



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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REGARDING

**“NO SAFE HAVEN: LAW ENFORCEMENT OPERATIONS AGAINST
HUMAN RIGHTS VIOLATORS IN THE U.S.”**

BEFORE THE

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS
TOM LANTOS HUMAN RIGHTS COMMISSION**

**THURSDAY, OCTOBER 13, 2011 – 10:00 a.m.
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Commission Co-Chairs McGovern and Wolf and distinguished members of the Commission:

On behalf of Secretary Napolitano and Director Morton, I would like to thank you for the opportunity to discuss the role that U.S. Immigration and Customs Enforcement (ICE) plays in ensuring the United States does not become a safe haven for human rights abusers. As the primary criminal investigative component in the U.S. Department of Homeland Security (DHS), ICE remains firmly committed to this mission and dedicates resources from many of our programs to advancing it, including special agents and criminal or intelligence research specialists from Homeland Security Investigations (HSI), attorneys and historians from the Office of the Principal Legal Advisor (OPLA), and officers from the Office of Enforcement and Removal Operations (ERO).

Today, ICE is handling more than 1,900 human rights-related cases. These cases are at various stages of investigation and litigation, including removal proceedings. They involve suspects from approximately 95 countries, primarily in Central and South America, the Balkans, and Africa. HSI currently has more than 200 active human rights investigations, which could ultimately support criminal charges or removal proceedings. Since fiscal year (FY) 2004, the attorneys in OPLA have obtained final removal orders for, and officers in ERO have successfully removed, more than 400 known or suspected human rights violators.

Working in tandem with other DHS personnel, we have enjoyed significant successes. I would like to elaborate briefly on a few of these cases.

Chuckie Taylor

Chuckie Taylor, the son of former Liberian dictator Charles Taylor, committed numerous human rights abuses, including torture, while running the infamous Anti-Terrorist

Unit during his father's violent regime. Our investigation and the successful prosecution of Chuckie Taylor by the United States Attorney's Office for the Southern District of Florida and the then Domestic Security Section within the Department of Justice Criminal Division are reflective of a cooperative partnership among HSI, the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), and the Department of State (DOS). On January 8, 2009, a District Court Judge sentenced Taylor to 97 years in a federal prison after his conviction by jury. It marks the first time that the offense of torture was successfully prosecuted since the federal criminal statute's inception in 1994.

The Dirty War

On May 4, 2009, the HSI Human Rights Violators and War Crimes Unit identified Juan Miguel Mendez, a citizen of Argentina who had entered the United States legally and then overstayed, as the subject of an INTERPOL Red Notice.¹ Mendez was wanted in Argentina for his participation in torture, disappearances and extrajudicial killings while he served in the Argentine military during the "Dirty War."² According to the 2006 Argentine arrest warrant, Mendez was a guard, interrogator, and torturer in at least two clandestine prisons and interrogation centers in Buenos Aires from 1976 to 1979. ICE arrested him on June 10, 2009, ordered him held without bond, and placed him in removal proceedings. In November 2009, ICE successfully litigated its case, and an immigration judge ordered him removed to Argentina. Mendez appealed that decision to the Board of Immigration Appeals (BIA). In

¹ INTERPOL Red Notices are international wanted notices that provide information on the identification of fugitives who are the subjects of arrest warrants and are wanted for prosecution or to serve a sentence for serious offenses. They are issued by INTERPOL, the International Criminal Police Organization, at the request of member countries in order to seek the location of fugitives for the purpose of extradition

² The "Dirty War" was a period of state-sponsored violence in Argentina from 1976 until 1983. Victims of the violence included several thousand left-wing activists, including trade unionists, students, journalists and alleged sympathizers, either proven or suspected.

October 2010, the BIA denied the appeal and upheld the immigration judge's order of removal. He then petitioned for review of the BIA's decision to the United States Court of Appeals for the Fourth Circuit, which denied the petition on November 29, 2010. On December 16, 2010, ICE removed Mendez to Argentina. Upon arrival in Buenos Aires, Mendez was transferred into the custody of Argentine law enforcement officials. He is awaiting trial for the human rights violations he is alleged to have committed during the "Dirty War."

Mendez's removal was a significant achievement for ICE and its partners. The investigation, administrative prosecution, federal court defense, and removal of a wanted war criminal in just over 18 months was recognized within DHS, as well as by DOS, DOJ's Criminal Division, and INTERPOL, as well as national and international media.

Srebrenica Massacre

Captain Nedjo Ikonic, a Bosnian national, commanded a Special Police Company involved in the murder of more than 7,000 Bosnian Muslim men and boys at Srebrenica in July 1995—the largest mass-killing in Europe since the end of World War II. Like many others in military and police units involved in these crimes, Ikonic sought immigration benefits and entered the United States. In an investigation involving our partners in the U.S. Attorney's Office in Milwaukee, Wisconsin, investigators from the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, and investigators from the Bosnia Prosecutor's Office's Special Department for War Crimes in Sarajevo, ICE developed the necessary evidence to indict Ikonic for visa fraud (18 U.S.C. § 1546). In September 2008, he pled guilty to two counts of visa fraud and served a one-year prison sentence in federal prison. Concurrently, the Court of Bosnia and Herzegovina issued an international arrest warrant on him for genocide committed during the Srebrenica Massacre. In 2009, Ikonic accepted a final

order of removal to Bosnia and was removed on January 19, 2010. He is currently on trial for genocide before the Bosnian State War Crimes Court in Sarajevo.

Rwandan Genocide

Jean-Marie Vianney Mudahinyuka illegally entered the United States in 2000. After settling in the Chicago area, six witnesses identified Mudahinyuka as a perpetrator of the Rwandan genocide, one of whom allegedly witnessed him committing murder and rape. HSI special agents conducted an extensive investigation and arrested Mudahinyuka in May 2004 on federal immigration fraud charges. During the arrest at his Romeoville, Illinois residence, Mudahinyuka assaulted an HSI special agent and grabbed the agent's weapon. In June 2005, Mudahinyuka was convicted in federal court in Chicago for committing immigration fraud and assaulting a federal officer. He was sentenced to 51 months' imprisonment and was transferred to ICE custody after he completed his sentence. Subsequent to an Immigration Judge's order, ICE successfully removed Mudahinyuka to Rwanda on January 27, 2011, and handed him over to the Rwandan National Police to face charges of genocide and war crimes.

Other Successful HSI Human Rights Investigations

- In the spring of 2007, Carlos de Graca Lopes entered the United States on a fraudulently obtained visitor's visa. Lopes was a prison warden in Cape Verde until an indictment was issued against him in his home country for various crimes, including the torture of prisoners. Lopes was charged with 14 counts of visa fraud (18 U.S.C. § 1546), false statements (18 U.S.C. § 1001), and perjury (18 U.S.C. § 1621). Lopes pled guilty to 13 of the 14 counts and was sentenced to serve three years in prison and was removed to Cape Verde on September 20, 2010.

- Milenko Krstic entered the United States in 1998 by concealing his military service in the Zvornik Brigade Command Staff, a brigade known for its human rights atrocities against Bosnian Muslims during the 1992-1995 Bosnian War. Krstic admitted to lying on his immigration paperwork and pled guilty to providing false statements (18 U.S.C. § 1001) in August 2010, receiving a sentence of 12 months' probation. He is currently contesting his removal from the United States.
- Ostoja Krstic followed his brother, Milenko Krstic and entered the United States in 2003. Similarly, he lied about his military service. It was later proved that Ostoja Krstic also served in the Zvornik Brigade, specifically in the Fourth Infantry Battalion at times when members of that Battalion were executing Bosnian Muslims. Ostoja admitted to this lie and pled guilty to providing false statements (18 U.S.C. § 1001) in November 2010, and also received a sentence of 12 months' probation.
- In 1985, former Peruvian Army officer Telmo Ricardo Hurtado-Hurtado ordered soldiers under his command to gather and kill 69 men, women, and children from a remote mountain village in Accomarca. Hurtado entered the United States in 2002. He was arrested in 2006 and convicted on criminal charges of visa fraud and making false statements. Pursuant to an extradition order, DOJ handed him over to Peruvian officials in July 2011.
- M-A-, an Ethiopian national, applied for admission to the United States on November 23, 2008. Information was received indicating that as a police chief in the Ogaden region of Ethiopia, M-A- personally abused or tortured individuals in his custody. M-A- was charged as an immigrant not in possession of a valid entry document and was removed to Ethiopia in May 2011.

Our successes, and our ongoing daily efforts, underscore ICE’s deep commitment to denying human rights violators’ safe haven in the United States using all of the legal authorities available to ICE. In April 2008, to be more proactive in our effort to prevent human rights abusers from entering the United States and to locate, investigate, prosecute and remove those who have entered, ICE established the Human Rights Violators and War Crimes Center (hereinafter referred to as the Center). This Center leverages existing personnel, missions, and authorities that ICE already possesses to more effectively and efficiently harness our efforts against human rights abusers. The Center synchronizes the expertise and talents of our investigators, legal experts, researchers, analysts, historians, intelligence professionals, and our international attachés. It also pulls together the broad spectrum of skills, authorities, and abilities already resident within ICE.

The Center was designed to bring together subject matter experts from the various offices within ICE that have a role in the investigation, prosecution, and removal of known or suspected human rights abusers. ICE took a further step by inviting other government agencies that have an interest in the investigation, prosecution, removal, and prevention of known or suspected human rights violators and war criminals to join the Center. Several of our partners—for instance, the DOJ—now provide their historians to the Center on a part time basis. Attorneys assigned with the DOJ Human Rights and Special Prosecutions Section also participate through regular attendance at monthly meetings in an effort to facilitate information-sharing between agencies. ICE has also collaborated with and garnered support from the FBI and its new Genocide War Crimes Program. In furtherance of a “whole government” approach, the FBI’s Genocide War Crimes Program has agreed to join the Center and co-locate several agents and analysts, which will serve as a force multiplier in our collective efforts to deny human rights violators and war criminals safe haven in the United

States. We hope that participation in the Center will continue to expand to include other government agencies that have a role in denying safe haven to human rights abusers.

Furthermore, within the Center, ICE established Regional Support Teams consisting of special agents, attorneys, criminal researchers, and historians with expertise in specific regional target areas or conflicts. These Regional Support Teams, considered the backbone of the Center, are a valuable resource to enhance our domestic enforcement activities.

A recent success highlights how well this approach is working. In 2008, the Inter-American Commission on Human Rights revealed publicly the names of subjects involved in a gruesome massacre of men, women, and children at the Guatemalan village of Las Dos Erres in 1982 – a massacre that literally obliterated the small village. ICE and DOJ identified four subjects who were residing in the United States, two of whom had already obtained U.S. citizenship by naturalization. ICE opened an investigation and the Center developed case leads and coordinated with multiple agencies, both domestically and foreign, resulting in several arrests. DOJ played an integral part in the process and its success.

For example, in May 2010, Gilberto Jordan, a naturalized U.S. citizen, was arrested by HSI special agents in West Palm Beach, Florida on the charge that he unlawfully obtained his U.S. citizenship by lying about his prior service with the Guatemalan military and concealing his involvement in the massacres at Dos Erres – a charge to which he subsequently pled guilty. While being interviewed, Jordan admitted to HSI special agents and as established during the course of the case, that in 1982, he was attached to an elite special forces unit of the Guatemalan military known as the “Kaibiles.” In December 1982, a special patrol of approximately 20 Kaibiles, including Jordan, was deployed to Dos Erres to search for suspected guerrillas and recover weapons that had been stolen in an ambush of a Guatemalan

military convoy near the village. After the special patrol reached the village, they forced all of the men, women, and children from their homes, searched the homes for the weapons, and interrogated the villagers about the guerrillas and the stolen weapons. The Kaibiles in the special patrol then killed the men, women, and children of Dos Erres one by one, hitting them in the head with a sledgehammer, among other means, and then pushing them into the village well. One hundred and sixty-two remains were later exhumed from the well, though the number of those killed is estimated to be in excess of 200.

Jordan admitted to participating in the murders at Dos Erres, and specifically admitted to killing a baby by throwing the child into the well. Given the nature of what Jordan concealed when seeking U.S. citizenship – his participation in a brutal massacre -- he was sentenced to the statutory maximum of 10 years' imprisonment. The Eleventh Circuit Court of Appeals affirmed this sentence.

HSI has arrested other individuals, alleged to have been former members of the Kaibiles who participated in the Dos Erres massacre.

- In May 2010, Pedro Pimentel Rios was arrested by HSI special agents in Orange County, California. He was not criminally charged, but was instead charged and found removable under the Immigration and Nationality Act based on his participation in extrajudicial killings during the Dos Erres Massacre. ICE removed Pimentel Rios to Guatemala on July 12, 2011.
- In February 2010, Santos Lopez Alonzo was arrested by HSI special agents in Houston, Texas. At the time of his apprehension, Lopez Alonzo had no lawful status in the United States and later pled guilty to illegal entry into the United States. Lopez Alonzo will be removed to Guatemala.

- Finally, Jorge Sosa Orantes, a naturalized U.S. citizen and resident of California, has been charged with knowingly making false statements under oath in a naturalization proceeding and with unlawfully procuring his U.S. citizenship. Sosa Orantes was arrested in Canada in January 2011, pursuant to a request from the United States for his extradition. He is currently being detained in Canada awaiting extradition to the United States.

In June 2008, ICE created the Human Rights Target Tracking Initiative. This initiative works to identify and target foreign human rights abusers and war crimes suspects before they enter the United States, and to take the necessary steps to ensure that they can be prevented from gaining admission or immigration benefits. We have worked closely over the past several years with our partners in U.S. Customs and Border Protection and the DOS Bureau of Consular Affairs to identify and correct a number of technical issues that prevented records pertaining to foreign human rights abusers maintained by ICE in the TECS system from being available to State Department consular officers at our embassies abroad via their Consular Lookout and Support System (CLASS) database. Our work to make these records available to consular officers abroad has significantly advanced our shared goal of preventing human rights abusers from receiving visas and other immigration benefits.

In furtherance of the Human Rights Target Tracking Initiative, ICE established a Human Rights Target Tracking Team that is comprised of research and intelligence professionals within the structure of the Center. Since inception of the initiative, ICE has generated over 3,000 records of human rights violator suspects covering select past and present human rights abuses throughout the world. To date, over 75 suspected human rights violators have been prevented from entering the United States either by visa revocations or refusals by

the DOS or by stops at ports of entry by CBP officers based on these records and information sharing.

Assistance from a broad range of federal agencies and nongovernmental organizations (NGOs) is a key component in successful human rights-related investigations and prosecutions. ICE has benefited many times from the assistance of NGOs. For example, ICE has had assistance identifying potential suspects, witnesses, and victims, as well as providing crime scene information and language support. ICE maintains strong working relationships with several dozen local, regional, and international organizations who work in the arena of human rights. As part of our continuing efforts to enhance our capacity to prevent the admission of known or suspected human rights violators, as well as to increase the effectiveness of ongoing domestic enforcement activities, ICE has developed a comprehensive outreach strategy to government entities and NGOs. Our outreach program allows ICE to expand these contacts through our 26 Special Agent in Charge offices and 70 attaché offices. The Human Rights Violators and War Crimes Center outreach program has created new relationships with targeted organizations and has strengthened our existing relationships, ultimately furthering our ability to deny human rights violators and war criminals a safe haven in the United States.

The success ICE has enjoyed to date depends on strong partnerships with domestic and foreign law enforcement agencies and NGOs. Human rights violator investigations require our special agents, researchers, historians, analysts, and lawyers to travel the globe collecting evidence and interviewing victims and witnesses. Within our own agency, our expansive network of attaché offices has allowed us to foster strong international relationships in over 48 countries.

When preparing cases for potential criminal indictment and prosecution, we partner closely with a variety of DOJ components, including the Human Rights and Special

Prosecutions Section, the National Security Division's Counterterrorism Section, United States Attorney's Offices, and the Office of International Affairs. Additionally, as we seek to identify and prevent the admission of foreign human rights abuse and war crimes suspects, we work with our departmental partners at U.S. Citizenship and Immigration Services, CBP, and several bureaus in the DOS, including the Bureau of Consular Affairs, the Bureau of Population, Refugees and Migration, the Bureau of Democracy, Human Rights and Labor, and the Bureau of Intelligence and Research.

HSI also maintains close relationships with a number of United Nations-sponsored tribunals, including the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone. Other international partners include various war crimes and human rights-related agencies in Argentina, Australia, Bosnia and Herzegovina, Canada, Finland, Germany, Peru, Rwanda, and the United Kingdom. We maintain an even wider network through our coordination with INTERPOL's Fugitive Investigative Support Unit. In April 2009, subject matter experts from ICE, along with our counterparts from the DOJ, participated in INTERPOL's Fourth International Expert Meeting on Genocide, War Crimes, and Crimes against Humanity, to provide the United States perspective on best practices related to investigation and enforcement issues.

While acknowledging and celebrating our collaborative work to date, ICE understands that much remains to be done to ensure that the United States does not become a safe haven for human rights abusers. While the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 (Public Law 108-458) broadened the category of human rights abusers who are inadmissible to and deportable from the United States under the Immigration and Nationality Act (INA), significant gaps still remain. The IRTPA added two new categories of individuals

who are subject to removal: those who have participated in acts of torture, and those who have participated in extrajudicial killings. More recently, the Child Soldiers Accountability Act of 2008 (Public Law 110-340) added grounds under which individuals who have recruited or used child soldiers may be removed from the United States.

While the INA bars many more individuals who ordered, incited, assisted, or otherwise participated in a much broader range of persecution from receiving certain forms of lawful immigration status (such as asylee or refugee status), there is no specific immigration charge under which an individual can be removed for engaging in acts of persecution. Therefore, some of these individuals still may be admissible to the United States and eligible for other forms of immigration benefits, including business or tourist visas or visas secured through a family member or an employer.

To obtain visas and enter the United States, many human rights abusers perpetrate fraud against the United States during the application process. The statute of limitations for visa fraud is five years, although the statute of limitations for related crimes such as naturalization fraud is 10 years. Unless this fraud is exposed within five years, ICE is confronted with a serious obstacle to prosecution. The crimes of genocide and other war crimes carry a five-year statute of limitations when the violation does not result in death. The crime of torture carries an eight-year statute of limitations if the acts did not result in death or serious bodily injury or the foreseeable risk of such. Frequently, we find ourselves in a position where the U.S. Government must forgo criminal charges related to the visa and immigration fraud because evidence of the offender's misrepresentations did not come to light within the statute of limitations.

Over the past 25 years, the United States has sheltered over a million refugees fleeing armed conflict, ethnic cleansing, persecution, and torture. I recognize the unique responsibility

my agency bears in protecting those who came to our country seeking to escape those who perpetrated such atrocities. In the spirit of the late Congressman Tom Lantos, who tirelessly dedicated himself to raising awareness for human rights around the world, DHS and all our partners utilize every tool at our disposal to ensure that those who have committed such acts abroad never evade justice and accountability for their crimes.

Perhaps our shared vision is best described by Nobel Laureate and Holocaust survivor Elie Wiesel. In August 2008, ICE was honored to receive him as our guest during our annual human rights conference in New York. He spoke of his life and his experiences—both as a victim of Nazi-era crimes and as a witness to modern day acts of persecution and genocide. Of the many impressions that he left with members of ICE that day, perhaps none was more striking than his view of the role that we collectively play in bringing such offenders to justice. Mr. Wiesel noted that the investigation and prosecution of human rights violators and war criminals was not merely an assignment given to us by our managers; it reflected a role assigned by history itself in the name of the countless and often anonymous victims who perished at the hands of those who perpetrated these crimes.

Co-Chairmen McGovern and Wolf, I applaud your continued leadership on these important issues and I thank you again for the opportunity to address this Commission.

I would be pleased to answer any questions you may have.