

EXHIBIT D

Office of the Assistant Secretary

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

JUL - 6 2007

Ms. Christina DeConcini
Director of Policy
National Immigration Forum
50 F Street, NW, Suite 300
Washington, DC 20001

Dear Ms. DeConcini:

Thank you for your June 11, 2007, letter to Michael Chertoff, Secretary of Homeland Security, regarding a U.S. Immigration and Customs Enforcement (ICE) immigration enforcement operation performed in New Haven, Connecticut, on June 6, 2007. In your letter you express concerns about the timing and execution of the operation. I would like to take this opportunity to explain our enforcement efforts more fully and to address your concerns.

First, I want to assure you that the Department of Homeland Security (DHS), as well as officials at ICE, take reported allegations of misconduct seriously and will fully investigate all allegations. We appreciate those who bring such information to our attention.

In addition to committing significant resources to preventing aliens from illegally entering the United States, DHS has also committed resources to arresting immigration law violators within the Nation's interior. Fugitive Operations Teams (FOTs) are a crucial part of ICE's interior immigration enforcement mission. A critical element of FOTs' strategy is to identify, locate, arrest, and remove criminal aliens, fugitives, and other immigration law violators from the United States. FOTs use leads and other intelligence-based information to find, arrest, and place into removal proceedings aliens who have been ordered to leave the country by an immigration judge (or ordered removed through an alternate immigration process) but have failed to comply, resulting in their being considered fugitive aliens. An ICE fugitive is defined as *"an alien who has failed to depart the United States pursuant to a final order of removal, deportation or exclusion; or who has failed to report to a Detention and Removal Office after receiving notice to do so."*

On May 26, 2006, ICE began "Operation Return to Sender," a nationwide interior enforcement initiative that applies an organized and methodical approach to the identification, location, and arrest of ICE fugitive aliens. Conducted as part of ICE's National Fugitive Operations Program (NFOP), "Operation Return to Sender" combines NFOP resources with those of other federal, state, and local law enforcement entities to eliminate the backlog of ICE fugitive cases.

The size of many of the Field Office's Area of Operational Responsibility (AOR) is quite large, often comprising multiple states. FOTs act on specific intelligence-based data gathered through law enforcement channels. Once intelligence is gathered on several fugitives located within the same general vicinity, a FOT will develop an operational plan for the swift and safe arrest of the fugitive aliens in the most fiscally efficient way. The New Haven enforcement initiative's plan was submitted on April 20, 2007, and approved on May 4, 2007 by Headquarters Detention and Removal Operations (DRO). As of June 11, 2007, 29 illegal aliens were arrested as a result of

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this enforcement initiative. Five of the 29 aliens arrested were fugitives with outstanding orders of removal. The remaining 24 illegal aliens were arrested at targeted locations of the operation.

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

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

Upon an order of removal by an immigration judge, within the Department of Justice, DRO issues an I-205, *Warrant of Deportation/Removal*. If the alien fails to appear for removal, then the alien is deemed an ICE fugitive. Warrants of removal are administrative in nature; therefore officers are required to obtain consent before they are permitted to enter private residences or non-public areas of a business. Also, warrants of removal do not grant the same authority to enter dwellings as a judicially approved search or arrest warrant. During the course of normal targeted operations, while attempting to arrest ICE fugitives, FOTs often encounter other individuals at the targeted location. A warrant is not necessary when arresting someone in the country illegally. Pursuant to Section 287(a)(1) of the Immigration and Nationality Act, an officer has the authority to question any person as to their right to enter, reenter, pass through, or reside in the United States. Immigration and Nationality Act § 287(a)(1); 8 U.S.C. § 1357(a)(1). If a person is deemed to be an alien, in the United States illegally, and is found to be amenable to removal, they may be arrested, without warrant, and processed accordingly for removal. ICE cannot turn a blind eye to illegal aliens once encountered.

The execution of the operation protected the rights of those concerned. At no time did any ICE FOTs enter a dwelling without consent. To ensure consent was obtained knowingly and voluntarily from a dwelling's occupant, each team had a Spanish-speaking officer assigned to it. After consent was obtained, the occupant was asked how many other people were in the house. If other persons were present, those individuals were asked to come into a common area. Officers searched the immediate area for potential weapons for officer safety. This is a common practice throughout law enforcement.

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

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

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In order to ascertain the whereabouts of those arrested, at the scene of arrest family members were provided the address and telephone number of the local ICE office. Family members were also instructed that it may take a few hours before they would know definitively in which facility those arrested would be housed as they would have to be processed and transported to those facilities.

Per DRO policy, those arrested without outstanding Warrants of Removal were provided a list of free legal services. Once processed, individuals were provided the opportunity to make phone calls. In addition, local ICE offices routinely provide information to attorneys as to their client's whereabouts.

Susan Cullen, Director of Policy, ICE, has arranged for a conference call on July 19, 2007, at 3:00 p.m. with her, you, Michele Waslin from the National Council of La Raza, and two representatives from DRO to further address any concerns you may have.

I appreciate your interest in this matter. If I may be of further assistance, please contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Julie L. Myers".

Julie L. Myers
Assistant Secretary