

United States Senate

WASHINGTON, DC 20510

October 17, 2017

The Honorable Elaine Duke
Acting Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20528

Dear Acting Secretary Duke:

We write to share our growing concerns over reports of violations of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) policies on enforcement actions at sensitive locations. We ask that your Department clarify its policies on sensitive locations and provide basic statistical data on compliance with them.

As you know, your Department has longstanding policies that prohibit enforcement actions at or near sensitive locations. In 2011, the then-ICE Director issued a memorandum, *Enforcement Actions at or Focused on Sensitive Locations*, that prohibits enforcement actions at or focused on a sensitive location unless exigent circumstances exist or prior approval is obtained.¹ Enforcement actions include arrests, interviews, searches, and immigration enforcement-related surveillance at or near locations such as hospitals, schools and places of worship, and sites used for religious ceremonies or public demonstrations. In 2013, the then-CBP Deputy Commissioner issued a similar memo, *U.S. Customs and Border Protection Enforcement Actions at or Near Certain Community Locations*.² Later, ICE and CBP issued FAQs to further clarify the types of locations that are considered “sensitive” to cover locations such as licensed daycares, school bus stops, accredited health clinics and urgent care facilities.³ The memos direct ICE and CBP officers and agents to follow these orders at all times, with the exception of cases where prior approval was obtained or under exigent circumstances.

However, since President Trump’s issuance of Executive Order 13768, *Enhancing Public Safety in the Interior of the United States*, and Executive Order 13767, *Border Security and Immigration Enforcement Improvements*, we have heard reports of CBP and ICE agents apprehending undocumented immigrants in sensitive locations and other critical sites that provide basic services. Agents have reportedly arrested a father while he dropped off his children at school, a domestic

¹ *Enforcement Actions at or Focused on Sensitive Locations*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, October 24, 2011, <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>

² *U.S. Customs and Border Protection Enforcement Actions at or Near Certain Community Locations*, U.S. CUSTOMS AND BORDER PROTECTION, January 18, 2013, <http://foiarr.cbp.gov/streamingWord.asp?i=1251>.

³ *FAQ on Sensitive Locations and Courthouse Arrests*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, <https://www.ice.gov/ero/enforcement/sensitive-loc>; *Sensitive Locations FAQs*, U.S. CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/border-security/sensitive-locations-faqs>.

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violence victim at a courthouse, and a group of men exiting a church shelter, among others.⁴ These reports have generated fear in immigrant communities, leading some families to cancel medical appointments or not send their children to school.⁵ Reports of instances that seem to violate the sensitive locations policy make it difficult for educators, health care providers, and program administrators to be able to assure families that their locations remain safe from immigration enforcement actions.

Most recently, we have been alarmed by the reported apprehension of Irma Francisca Quinones Alamillo and Oscar Enrique Sanchez Islas in May 2017.⁶ According to the National Immigrant Justice Center, Mr. Sanchez Islas and Ms. Quinones Alamillo took their two-month-old baby to a hospital for pyloric stenosis, a serious condition that causes infants to vomit and lose weight. At the hospital, they were allegedly apprehended by a Border Patrol agent and later taken away for fingerprinting and booking.⁷

If these reports are true, they constitute an apparent breach of ICE and CBP rules, as well as the trust that our communities put in your Department. Given our concerns, we ask that you provide answers to the following questions within 30 days.

SENSITIVE LOCATIONS STATISTICS AND POLICY

- Please provide the following ICE and CBP statistics on enforcement actions at or focused on sensitive locations, by year. (*For ICE, please provide statistics from the policy's inception date of October 2011 to the present. For CBP, please provide statistics from the policy's inception date of January 2013 to the present.*)
 - Number and location of enforcement actions at or focused on sensitive locations. Please note the actions that received prior approval or involved an exigent circumstance.
 - Number of recorded violations of the sensitive locations policy.
- Who, if anyone, monitors compliance with the sensitive locations policy?
- How are complaints about violations of the sensitive locations policy typically reported? Who investigates these complaints?
- What is the standard procedure when an ICE or CBP officer or agent violates the sensitive locations policy?

⁴ Jade Hernandez, *Undocumented dad taken by ICE while dropping kids off at school*, ABC 7, March 3, 2017, <http://abc7.com/1782230/>; Marty Schladen, *ICE detains alleged domestic violence victim*, EL PASO TIMES, February 15, 2017, <http://www.elpasotimes.com/story/news/2017/02/15/ice-detains-domestic-violence-victim-court/97965624/>; Nick Iannelli, *ICE raid near Fairfax Co. church raises questions*, WTOP, February 17, 2017, <http://wtop.com/fairfax-county/2017/02/alexandria-ice-raid-near-church-raises-questions/slide/1/>.

⁵ Moriah Balingit and Emma Brown, *'Your child is safe': Schools address deportation fears among immigrant families*, WASHINGTON POST, March 19, 2017, https://www.washingtonpost.com/local/education/your-child-is-safe-schools-address-deportation-fears-among-immigrant-families/2017/03/19/5f8877ae-09be-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.2dce921ccc3d.

⁶ John Burnett, *Border Patrol Arrests Parents While Infant Awaits Serious Operation*, NPR, September 20, 2017, <http://www.npr.org/2017/09/20/552339976/border-patrol-arrests-parents-while-infant-awaits-serious-operation>.

⁷ Heidi Altman, *Parents Take Sick Baby To Emergency Room – And Face Deportation For It*, NATIONAL IMMIGRANT JUSTICE CENTER, September 20, 2017, <https://immigrantjustice.org/staff/blog/parents-take-sick-baby-emergency-room-and-face-deportation-it>.

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- What training do ICE and CBP officers receive on the sensitive locations policy? How often do they receive this training? Who conducts the training?
- As part of the Department's outreach program with local organizations, does the Department enlist help from hospitals, schools, or other institutions defined as sensitive locations to report undocumented immigrants who appear on their premises?

IRMA FRANCISCA QUINONES ALAMILLO & OSCAR ENRIQUE SANCHEZ ISLAS' CASE

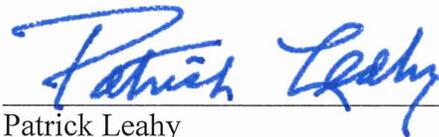
- Did the Border Patrol agents seek and receive supervisory approval to question these parents at the hospital? Was this questioning an "enforcement action"?
- Did agents violate CBP's sensitive locations policy when they apprehended Irma Francisca Quinones Alamillo and Oscar Enrique Sanchez Islas at the hospital? If so, what are the ramifications?
- Was the option, reported in the *New York Times* two years ago, of obtaining "short-term visas or so-called humanitarian parole to travel beyond [checkpoints]"⁸ available and communicated to the parents?
- After reviewing the incident, do you believe that CBP should have done anything differently?
- In 2013, then-CBP Deputy Commissioner David Aguilar wrote that enforcement actions are generally prohibited "at or near" sensitive locations. How does the CBP define "near"? For instance, would the parking lot of a hospital be considered "near" a sensitive location?
- In the same memo, Mr. Aguilar writes that the sensitive locations policy "does not limit or otherwise apply to CBP operations that are conducted at or near the international border." How does CBP define "near the international border"? Does the Rio Grande Valley hospital, where a Border Patrol agent apprehended Mr. Sanchez Islas and Ms. Quinones Alamillo, fall under this definition?

We look forward to your timely response, and urge the Department to monitor and enforce compliance with ICE and CBP sensitive locations policy.

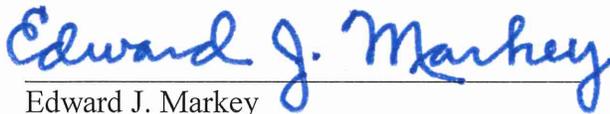
Sincerely,



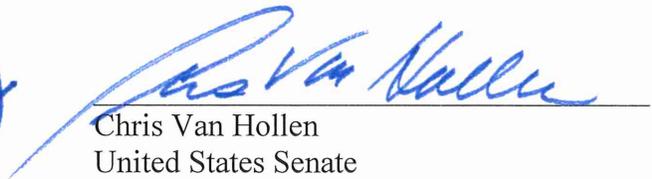
Richard Blumenthal
United States Senate



Patrick Leahy
United States Senate



Edward J. Markey
United States Senate



Chris Van Hollen
United States Senate

⁸ Manny Fernandez, *Checkpoints Isolate Many Immigrants in Texas' Rio Grande Valley*, NEW YORK TIMES, November 22, 2015, <https://www.nytimes.com/2015/11/23/us/checkpoints-isolate-many-immigrants-in-texas-rio-grande-valley.html>.

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Kirsten Gillibrand

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J. A. Booker

Cory A. Booker
United States Senate

Tim Kaine

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Tammy Duckworth

Tammy Duckworth
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Elizabeth Warren

Elizabeth Warren
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Dianne Feinstein

Dianne Feinstein
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Sheldon Whitehouse

Sheldon Whitehouse
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Al Franken

Al Franken
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Catherine Cortez Masto

Catherine Cortez Masto
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Bernard Sanders

Bernard Sanders
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Robert Menendez

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Richard J. Durbin

Richard J. Durbin
United States Senate

Kamala D. Harris

Kamala D. Harris
United States Senate

Tom Udall

Tom Udall
United States Senate

Ron Wyden

Ron Wyden
United States Senate

cc: CBP Acting Commissioner McAleenan
ICE Acting Director Homan
DHS Inspector General Roth