

# Congress of the United States

Washington, DC 20510

May 23, 2013

The Honorable Barack Obama  
President  
The White House  
Washington, DC 20500

Dear Mr. President:

We write today to express concern over the exclusion of immigration and customs enforcement officers and their representatives from the negotiations surrounding immigration reform. It is our understanding that the National ICE Council, which represents over 7,000 Immigration and Customs Enforcement officers and support staff nationwide, requested a meeting with the Administration three months ago to weigh in on immigration policy and share their firsthand concerns over the breakdown of interior enforcement. To date, they have received no meeting invitation.

Attached is a letter from the ICE Council and law enforcement officials across the country detailing their concerns with S. 744, along with a statement from the National Citizenship and Immigration Services Council.

To be effective any immigration reform bill must heed the warnings from our federal immigration agents. Unfortunately, far from being included in the process, ICE officers have been shut out and have even had their day-to-day operations handcuffed by DHS officials to the point of being unable to carry out their sworn duties. These brave whistleblowers have been left with no other option but to file a lawsuit in federal court to fight the abuse of power from DHS leadership.

Our federal immigration officers risk their lives every day to protect the American public, defend the rule of law, and enforce the laws passed by Congress on the people's behalf. No sound reform of our immigration system can exclude their legitimate concerns. I therefore respectfully encourage your administration to meet with representatives from the National ICE Council as soon as possible and to hear the views of their rank-and-file officers. It is clear that any lawful immigration system in the future will require increased ICE resources and enforcement authority.

Very truly yours,

  
\_\_\_\_\_  
Senator Jeff Sessions  
\_\_\_\_\_  
Representative Bob Goodlatte



**National  
Immigration and Customs Enforcement Council  
of the  
American Federation of Government Employees  
Affiliated with AFL-CIO**



May 20, 2013

Dear Esteemed Members of Congress:

We write to you today as a diverse group of both law enforcement officers and representatives to express our deep concerns regarding immigration bill S. 744, the “Border Security, Economic Opportunity, and Immigration Modernization Act,” which is currently before the Senate Judiciary Committee. S. 744 will profoundly impact the security of the country, our nation’s communities, and the people we as law enforcement officers are sworn to protect.

Driven by mere speculation that S. 744 may be enacted by Congress, illegal border crossings have spiked dramatically. Thousands of unaccompanied children, runaways, and families now attempt to illegally enter the United States in hopes of receiving legalization. This trend will surely continue after enactment as S. 744 provides no commitment of stronger border enforcement for at least five to ten years following the initial legalization phase. Thousands will be victimized or perish as they attempt the treacherous crossing into the United States in hopes of attaining legal status. Cut-off dates established in S. 744 will mean little to those in other countries who are unfamiliar with the 867-page bill. Without a strategy of border security first, S. 744 will only draw more illegal immigrants into the United States, resulting in unnecessary harm to many.

Border security is also critical to preventing criminal elements and national security threats from entering the United States. Perhaps at no time in our nation’s history is border security more important to maintaining public safety than it is now. Unfortunately, S. 744 provides no guarantee of increased border security. Instead, it relinquishes Congress’ authority to establish border security measures to the Department of Homeland Security (DHS), which will then develop its own unilateral border security plan. DHS is then permitted to measure its own successes and failures after implementing that plan. Clearly recognizing the high probability that this approach will fail and DHS will not develop a successful border security plan, S. 744 establishes a commission to review security at the border five years after the plan has been implemented (if the Secretary decides such a commission is needed). But the powerless commission will have only the authority to make recommendations on how to achieve border security. Those recommendations may very well be ignored by DHS. It is important to note that S. 744 dissolves the commission 30 days after it makes its recommendations to the President, the Secretary of Homeland Security, and Congress. S. 744 also grants the Secretary the authority to unilaterally determine the amount of border fencing that will be constructed, which could result in little or no fencing being built. In summary, S. 744 appears to provide no tangible provisions for increased border security.

S. 744 also does not address current failures of interior enforcement that will render any legislation ineffective, regardless of its provisions. Currently, ICE officers cannot arrest or remove most illegal immigrants they come in contact with, even if officers believe those individuals present a risk to public safety. To avoid offending special interests, ICE officers are also prohibited from making street arrests, and are also prohibited from arresting illegal immigrants who are public charges or who violate laws involving fraudulent documents. ICE officers are under orders to wait until immigration violators commit and are convicted of criminal offenses and placed in jail by state authorities before they can act in their capacity as Federal immigration officers and make an arrest. Even though illegal entry and visa overstay violations account for the majority of the 11 million illegal immigrants currently residing in the United States, DHS and ICE have directed ICE officers not to enforce the laws related to these offenses.

Congress can and must take decisive steps to limit the discretion of political appointees and empower ICE and CBP to perform their respective missions and enforce the laws enacted by Congress. Rather than limiting the power of those political appointees within DHS, S. 744 provides them with nearly unlimited discretion, which will serve only to further cripple the law enforcement missions of these agencies.

Further, S. 744 establishes a biographic (instead of biometric) exit system that has already proven easy to circumvent and not worthy of investment. S. 744 limits the exit system to air and sea ports and does not expand the program to include monitoring of the nation's land borders. This will not provide adequate coverage and security to the nation's ports of entry and will result in identifying only a fraction of the visa violators unlawfully present in the United States. Even if an effective biometric exit system were eventually established, the size of the ICE workforce is too small to effectively utilize it. With only 5,000 ICE immigration officers nationwide—a force smaller than many police departments—ICE lacks the resources to locate and apprehend visa violators identified by the new exit system, rendering the system useless. S. 744 does not provide for any guaranteed increase in the number of ICE immigration officers.

Prior to the completion of any new enforcement mechanisms, S. 744 creates a new legal status for illegal immigrants, known as Registered Provisional Immigrant status (RPI), which forgives previous Federal immigration violations. However, Section 2101 of S. 744 also explicitly opens this legal status to those with long criminal records, gang affiliations, felony arrests, and those with multiple misdemeanor criminal convictions. Furthermore, S. 744 allows criminal aliens to continue to commit and be convicted of criminal offenses after receiving provisional legal status, as long as the individual's convictions remain below the eligibility threshold.

- For instance, the Secretary of DHS must waive misdemeanor criminal convictions for purposes of determining an illegal immigrant's eligibility for RPI status. In many states, misdemeanor crimes include serious offenses such as assault, assault of a law enforcement officer, vehicular homicide, possession of drug manufacturing equipment, unlawful placing or discharging of an explosive device, DUI, and sex offenses.
- Section 3701 of S. 744 states that illegal immigrants who are members of street gangs—most of which are heavily involved in criminal activity and violent crimes in the

communities and areas we police—simply have to claim that they renounce their gang affiliation in order to obtain a waiver that would make them admissible to the U.S., and potentially eligible for legalization and eventual citizenship. We anticipate, as should Congress, that many gang members will falsely claim to renounce their association with criminal street gangs to obtain legal status and continue engaging in unlawful conduct in the United States.

- Section 2101 of S. 744 states that illegal immigrants who have committed document fraud, made false statements to authorities, and have absconded from court-ordered removal hearings are all eligible to apply for legal status.
- Section 2101 of S. 744 directs DHS to ignore convictions under state laws that mirror federal laws on crimes such as human smuggling, harboring, trafficking, and gang crimes when approving applications for legalization.
- This same section also gives the Secretary of Homeland Security virtually unlimited discretion to waive any manner of crimes that would otherwise make an individual ineligible for legal status—for such expansive reasons as family unity, humanitarian purposes, or what the Secretary believes is in the public interest. At least two of these standards appear undefined by S. 744 or current law, providing political appointees with broad authority to establish their own definitions of these terms and pardon criminal acts under almost any circumstance.
- The bill provides that individuals who have overstayed visas are eligible for RPI and citizenship. As we have learned from the 9/11 Commission, more vigorous policing of visa violators is an essential component of national security. S. 744 provides legal status to an estimated 4.5 million visa overstays, including recent arrivals and document forgers. S. 744 lacks effective security measures for screening existing and future visa violators.
- The bill states that individuals who have previously been deported or otherwise removed from the country are ineligible to apply for legal status. However, the Secretary is given the “sole and unreviewable discretion” to waive that ineligibility for large classes of qualifying aliens.
- Section 2101 of S. 744 prohibits detention and removal of any person claiming eligibility for legalization under S. 744 without requirement to provide proof of eligibility or application.

While business groups, activists, and other special interests were closely involved in the drafting of S. 744, law enforcement personnel were excluded from those meetings. Immigration officers and state and local law enforcement working directly within the nation’s broken immigration system were prohibited from providing input. As a result, the legislation before us may have many satisfactory components for powerful lobbying groups and other special interests, but on the subjects of public safety, border security, and interior enforcement, this legislation fails. It is a dramatic step in the wrong direction.

The degree to which this legislation tolerates both past and future criminal activities ensures legalization and a path to citizenship for many criminal aliens and gang members currently residing in the United States. Additionally, S.744 fails to provide for necessary cooperation between agencies and ignores many of the current problems that are inimical to the proper enforcement of the nation's immigration laws.

For example, ICE officers are currently directed by DHS to allow adult inmates in jails to lie about their "DREAMer" status in order to avoid immigration arrest. As a result, inmates are permitted to simply walk out of jails without being required to provide proof of eligibility for "DREAMer" status and without any investigation by ICE. ICE officers report overhearing inmates coaching one another on how to lie to ICE officers about having "DREAMer" status to avoid arrest, yet ICE officers are still powerless to arrest them. These revelations should alarm every member of Congress, and indeed, every American. If this legislation were enacted tomorrow, ICE officers would continue to be powerless to effectively enforce our nation's laws and provide for public safety as S. 744 does nothing to end these dangerous agency- and department-level directives. DHS will most certainly continue to issue these types of directives which will continue to deteriorate the ability of ICE to provide for public safety and national security.

We therefore conclude that this legislation fails to meet the needs of the law enforcement community and would, in fact, be a significant barrier to the creation of a safe and lawful system of immigration.

We thank you for hearing our concerns and would be eager to answer any questions you may have.

Sincerely,

### **Organizations**

1.	Chris Crane, President	National ICE Council
2.	Zack Taylor, Chairman	National Association of Former Border Patrol Officers (NAFBO)
3.	Beth Appleby, Administrator	Pennsylvania Sheriff's Association representing 67 Sheriffs
4.	Kenneth Palinkas, President	National Citizenship and Immigration Services Council 119, American Federation of Government Employees, AFL-CIO

### **Individual Sheriffs**

1.	Sheriff Sam Page	Rockingham County, NC/Vice Co-Chair National Sheriffs Association Border Security and Immigration Committee
2.	Sheriff David M. Carpenter	Lincoln County, North Carolina
3.	Sheriff Andy Stokes	Davie County, North Carolina



4.	Sheriff Rick Burris	Stanly County, North Carolina
5.	Sheriff Eddie Cathey	Union County, North Carolina
6.	Sheriff Prentis Benston	Bladen County, North Carolina
7.	Sheriff Darryl Liverman	Tyrrell County, North Carolina
8.	Sheriff Chuck Jenkins	Frederick County, Maryland
9.	Sheriff Vic Davis	Clay County, North Carolina
10.	Sheriff James Ross	Washington County, North Carolina
11.	Sheriff Todd Garrison	Dona Ana County, New Mexico/Chairman Southwest Border Sheriffs Coalition
12.	Sheriff Paul Babeu	Pinal County, Arizona
13.	Sheriff Terry Johnson	Alamance County, North Carolina
14.	Sheriff Matt Murray	Curry County, New Mexico
15.	Sheriff Todd Martin	Monroe County, Pennsylvania
16.	Sheriff Thomas Hodgson	Bristol County, Massachusetts
17.	Executive Secretary Monica L. Shank	Guadalupe County Sheriff's Office, New Mexico
18.	Sheriff Carolyn B. Welsh	Chester County, Pennsylvania
19.	Sheriff Curtis A. Cochran	Swain County, North Carolina
20.	Sheriff Clinton "C.J." Walters	Bradford County, Pennsylvania
21.	Sheriff Dan Gibbs	Martin County, North Carolina
22.	Sheriff Jeffrey C. Krieg	Elk County, Pennsylvania
23.	Sheriff Larry Rollins	Harnett County, North Carolina
24.	Sheriff Eric Foy	Venango County, Pennsylvania
25.	Sheriff Tracy L. Carter	Lee County, North Carolina
26.	Sheriff Kenneth L. Klakamp	Warren County, Pennsylvania
27.	Sheriff Dewey Jones	Person County, North Carolina
28.	Sheriff Oscar O. Cowen, Jr.	Starke County, Indiana
29.	Sheriff Ronald B. Bruce	Hinsdale County, Colorado
30.	Sergeant Richard Valdemar (Ret.)	Los Angeles County, California, gang expert
31.	Sheriff Kenneth W. Matlack	Morrow County, Oregon
32.	Sheriff Clint McDonald	Terrell County, Texas
33.	Sheriff Carey A. Winders	Wayne County, North Carolina
34.	Adam Stubbs, Government Liaison	Office of Intergovernmental Services Las Vegas Metropolitan Police Department
35.	Sheriff Cliff Harris	Pecos County, Texas
36.	Sheriff Mike Marshall	Stokes County North Carolina
37.	Sheriff Asa Buck	Carteret County, North Carolina
38.	Sheriff Brad Riley	Cabarrus County, North Carolina
39.	Sheriff Lou Evangelidis	Worcester County, Massachusetts
40.	Chief Roy E. Melnick	Los Lunas City Police Department, New Mexico
41.	Sheriff Bruce Hartman	Gilpin County, Colorado
42.	Sheriff Tony Perry	Camden County, North Carolina
43.	Sheriff Coy Reid	Catawba County, North Carolina
44.	Sheriff Donald Hill	Polk County, North Carolina

45.	Sheriff Saturnino Madero	Hidalgo County, New Mexico
46.	Sheriff Mike Andrews	Durham County, North Carolina
47.	Sheriff Larry Spence	Willacy County, North Carolina
48.	Sheriff Maynard B. Reid, Jr.	Randolph County, North Carolina
49.	Sheriff Alan Norman	Cleveland County, North Carolina
50.	Sheriff Dempsey Owens, Jr.	Montgomery County, North Carolina
51.	Sheriff BJ Barnes	Guilford County, North Carolina
52.	Sheriff Jerry Monette	Craven County, North Carolina



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
COUNCIL 119 | AFFILIATED WITH THE AFL-CIO



U.S. Citizenship &  
Immigration  
Services

## USCIS Union President: Lawmakers Should Oppose Senate Immigration Bill, Support Immigration Service Officers

*FOR IMMEDIATE RELEASE*

May 20<sup>th</sup>, 2013

Contact: National Citizenship & Immigration Services Council

WASHINGTON – Kenneth Palinkas, President of the National Citizenship and Immigration Services Council, the union representing 12,000 United States Citizenship and Immigration Services (USCIS) adjudications officers and staff, issued a statement today after adding his name to the letter organized by the National ICE Council detailing concerns over the Gang of Eight immigration Legislation, or S. 744. Mr. Palinkas' statement follows:

"I am pleased to add my name to the nationwide law enforcement letter organized by the National ICE Council. We at USCIS are honored to stand with immigration officers and law enforcement officials across the nation. Dedicated USCIS adjudications officers and staff perform the indispensable work of reviewing millions of applications every single year for those seeking to receive visas, become citizens and permanent residents, or to otherwise adjust their immigration status. The mission of our federal employees is critical to identifying threats and providing for public safety and national security. We are the very backbone of our nation's immigration system and will be at the center of implementing any immigration reform.

Yet, like the ICE Council, the USCIS Council was not consulted in the crafting of the Gang of Eight's legislation. Instead, the legislation was written with special interests—producing a bill that makes the current system worse, not better. S. 744 will damage public safety and national security and should be opposed by lawmakers.

This legislation fails to address some of the most serious concerns the USCIS Council has about the current system which Congress must address, including:

-- USCIS adjudications officers are pressured to rubber stamp applications instead of conducting diligent case review and investigation. The culture at USCIS encourages all applications to be approved, discouraging proper investigation into red flags and discouraging the denial of any applications. USCIS has been turned into an "approval machine."

-- USCIS has created an almost insurmountable bureaucracy which often prevents USCIS adjudications officers from contacting and coordinating with ICE agents and officers in cases that should have their involvement. USCIS officers are pressured to approve visa applications for many individuals ICE agents have determined should be placed into deportation proceedings.

-- USCIS officers who identify illegal aliens that, in accordance with law should be placed into immigration removal proceedings before a federal judge, are prevented from exercising their authority and responsibility to issue Notices To Appear (NTAs). In the rare case that an officer



attempts to issue an NTA, it must first be approved by a secretive panel created under DHS Secretary Janet Napolitano, which often denies the officer's request. Illegal aliens are then permitted to remain in the United States as USCIS officers are not able to take action or contact ICE agents for assistance.

-- The attitude of USCIS management is not that the Agency serves the American public or the laws of the United States, or public safety and national security, but instead that the agency serves illegal aliens and the attorneys which represent them. While we believe in treating all people with respect, we are concerned that this agency tasked with such a vital security mission is too greatly influenced by special interest groups—to the point that it no longer properly performs its mission.

-- Currently, USCIS reports a 99.5% approval rating for all illegal alien applications for legal status filed under the Obama Administration's new deferred action for childhood arrivals (DACA) policies. DHS and USCIS leadership have intentionally established an application process for DACA applicants that bypasses traditional in-person investigatory interviews with trained USCIS adjudications officers. These practices were put in place to stop proper screening and enforcement, and guarantee that applications will be rubber-stamped for approval, a practice that virtually guarantees widespread fraud and places public safety at risk.

-- While illegal aliens applying for legal status under DACA policies are required to pay fees, DHS and USCIS are now exercising their discretion to waive those fees. Undoubtedly these practices will be replicated for millions of illegal aliens if S.744 becomes law.

-- U.S. taxpayers are currently tasked with absorbing the cost of over \$200 million worth of fee waivers bestowed on applicants for naturalization during the last fiscal year. This is in addition to the strain put on our Social Security system that has been depleted by an onslaught of refugees receiving SSI benefits as soon as their feet touch U.S. soil.

-- Large swaths of the Immigration and Nationality Act (INA) are not effectively enforced for legal immigrants and visa holders, including laws regarding public charges as well as many other provisions, as USCIS lacks the resources to adequately screen and scrutinize legal immigrants and non-immigrants seeking status adjustment. There is also insufficient screening and monitoring of student visas.

-- A new USCIS computer system to screen applications known as "Transformation" has proven to be a disaster as the agency has spent upwards of \$2 billion for a system that would eventually allow an alien—now referred to as a "customer" under current USCIS policy—to upload their own information via the internet for adjudication purposes. To date, only one form can be accepted into the program that has been in the making for close to 10 years.

In closing, the legislation will provide legal status to millions of visa overstays while failing to provide for necessary in-person interviews. Legal status is also explicitly granted to millions who have committed serious immigration and criminal offenses, while dramatically boosting future immigration without correcting the flaws in our current legal immigration process. We need immigration reform that works. This legislation, sadly, will not."

February 12, 2013

Chris Crane  
President  
National Immigration and Customs Enforcement Council  
P.O. Box 471  
Oakdale, LA 71463

The Honorable Barack Obama  
President  
The White House  
Washington, DC 20500

Dear Mr. President:

The National Immigration and Customs Enforcement Council represents 7,000 ICE officers and support staff who protect this nation and uphold our immigration laws. I write today to express my sincere and respectful concern that our union and its members have not been invited to participate in White House meetings concerning the crafting of a comprehensive immigration bill. It is my understanding that you recently met with business executives and advocacy groups to discuss immigration reform that would include legalization for those now here illegally, as well as a possible guest worker program and chain migration. These measures would have significant implications for interior immigration enforcement and I believe our officers—who risk their lives every day to secure the nation—have a crucial perspective to offer.

As you may know, ICE officers have been forced to file suit against Secretary Napolitano for actions she has taken that prevent us from doing our jobs and enforcing duly enacted law. Right now, our officers effectively have to choose between enforcing the law as we're trained or losing their jobs. I am plaintiff in this suit. Our union has also previously held our appointed director, John Morton, in no confidence with a unanimous vote.

I have attached to this letter my recent testimony before the House Judiciary Committee, which outlines in detail the concerns our officers have and the threats to public safety created by the constraints which have been placed upon us. Agent morale has been devastated. We are given directions, both verbal and written, that prevent us from being able to arrest those who are in clear violation of the law and who may even pose a threat to public safety. We are also concerned about the practice of releasing without investigation illegal aliens who have allegedly assaulted our officers.

Until these concerns are resolved, I fear that any enforcement mechanisms in a future immigration bill will, like the laws already on the books, not be enforced.

In order to share these concerns in more detail, I would therefore respectfully request, as both an ICE officer and as president of the National ICE Council, that our union be included in any future immigration meetings held at the White House.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Crane", with a stylized flourish at the end.

Chris Crane  
President, National ICE Council