Secretary

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

August 18, 2011

The Honorable Dick Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

Thank you for your letter to President Obama regarding the Administration's immigration enforcement policies and the Development, Relief, and Education for Alien Minors (DREAM) Act. The President has asked me to respond on his behalf.

Over the past two years, the Department of Homeland Security (DHS) has established clear and well-reasoned priorities that govern how DHS uses its immigration enforcement resources. These priorities focus our resources on enhancing border security and identifying and removing criminal aliens, those who pose a threat to public safety and national security, repeat immigration law violators and other individuals prioritized for removal. Initially set forth in a March 2010 memorandum from U.S. Immigration and Customs Enforcement (ICE) Director John Morton, these priorities were recently reiterated and clarified in Director Morton's June 17, 2011 memorandum regarding the exercise of prosecutorial discretion by ICE personnel.

While additional work remains, we have made tremendous progress in our effort to focus DHS resources on these enforcement priorities. Our FY 2010 statistics are illustrative. In FY 2010, ICE removed 79,000 more aliens who had been convicted of a crime than it did in FY 2008. As a result, for the first time ever and due to the expansion of the Secure Communities program, over 50 percent of the aliens removed by ICE in a fiscal year were convicted criminals. Of those removed with no confirmed criminal conviction, more than two-thirds were either apprehended at the border or were repeat violators of our immigration laws. As enforcement directives continue to be implemented, we anticipate that these trends will increase in FY 2011.

The President has said on numerous occasions that it makes no sense to expend our enforcement resources on low-priority cases, such as individuals like those you reference in your letter, who were brought to this country as young children and know no other home. From a law enforcement and public safety perspective, DHS enforcement resources must continue to be focused on our highest priorities. Doing otherwise hinders our public safety mission—clogging immigration court dockets and diverting DHS enforcement resources away from individuals who pose a threat to public safety.

Accordingly, the June 17, 2011 prosecutorial discretion memorandum is being implemented to ensure that resources are uniformly focused on our highest priorities. Together

with the Department of Justice (DOJ), we have initiated an interagency working group to execute a case-by-case review of all individuals currently in removal proceedings to ensure that they constitute our highest priorities. The working group will also initiate a case-by-case review to ensure that new cases placed in removal proceedings similarly meet such priorities. In addition, the working group will issue guidance on how to provide for appropriate discretionary consideration to be given to compelling cases involving a final order of removal. Finally, we will work to ensure that the resources saved as a result of the efficiencies generated through this process are dedicated to further enhancing the identification and removal of aliens who pose a threat to public safety.

This case-by-case approach will enhance public safety. Immigration judges will be able to more swiftly adjudicate high priority cases, such as those involving convicted felons. This process will also allow additional federal enforcement resources to be focused on border security and the removal of public safety threats.

Although the process for implementing the June 17 memorandum will focus the Administration's immigration enforcement efforts on high priority cases, it will not provide categorical relief for any group. Thus, this process will not alleviate the need for passage of the DREAM Act or for larger reforms to our immigration laws. President Obama has called the DREAM Act the right thing to do for the young people it would affect, and the right thing to do for the country. Last December, I joined the President and several members of his Cabinet in urging the Congress to pass this important legislation. Earlier this year I was fortunate to be able to testify in favor of the Act. I continue to urge the 112th Congress to pass the DREAM Act as well as other necessary immigration reforms.

Thank you again for your letter. My office would be pleased to provide you with a briefing to discuss this process in greater detail. Identical responses have been sent to the Senators that co-signed your letter. Should you wish additional assistance, please do not hesitate to contact me at (202) 282-8203.

Yours very truly,

Janet Napolitano

Enclosure