

**U.S. Immigration and Customs Enforcement's Responses
to Senator Grassley's, et.al, March 24, 2016 Letter**

- 1. Any document providing a timeline of your agency's involvement with this case, including the dates and times of the agency's communications with the Omaha Police or the Douglas County Jail, and the content of those communications.**

Due to Privacy Act restrictions, we are unable to share this information in response to this letter. However, a copy of Edwin Mejia's administrative file will be provided to Senator Grassley in response to the March 2, 2016 request he sent to Secretary Johnson in his capacity as Chairman of the Senate Judiciary Committee.

- 2. Any document, including emails, voice mail messages, reports, memoranda, or alerts related to Eswin or Edwin Mejia.**

Due to Privacy Act restrictions, we are unable to provide the requested documents in response to this letter. The Privacy Act permits disclosure of protected records to Congress only under specific circumstances, such as where the subject of the records has consented to the disclosure or where a member of Congress has requested the records in his or her capacity as the Chairman of a Congressional committee or subcommittee with jurisdiction over the matter at issue.

- 3. A clear explanation of the reason ICE officials determined that Mejia was not an enforcement priority.**

In May 2013, Edwin Mejia was encountered by the U.S. Customs and Border Protection, U.S. Border Patrol (USBP) near Nogales, Arizona, after entering the United States without inspection. At the time of this encounter, Mr. Mejia was 16 years old and determined to be an unaccompanied child. Shortly after the initiation of removal proceedings against him with the issuance of a Notice to Appear, he was transferred to Department of Health and Human Services' Office of Refugee Resettlement (ORR), as required by law.¹ Mr. Mejia had no recorded criminal history in the United States at this time.

In June 2013, consistent with applicable law, ORR released Mr. Mejia to his brother in Tennessee. In early 2014, Mr. Mejia relocated with his brother to the Omaha, Nebraska, area.

The Omaha Police Department arrested Mr. Mejia for driving under the influence in January 2016. During the incident giving rise to his arrest, Mr. Mejia crashed into the vehicle of 21-year-old Sarah Root, while allegedly street racing. As a result, Ms. Root was hospitalized and later passed away from her injuries. Thereafter, Mr. Mejia was charged with motor vehicle homicide – driving under the influence, but a Douglas County Court Judge set bond at \$50,000 with 10 percent allowed. If U.S. Immigration

¹ 8 U.S.C. § 1232(b)(3).

and Customs Enforcement (ICE) had taken custody of Mr. Mejia at that time, he would have been eligible for a bond hearing before an immigration judge regardless of the pending charges against him because he had no criminal conviction subjecting him to mandatory detention under the Immigration and Nationality Act. Even if he were convicted of the offense, motor vehicle homicide – driving under the influence, the conviction would not constitute a crime of violence under the immigration laws, and consequently, would not constitute an aggravated felony.² The conviction would not render him subject to mandatory detention, nor would it significantly impact his eligibility to apply for relief or protection from removal. Notably, if Mejia had been taken into ICE custody, remained detained for removal proceedings, and then accepted a judge's order of removal, ICE would have been obligated to remove him from the United States, potentially frustrating the criminal process, or release him.

According to our records, ICE personnel encountered Mr. Mejia just once, at the Douglas County Jail, in connection with the above-referenced arrest. Based on the facts and circumstances known to ICE at that time, no detainer was filed against Mr. Mejia.

Department of Homeland Security (DHS) personnel maintain the ability to detain an alien not otherwise identified as an enforcement priority, or subject to mandatory detention, provided the removal of such alien would serve an important federal interest. After further review, we believe that further enforcement action would have served an important federal interest in this case, as provided for in Secretary Johnson's November 20, 2014 civil immigration enforcement priorities memo.

Accordingly, ICE Headquarters has re-emphasized its position to its field offices that the removal of similarly situated aliens would serve an important federal interest and should be subject to enforcement action even if such aliens do not otherwise fall within the delineated DHS enforcement priorities. ICE is actively working with local law enforcement and our international partners to locate this alien.

4. A clear explanation of why Mejia, if apprehended today, would “absolutely” be an enforcement priority.

ICE does believe pursuing further enforcement action in Mr. Mejia's case, including detention, would serve an important federal interest. Upon locating this alien, ICE will work with local law enforcement to facilitate the safe transfer of Mr. Mejia to ICE custody at the conclusion of his local law enforcement obligations. ICE will then render an appropriate custody determination, taking into account the facts of his case with special consideration toward his history of flight and criminal history.

5. Whether you retract any statements you made during the March 15, 2016 hearing before the U.S. Senate Homeland Security and Governmental Affairs Committee.

Please use this reply to your letter as an accurate account of our response for this case.

² See *Leocal v. Ashcroft*, 543 U.S. 1 (2004).

- 6. An explanation of ICE's policy with respect to communicating with the victims or the families of the victims of crimes committed by illegal immigrants who ICE refuses to take into custody, and any information regarding the agency's attempt to contact the Root family.**

On March 16, 2016, the father of Sarah Root contacted ICE. ICE provided information to Mr. Root on March 16 and 17 relating to the ICE Victim/Witness program.