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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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May 28, 2019

The Honorable Kevin K. McAleenan
Acting Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Acting Secretary McAleenan:

On May 16, 2019, authorities arrested Josue Rafael Fuentes-Ponce and Joel Ernesto Escobar—MS-13 gang members who entered the United States unlawfully—for the murder of a 14-year-old girl that was perpetrated with “extreme violence.”¹ Yesterday, the Department of Homeland Security revealed that, before this murder, Immigration and Customs Enforcement (ICE) officers asked local law enforcement to detain both individuals when they were arrested on other charges, including attempted murder, but local authorities instead released them back into the community without notifying ICE. I write to request additional information about these detention requests, and detainer requests generally, to better understand the failure of local law enforcement to honor ICE detainers and the potentially tragic effects that those decisions have on our communities.

Fuentes-Ponce is in the U.S. illegally.² Border Patrol apprehended Fuentes-Ponce in December 2015 as part of a family unit.³ According to ICE, an immigration judge ordered Fuentes removed in absentia in March 2017, but he did not leave.⁴ Border Patrol apprehended Escobar in August 2016 when he entered the U.S. unlawfully as an unaccompanied minor.⁵ He was released to a family member in the Washington, D.C. area pending resolution of his immigration claims.⁶

On May 11, 2018, Prince George’s County Police Department (PGCPD) arrested Fuentes-Ponce, Escobar, and others for attempted murder, kidnapping, attempted robbery, and

¹ Rick Massimo, ‘*Extreme violence was used*’: Teen girl found dead in Md. linked gang killing, WTOP. May 16, 2019. Accessed at: <https://wtop.com/prince-georges-county/2019/05/extreme-violence-was-used-teen-girl-found-dead-in-md-linked-to-gang-killing/>

² Press Release, *ICE seeks custody of teen murder suspects for a second time*, U.S. Immigration and Customs Enforcement, May 21, 2019. Accessed at: <https://www.ice.gov/news/releases/ice-seeks-custody-teen-murder-suspects-second-time> (“ICE Statement”).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

gang activity.⁷ ICE officers lodged a detainer with local authorities for both Fuentes-Ponce and Escobar, but local authorities released both individuals “on an unknown date and time and without notification to ICE.”⁸

After their release, in April 2019 these MS-13 gang members, along with Ariana Funes-Diaz and at least one other person, kidnapped and robbed an unidentified man in the District of Columbia.⁹ Then, out of fear that Funes-Diaz may talk to law enforcement about the kidnapping, Fuentes-Ponce and Escobar murdered the 14-year-old girl.¹⁰ On May 16, 2019, PGCPD arrested Fuentes-Ponce and Escobar for the murder.¹¹

To better understand the circumstances that led to this murder, please provide responses to the following no later than June 11, 2019:

1. A copy of the ICE detainers for Fuentes-Ponce and Escobar.
2. The alien files of Fuentes-Ponce and Escobar.
3. Since January 2015, how many detainers has ICE lodged with Prince George’s County, Maryland? Of those, how many did Prince George’s County grant or deny?
4. Since January 2015, how many ICE detainers have been denied by state or local authorities? In addition to providing the total number, provide the ten state or local entities that have denied the most detainers.
5. For state or local authorities that have denied a detainer, how many detainers were for individuals arrested for violent felonies?
6. For state and local authorities that have denied a detainer, how many detainers were for members of a gang?

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”¹² Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to examine “the efficiency and economy of operations of all branches and functions of the Government with particular

⁷ Abigail Constantino, *ICE sought to detain 2 teen suspects in Md. girl’s gang-related death*, WTOP, May 21, 2019, Accessed at: <https://wtop.com/prince-georges-county/2019/05/ice-sought-to-detain-2-teen-suspects-in-md-girls-gang-related-death/>

⁸ Press Release, *ICE seeks custody of teen murder suspects for a second time*, U.S. Immigration and Customs Enforcement, May 21, 2019, <https://www.ice.gov/news/releases/ice-seeks-custody-teen-murder-suspects-second-time>.

⁹ Rick Massimo, *‘Extreme violence was used’: Teen girl found dead in Md. linked gang killing*, WTOP, May 16, 2019, Accessed at: <https://wtop.com/prince-georges-county/2019/05/extreme-violence-was-used-teen-girl-found-dead-in-md-linked-to-gang-killing/>

¹⁰ *Id.*

¹¹ *Id.*

¹² S. Rule XXV; *see also* S. Res. 445, 108th Cong. (2004).

The Honorable Kevin A. McAleenan

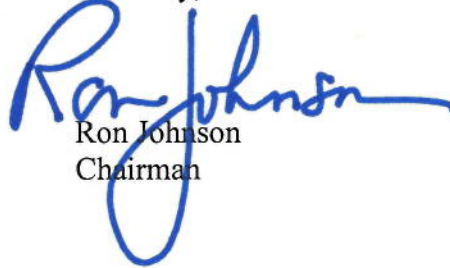
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references to (i) the effectiveness of present national security methods, staffing, and processes[.]”¹³

If you have any questions about this request, please ask your staff to contact Brian Downey of the Committee staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Ron Johnson". The signature is written in a cursive style with a large, looping "R" and "J".

Ron Johnson
Chairman

cc: The Honorable Gary Peters
Ranking Member

¹³ S. Res. 70, 116th Cong. § 12(e)(1)(E) (2019).