

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CLAYTON RICHARD GORDON,	)
et al.	)
	)
Plaintiffs,	)
	)
v.	)
	)
JEH CHARLES JOHNSON, Secretary	)
Of Homeland Security, et al.	)
	)
Defendants	)
	)

DECLARATION OF CHRISTOPHER M. CRONEN

I, Christopher M. Cronen, state as follows:

1. Since June 1998, I have been employed by U.S. Immigration and Customs Enforcement, Office of Enforcement and Removal Operations (ERO). My current position is as the Field Office Director of ERO's Boston, Massachusetts field office since August 21, 2016. My responsibilities include to, establish and implement specific action plans for accomplishing ICE and DHS detention and removal goals and objectives throughout the Field Office AOR; manage the Criminal Alien Program, which identifies criminal aliens who are incarcerated with Federal, state and local facilities; manage the Fugitive Operation Program, identifying, locating, apprehending, and removing fugitive aliens from the United States; provide alternatives to detention, work with foreign governments, provide executive leadership to managers and supervisors in all aspects of ERO; coordinate all law enforcement activities within the AOR with the highest level of Federal, state, and local governments, as well as with intelligence organizations and international law enforcement entities; exercise final authority in the grant or denial of formal petitions related to deportation or removal; manage the Field Office budget to maximize ERO operations and ensure effective ERO support to ICE and U.S. Customs and Border Patrol (CBP) detention needs within budget limitations; direct and manage large-scale operations to efficiently achieve specific goals and objectives and ensure that ICE and ERO policy are consistently applied throughout program operations; direct a staff of law enforcement and support personnel and have involvement in managerial decisions such as grievances and disciplinary actions, evaluation of supervisors' performance, and implementation of training programs. The Boston Field office covers six New England states, including Massachusetts, Connecticut, Vermont, Rhode Island, New Hampshire, and Maine. There are approximately 167 officers under my chain of command to staff the six-state area of responsibility. While we are responsible for the apprehension of criminal aliens throughout these six states, the Boston

ERO Field Office maintains detention space primarily in Massachusetts, with some limited detention space in New Hampshire.

2. Since this court issued its remedial order in this case setting forth class-wide relief, and as of December 30, 2016, ERO has identified approximately 455 aliens (since my January 13, 2017, declaration, the duplicate entry of two cases was identified) who appeared to meet the court's articulated class definition, in that they are being held in Massachusetts, have been convicted of a predicate Immigration and Nationality Act (INA) section 236(c) offense, but have not been apprehended by U.S. Immigration and Customs Enforcement (ICE) within 48 hours (or five days if there is an intervening weekend or holiday) from the time of their release from the section 236(c) predicate offense. The reasons for the gap between the time of release from the criminal offense to the time of apprehension by ICE vary circumstantially but can be characterized generally as falling into two broad categories as further developed below.

3. In an effort to comply with the court's remedial order from May 2014, and subsequent status conference reports ordered, the agency has maintained a list of class members. In determining if an arrestee met the class definition, the agency examined whether they had any offenses listed in INA section 236(c), and examined whether there was a gap between their custody for that offense and the ICE arrest that exceeded the defined two- to five-day window.

4. As set forth in declarations filed on December 30, 2016, January 11, 2017, and January 13, 2017, ERO officers, at my direction, have been examining case information belonging to *Gordon* class members in order to attempt to identify:

- a) The date each individual was released from local custody;
- b) The date each individual was apprehended by ICE;
- c) The manner in which each individual was encountered by ICE;
- d) The amount of time between the individual's release from local custody and apprehension by ICE;
- e) The reason ICE was unable to detain the individuals immediately upon release from local custody.

5. The examination has included a review of the 455 cases identified as *Gordon* class members through electronic means, including the EAGLE and EARM databases, as well as a physical review of the aliens' administrative files. Also included in the examination was the physical review of approximately 10 files within the Boston area of responsibility that had not been reviewed previously. As of today, there are fewer than 25 physical administrative files of *Gordon* class member cases that have not been reviewed because the physical administrative files are not available for physical review at this time; however, electronic records review of these cases has occurred. The location of the physical administrative file is not static; thus, some of the un-reviewed files are in transit to the National Records Center or in transit from other locations nationally.

6. Based upon a review of the data compiled as of 1:30 PM on January 24, 2017, the reasons accounting for the temporal gap between the release of an alien from criminal custody and ICE assuming custody of a

criminal alien continue to trend consistent with those found in earlier reviews discussed in prior declarations. More specifically, the following two general categories have emerged from the data as the most frequently occurring explanations for the time lapse between state and ICE custody:

1) the failure of state authorities to notify ICE that an alien had been convicted of a crime or the date of the release from custody, such that ICE could have determined whether the subject was removable. This category accounted for over 300 cases.

a) The majority of cases in this category, over 200, involved aliens who were released pre-trial, convicted, and received a non-jail sentence (probation, suspended sentence, community service, fine, restitution, etc.), and whose case review reflected an absence of records to indicate that ICE received notification from the court.

b) Nearly three dozen additional cases in this category involved aliens who were detained pre-trial, convicted, received time served, and were then released. Again, the case review reflected an absence of records to indicate that ICE received notification from the court.

c) In almost 30 more cases, a properly lodged ICE detainer was not honored by the detention facility.

d) In less than 5 cases, the alien was convicted under a false identity at the time of the predicate conviction.

2) instances in which aliens were released from custody prior to ICE determination of legal sufficiency or amenability to removal proceedings.

a) In over a dozen of these cases, release occurred before the predicate conviction became final and a substantive basis for a removal charge could be identified.

b) In more than two dozen cases, the aliens were released from custody at a time when ICE was still in the process of gathering evidence sufficient to establish alienage and/or removability.

c) In less than 5 cases, the aliens were granted discretionary deferred action status by DHS at the time of their predicate conviction and no administrative enforcement action was taken.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed at 500 12<sup>th</sup> Street, Washington DC SW, on this 26th day of January, 2017.



---

Christopher M. Cronen