieve its stated goals.

ICE has revitalized its worksite enforcement program targeting egregious employers who knowingly hire undocumented workers. These workers are often more vulnerable to employer exploitation. When abuses are identified, ICE works with the Department of Labor to ensure that the rights of the victims are protected and that victims are afforded all the employment protections under the law.

Question: Since December 2006 how many U.S. citizen or permanent resident children have ICE agents apprehended while conducting enforcement operations?

Response: ICE is not aware of having administratively arrested U.S. citizen or lawful permanent resident (LPR) children during a worksite enforcement operation. When conducting enforcement operations, if ICE agents encounter a juvenile, the agents work diligently to determine the immigration status of the juvenile while also ensuring that the juvenile is released to the custody of a responsible adult family member or an appropriate social service agency. If your office is aware of any situation involving the arrest of a U.S. citizen or permanent resident child please provide ICE with the details and the matter will be thoroughly investigated.

Question: What plans does ICE have to develop one uniform set of policies and procedures regarding immigration enforcement operations as they pertain to children and families?

Response: As a law enforcement organization, ICE must reserve its discretion to determine when the entirety of a uniform guideline is necessary for a successful implementation of an operational plan, or when some variation of the uniform guideline might be more appropriate, given the size or other particulars of an operation. Therefore within each programmatic area ICE has guidelines and procedures in place that relate to specific enforcement operations. Each of ICE's enforcement operations is unique and requires proper and thorough vetting and coordination. Therefore the impact on children and families could be considerably different depending on the circumstances of each case and presently ICE does not intend to develop additional policies at this time.

Question: What training do ICE agents receive, if any, on how to deal with children encountered during enforcement operations or left behind without a caregiver? How many hours of training do ICE agents receive on these topics? Who provides the training? Are child welfare or child protective services involved in training ICE agents?

Response: Humanitarian concerns, including ensuring that minor children are not placed at risk are addressed during the pre-operation briefing. Additionally, ICE law enforcement personnel must complete basic and advanced training. ICE special agents complete 12 weeks of FLETC Criminal Investigator Training Program (CITP) and 12 weeks of ICE Special Agent Training. DRO officers complete 13 weeks of Basic Immigration Law Enforcement Training. The specific training outlined below enables our agents and officers to deal with children encountered during enforcement operations or when left behind without a caregiver.

ICE agents receive approximately 2 hours of training regarding how to identify and process issues related to children while attending the FLETC Criminal Investigator Training Program (CITP). Moreover, all policies on how to handle children during a worksite enforcement operation are covered in an advance training worksite seminar. ICE training is provided by the Immigration and Customs Enforcement Academy, Detention and Removal Operations Division. In addition, ICE law enforcement personnel receive additional hours in the following courses:

- Alien Processing (6 hours)
- Consular Notification (1hour)
- I-213 Preparation (5 hours)
- Juvenile Processing (2 hours)

Currently no child welfare or child protective service providers are involved in training ICE law enforcement personnel at FLETC, although DIHS will often participate in the pre-operation briefing. However, ICE routinely partners with state and local social services to ensure that no child is left without proper care during a worksite enforcement operation. This partnering allows for the full and comprehensive care of the families affected during our operations.

Chairwoman WOOLSEY. Without objection, this hearing is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]