

United States Senate

WASHINGTON, DC 20510

April 14, 2011

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

As Chairman of the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security, I am responsible for directing the Senate's oversight of the immigration functions of the Department of Homeland Security and for directing the Senate's legislative agenda with regard to immigration, citizenship, and refugee laws.

It is in this capacity that I would like to draw your attention to a recurring problem in our immigration system—that is, the suboptimal use of scarce government resources in our detention and removal process. As has become evident through the budgetary parameters set forth in H.R. 1473—the Department of Defense and Full-Year Continuing Appropriations Act of 2011—as many in Congress are calling for substantial cuts to every agency's budget, it appears that the Department of Homeland Security will likely be required to operate with fewer resources both this year and into the future.

In an environment where agency funds are decreasing, it is important that the Department of Homeland Security focus its immigration enforcement efforts on terrorists, criminals, and others who impose a real security threat to our nation. According to a March 2, 2011 memorandum of John Morton, Director of Immigration and Customs Enforcement, ICE only has the funding to remove 400,000 individuals per year. Given that this entire number can be filled by criminal aliens and others posing security threats, it makes eminent sense to focus ICE's enforcement efforts on these criminals and security threats, rather than non-criminal populations.

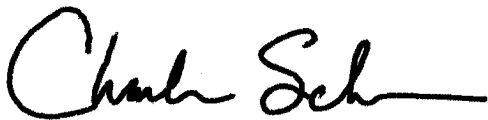
On a daily basis, my office receives requests for assistance in many compelling immigration cases. These cases often involve non-criminal immigrants such as: (1) high-school valedictorians and honor students who did not enter the country through their own volition and yet are being deported solely for the illegal conduct of their parents; (2) bi-national same-sex married couples who are being discriminated against based on their sexual orientation who would otherwise be able to remain in the United States if they were in an opposite-sex marriage; (3) agricultural workers who perform back-breaking labor and are providing for their families; and (4) immigrant parents with U.S. citizen children, whose deportation will only lead to increased costs to the states in foster care and government benefits.

While it is undisputed that you are obligated to enforce our nation's immigration laws, and I would support a broader approach in a world of unlimited resources, it is unwise and inefficient in this environment to substantially focus our scarce law enforcement resources on non-criminal cases when there are still criminal aliens who are living in our population and have not been apprehended by DHS.

In this regard, I ask that you use your discretion to weigh—on a case-by-case basis—whether the detention and removal funds that will be used to deport any non-criminal immigrant from one of the four groups listed above justifies diverting scarce resources from attempting to capture, detain, prosecute, and remove criminal aliens. While, in some cases, the answer might still be in the affirmative, it is hard to believe that every case should result in removal. Every dollar spent on detention, prosecution and removal of a non-criminal immigrant is a dollar that cannot be spent getting criminal aliens off of our streets and out of our country.

I thank you for your attention to this important matter, and look forward to working with you in any manner necessary to further our joint mission of securing the country.

Sincerely,

A handwritten signature in black ink, reading "Charles E. Schumer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charles E. Schumer
Chairman
Senate Judiciary Subcommittee on Immigration, Refugees and Border Security