



Please reply to:
Robert H. Westinghouse
Chief, Criminal Division

U.S. Department of Justice

*United States Attorney
Western District of Washington*

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August 26, 2013

Mr. Jim Brewer
Legal Counsel
King County Council
516 Third Avenue, Room 1200
Seattle, WA 98104

Via Email and U.S. Mail

Re: Proposed ICE detainer ordinance in King County

Dear Mr. Brewer:

I am writing in response to inquiries directed to the U.S. Attorney's Office from King County elected officials regarding the proposed ordinance that would amend King County's policy of honoring Immigration and Customs Enforcement (ICE) detainers in the county's jails. The Justice Department does not take a position on the proposed ordinance. However, given the numerous requests for information to better understand both the ICE detainer program and any potential impacts of changes to King County's current policy, I wanted to provide information about cases referred to our office for criminal prosecution as a result of ICE detainers.

By way of background, the U.S. Attorney's Office for the Western District of Washington criminally prosecutes approximately 100 defendants each year for illegally re-entering the country after previously being deported, pursuant to Title 8, United States Code, Section 1326.¹ These prosecutions generally are focused on those with significant criminal histories and several prior deportations, which are among the factors we consider when assessing whether an individual in the United States illegally poses an undue threat to the community or otherwise warrants criminal prosecution prior to deportation.

Based on an analysis of defendants prosecuted for illegal re-entry in the last 18 months, a total of 15 were referred to our office by the Enforcement and Removal Operations (ERO) division of ICE after the individuals were the subject of ICE detainers in either the King County Jail (14) or the Regional Justice Center (one).² Further, based on our analysis of those King County "ICE detainer" defendants prosecuted in the last year (which number 13), it appears that, under the proposed ordinance, King County would not have honored ICE detainers requested for

¹ In 2012, the U.S. Attorney's Office charged 84 defendants under Section 1326; in 2011, the total number of defendants was 99.

² An additional seven prosecutions were of defendants who were subjected to ICE detainers at the SCORE facility, a misdemeanor jail in Des Moines that serves some King County jurisdictions.

any of those individuals, either because they lack a qualifying offense or because a qualifying offense would have been too old.³

The following details (1) the criminal histories, (2) the current charge that led custody in King County, and (3) the number of prior deportations of the 13 defendants referred to our office in the last year by ERO after requesting ICE detainers in King County:

	Prior Convictions	Date of Violation	Current Charge Leading to King County Custody	Prior Deportations
1	Assault on a Correctional Employee	12/23/1999	Controlled Substance Violation and Forgery	7
	Illegal Reentry After Deportation	3/31/1999		
	Delivery Of Cocaine	12/1/1994		
	Illegal Reentry After Deportation	11/21/1990		
	Possession of Cocaine	7/3/1992		
	VUCSA	9/22/1989		
	Possession of Cocaine	2/23/1989		
	Possession of Heroin	2/23/1989		
	Theft	8/20/1980		
2	Transport/Sell Narcotic/Controlled Substance	12/22/2009	Investigation of Illegal Drugs	6
	Possession/Purchase for Sale Controlled Substance	2/21/2008		
	Transport/Sell Narcotic/Controlled Substance	4/2/2004		
	Unlawful/Improper Entry (two counts)	3/1/2004		
	Possess/Purchase for Sale Controlled Substance	4/19/2003		
	Transport/Sell Narcotic/Controlled Substance	4/19/2003		
	Transport/Sell Narcotic/Controlled Substance	9/23/1999		
3	Driving While License Suspended or Revoked	12/18/2001	Driving Under the Influence	1
	False Reporting Emergency	10/5/1999		
	VUCSA: Non-Felony	6/5/1997		
	VUCSA: Delivery of Heroin	5/19/1997		
	VUCSA: Attempted Possession of Heroin	4/29/1997		
	VUCSA	11/1/1996		

³ Qualifying offenses include a previous conviction for homicide at any time in the past or a conviction for a violent, serious or sex offense, as defined by RCW 9.94A.030, within the last 10 years.

	Prior Convictions	Date of Violation	Current Charge Leading to King County Custody	Prior Deportations
4	Unlawful Entry by Eluding Examination and Inspection by Immigration Officers (two counts)	2/15/2008	Indecent Exposure	3
	Assault (misdemeanor)	2/14/2008		
	Indecent Exposure	11/5/2007		
	Assault (misdemeanor)	7/19/2007		
	Assault (misdemeanor)	2/17/2007		
	Marijuana Possession	9/15/2006		
	Unlawful Transit Conduct	9/15/2006		
	Criminal Trespass	6/2/2006		
	Rape By Force	12/28/1992		
	Disorderly Conduct: Solicit Lewd Act	5/29/1991		
5	Assault in the Fourth Degree (two counts)	10/30/1996	Harassment Domestic Violence	1
	Domestic Violence Harassment and Violation of Civil Anti-Harassment Order	11/17/1995		
	Violation of No Contact Order	9/4/1995		
	Violation of Civil Anti-Harassment Order	8/11/1995		
	No Valid Operators License	7/1/1994		
	Assault in the Fourth Degree/ Domestic Violence	5/18/1994		
	No Valid Operators License	8/14/1992		
	Possession of Intoxicating Liquor	4/9/1992		
	Assault in the Second Degree	8/4/1990		
	No Valid Operators License	2/24/1989		
	Assault in the Fourth Degree/ Domestic Violence	10/28/1988		
	Driving Under the Influence	5/26/1987		
6	Delivery of Cocaine	1/17/2001	Making False/Misleading Statement to a Public Servant ⁴	1
7	Assault in the Fourth Degree/ Domestic Violence	9/15/2011	Assault-4 and Possession of a Controlled Substance	3
	Possession of a Controlled Substance	9/15/2011		
	Delivery of Cocaine	10/19/2009		

⁴ This incident involved a traffic stop for speeding in which two young children were in the vehicle without booster or child safety seats and the defendant provided a false name to law enforcement.

	Prior Convictions	Date of Violation	Current Charge Leading to King County Custody	Prior Deportations
	Disorderly Conduct	1/25/2009		
	Domestic Violence Court Order Violation	12/20/2007		
	Possession of a Controlled Substance (Cocaine)	4/19/2006		
	Domestic Violence Court Order Violation	6/28/2005		
8	VUCSA: Conspiracy to Deliver Heroin	4/23/2007	VUCSA (three counts)	3
	VUCSA: Delivery of Cocaine	2/16/2007		
	Robbery in the First Degree	10/1/2000		
	VUCSA: Possession of Cocaine/Heroin	3/10/2000		
9	Unlawful Entry	4/7/2007	Driving Under the Influence	3
	Transportation of a Controlled Substance	4/29/1997		
	Hit and Run (Unattended - Property Damage)	7/23/1994		
10	Assault in the Fourth Degree/ Domestic Violence	6/13/2012	Assault and Unlawful Possession of Firearms	2
	Unlawful Possession of a Firearm in the First Degree	12/7/2010		
	Unlawful Entry (two counts)	8/3/2006		
	Domestic Violence Court Order Violation	1/9/2005		
	Criminal Trespass in the First Degree - Domestic Violence	9/17/2003		
	Negligent Driving 1	2/3/2003		
	Obstructing a Law Enforcement Officer	12/9/2002		
	Conspiracy VUCSA (Delivery of Heroin)	12/18/1996		
11	Illegal Reentry After Deportation	2/14/2006	Criminal Trespass	3
	Illegal Reentry After Deportation	8/8/1997		
	Possess for Sale Controlled Substance	5/22/1993		
12	Driving While Under the Influence	11/3/2008	Driving Without a License; Failure to Appear; Assault; Theft 3rd Degree	2
	Reentry After Deportation	11/24/2003		
	Driving Under The Influence	4/26/2002		
	Use/Under the Influence of Controlled Substances	4/26/2002		
	Drive While License Suspended	4/26/2002		

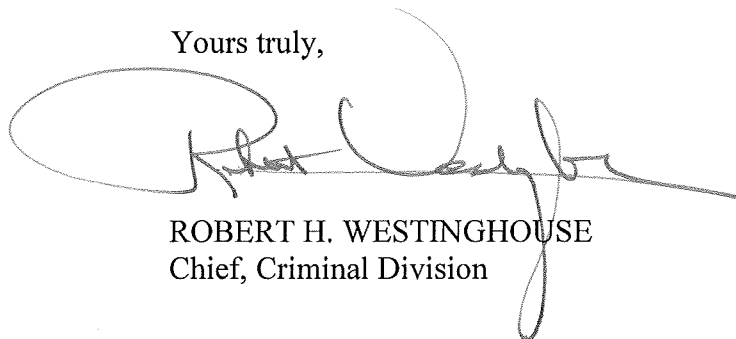
	Prior Convictions	Date of Violation	Current Charge Leading to King County Custody	Prior Deportations
	Possession of Controlled Substance (Methamphetamine)	4/1/1998		
	Possession of Controlled Substance (Methamphetamine)	9/10/1997		
13	Controlled Substance - Felony	4/25/2013	Controlled Substance-Felony	4
	Unlawful Entry by Eluding Immigration (two counts)	10/14/2004		
	VUCSA: Delivery of Cocaine	11/6/2003		
	Illegal Reentry	7/3/1996		
	Possession of a Controlled Substance: Cocaine	5/28/1996		
	Criminal Driving while License Suspended/Revoked	5/1/1996		
	Criminal Driving while License Suspended/Revoked	4/20/1996		
	Manufacture/Deliver of Controlled Substance: Heroin	11/4/1991		

As the above chart illustrates, the defendants our office prosecuted are individuals with a combination of significant criminal or deportation histories, and serious current charges. We believe these prosecutions are important for public safety. Moreover, this chart does not include individuals with significant criminal histories made known to us through the Criminal Alien Program and the ICE detainer process whom we declined to prosecute criminally prior to their administrative deportation.

I hope this information is helpful to policy makers as they consider any changes to the policy of honoring ICE detainers in King County. We all share the goal of maintaining public safety while ensuring public trust between law enforcement and the communities we serve.

Please do not hesitate to contact me should you have any questions. I can be reached at (206) 553-7970.

Yours truly,



ROBERT H. WESTINGHOUSE
Chief, Criminal Division

cc: Dan Satterberg, King County Prosecuting Attorney