

February 11, 2008

Secretary Michael Chertoff
Department of Homeland Security

Assistant Secretary Julie Myers
U.S. Immigration and Customs Enforcement
Department of Homeland Security

Dear Secretary Chertoff and Assistant Secretary Myers:

We write to express concern regarding Immigration and Customs Enforcement's (ICE's) intensified enforcement activities and protocols for such actions. Although ICE has recently issued guidance regarding worksite enforcement operations, we believe that the guidance falls short of what is necessary. We urge ICE to adopt the following protocols.

ICE should refrain from conducting enforcement activities in certain areas.

ICE should not conduct raids or enforcement actions at or near churches, hospitals, community health centers, schools, food-banks, or other community-based organizations that provide charitable social services. Medical care, education, and the ability to worship are fundamental to the protection of human dignity. By conducting enforcement actions in such locations, an environment of fear and distrust is fostered that may prevent immigrants and their family members from practicing their faith, taking their children to school, or accessing needed medical and social services. Such an atmosphere only serves to weaken and divide our communities.

We request that ICE make a clear policy announcement that raids/enforcement actions will not occur in the places listed above. Additionally, ICE should stipulate that the same restrictions apply in any memorandum of understanding or agreement that it undertakes with state or local law enforcement entities for the purpose of collaborative immigration enforcement.

ICE should suspend immigration enforcement activities in the wake of natural or man-made disasters.

During natural disasters and national emergencies, the Department of Homeland Security (DHS) should announce a relaxation of immigration enforcement to encourage all residents to participate in government relief efforts and to access basic services. Such participation is essential to an effective and humane disaster-relief system. There is precedent for making such announcements. Following the terrorist attacks of 9/11, INS Commissioner Ziglar publicly encouraged undocumented immigrants who lost friends or family in the terrorist attacks to contact local authorities, promising that INS would not attempt to acquire or use their information for immigration purposes.¹ To date, DHS/ICE leadership has neglected to announce a similar policy. The lack of a written policy fosters an atmosphere of fear that is counterproductive to government relief and recovery efforts. During times of national emergencies, including natural disasters and terrorist attacks, all residents must be able to seek relief services. Policies that fail to promote full participation undermine our nation's security and best interests.

¹ Statement of INS Commissioner James Ziglar, September 21, 2001.

Primary caregivers should be released following an enforcement action.

Families with members who have different immigration statuses should not be separated as a result of enforcement actions. The family unit is the fundamental building block of our society and must be affirmed. Primary caregivers arrested during enforcement actions who are not a threat to the community and who have no criminal record should be released under appropriate safeguards so that they can continue to care for their children. A variety of release mechanisms, including parole in the public interest, release on recognizance, bail, and alternatives to detention should be utilized for this purpose.

ICE should facilitate access to legal counsel and avoid the transfer of individuals outside the community.

ICE should afford legal service providers with prompt access to individuals affected by raids. In particular, attorneys should be allowed to provide legal orientation presentations and conduct screening interviews. In many instances, such access should be granted at the site of the enforcement action, prior to transfer of arrestees out of the immediate area to remote processing or detention locations. Early access by legal service providers can forestall later problems. This is particularly important for sole caregivers who may be reluctant to talk with ICE as well as for persons who require prescription medication.² In addition, ICE should make every effort not to transfer represented persons out of the jurisdiction because doing so can deprive low-income persons of access to counsel.

ICE should implement mechanisms for locating family members detained as a result of enforcement actions.

ICE's recently issued worksite enforcement guidelines state that ICE "should staff a dedicated toll free hotline so that relatives seeking information about the location of a family member will have reliable up-to-date information." We commend ICE for implementing this policy, but believe that such hotlines should not be limited to enforcement actions involving only 150 or more arrestees, as they currently are. After any enforcement action, family members need to be informed of how to locate their loved ones. We suggest that local ICE offices set up toll-free phone numbers for all enforcement actions. Alternatively, local ICE offices should provide points-of-contact and phone numbers to the press, community based organizations, and appropriate consular officials to which inquiries regarding affected family members can be directed.

Local ICE offices should develop community outreach and education plans that can be followed when an enforcement action takes place.

Prior to an enforcement action, ICE should identify community organizations and consular officials to be contacted during an enforcement action. ICE should contact community organizations while enforcement actions are in progress. ICE should provide such organizations with basic information about enforcement actions, including information on how family members can locate and communicate with arrestees. This would enable community organizations to dispel rumors and provide accurate information to callers as soon as phone inquiries begin. Although ICE's worksite enforcement guidelines allow for ICE to notify key NGOs once an operation is underway, this guideline only applies to enforcement operations involving 150 or more arrestees.

² Although the recent ICE worksite enforcement guidelines recommend that for large enforcement actions ICE coordinate with Department of Health and Human Services, Division of Immigration Health Services (DIHS) as well as appropriate state or local social service agencies to assess the humanitarian needs of arrestees at ICE processing sites, such agencies will not always be available to participate in such screenings. During both large and small enforcement actions, legal service providers and community based organizations can help to fill this gap and identify such needs through legal screenings.

We encourage ICE to make it a regular practice to reach out to community-based organizations during enforcement operations involving 25 or more individuals.

Conclusion

While we support the specific worksite enforcement guidelines that ICE has issued, we do not feel that they go far enough. We urge ICE to expand application of the guidelines to all enforcement actions and to incorporate the additional recommendations set forth above.

Sincerely,

Most Reverend John C. Wester
Bishop of Salt Lake City
Chairman, USCCB Committee on Migration

Most Reverend Jaime Soto
Co Adjutor Bishop of Sacramento
Chairman, CLINIC Board of Directors