

# United States Senate

September 10, 2015

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Mr. President:

In February of this year, I sent you a letter following remarks you made during a town hall meeting in Miami, Florida, in which you threatened consequences for ICE employees that fail to comply with your immigration policies. In response, I received a letter from ICE Director Saldaña.

Not only was the response sent six months after my initial letter, it failed to answer any of the five questions asked. As such, I am asking these questions again:

- What are the specific consequences an ICE agent will face if he or she respects the judge's ruling and fails to follow your policies?
- How will the threat and implementation of such consequences impact the already low morale within the Homeland Security Department?
- How should agents balance their oath to defend the Constitution with your order to follow policies that a federal court deemed in violation of federal law?
- Since you specifically mentioned the U.S. military in your town hall statement, will consequences also ensue for our nations' servicemembers or other federal employees who fail to follow one of your announced policies, regardless of whether it's constitutional or not?
- What written or verbal direction have you given to Secretary Johnson to implement and enforce these consequences? If written communications exist, please provide a copy.

I understand that the District Court's order has enjoined implementation of certain executive actions; however, some of the policies implemented, including those regarding enforcement priorities remain in place. As Director Saldaña said in her letter, "ICE expects employees to follow the lawful orders of supervisors consistent with the memoranda."

Under the memoranda, aliens engaged in or suspected of terrorism or espionage, or who otherwise pose a danger to national security; or aliens convicted of an offense classified as a felony in the convicting jurisdiction, are among those listed as being the highest priority for removal.

Under this policy, removal is prioritized unless in the judgment of an ICE or CBP officer they are not a threat to national security, border security or public safety. If in a supervisor's judgement, an alien suspected of terrorism or convicted of a felony is not a threat to national security, border

security or public safety, and as such, instructs an employee not to initiate removal proceedings – even both acts are grounds for removal under the Immigration and Nationality Act – what are the specific consequences for failing to comply with this order?

As noted in my original letter, the threat of consequences may also impact the already low morale within the entire Department of Homeland Security. On October 9, 2014, the Secretary tasked his Homeland Security Advisory Council to establish a DHS Employee Task Force. In May of this year, the Task Force submitted its report, much of which focused on morale. Of note, the report stated that “the Department of Homeland Security is inferior to virtually all other parts of the federal government, even though its employees individually express support for, and commitment to, the homeland security mission. There is no one reason for this situation. Driving factors include many within the Department’s purview as well as many external to the Department. Recent trends are not encouraging.”

As the report notes, many factors are within the Department’s purview. The Department could show its employees that it is working to improve morale, by addressing questions like mine in a timely fashion. Your comments were made in February, the Task Force’s report came out in May, but I did not receive a response until August. Addressing issues like the threatening of consequences in a timely manner, is something the Department could do, as a means of improving morale.

Thank you for your attention to this matter and I ask that you provide a response by October 10, 2015.

In God We Trust,



JAMES LANKFORD (OK)  
United States Senator