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United States Senate
COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

February 3, 2023

The Honorable Elizabeth Prelogar
Solicitor General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

The Honorable Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement
500 12th St., S.W.
Washington, D.C. 20536

Dear Solicitor General Prelogar and Acting Director Johnson:

It has come to my attention that U.S. Immigration and Customs Enforcement (ICE) may have been providing the public with inaccurate data regarding the populations of migrants who are monitored through ICE's Alternatives to Detention (ATD) program. According to these reports, ICE significantly overstated the population that is being monitored by the Global Positioning System (GPS) ankle monitor technology.¹ The nonpartisan Government Accountability Office (GAO) has previously raised concerns surrounding ICE's data integrity with regards to the ATD program and noted that "ICE does not fully assess ATD performance or program data completely."²

It is my understanding that ICE routinely provides data regarding the populations enrolled in and monitored by the ATD program to the Federal Judiciary. I am concerned that the U.S. Department of Justice (DOJ) may have filed ICE's inaccurate data on ATD to either special masters who assess ICE's compliance with settlement agreements and stipulations or to judges as part of briefings in immigration litigation. It is possible that ICE's long-standing data integrity issues have led to false or misleading court filings in these cases.

To better understand whether ICE's data integrity issues have found their way into court filings, I ask the following questions:

1. Is the reporting from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University around ICE's ATD data integrity issues accurate?
 - a. If yes, what steps are ICE taking to address these data integrity issues? What is the timeline for completing these steps?
 - b. If not, why not?

¹ See, Transactional Records Access Clearinghouse at Syracuse Univ., "Number of Immigrants on ICE's Alternatives to Detention Declines, though Quality of These Data Remains in Question." Jan. 23, 2023: <https://trac.syr.edu/whatsnew/email.230120.html>; See also, Transactional Records Clearinghouse at Syracuse Univ., "ICE Posts Wrong Numbers on Alternatives to Detention (ATD) Monitoring," Dec. 14, 2022: <https://trac.syr.edu/whatsnew/email.221214.html>.

² Govt. Accountability Office, "Alternatives to Detention: ICE Needs to Better Assess Program Performance and Improve Contract Oversight," GAO-22-104529, (Jun. 2022).

2. Was DOJ made aware of the data integrity issues around ICE's ATD program? If so, when?
3. In which cases and to what courts has DOJ filed data from ICE's ATD program?
4. What process does the U.S. Department of Justice use to verify ICE's data?
5. If DOJ becomes aware that it filed inaccurate or misleading data to the courts, will DOJ file amended and accurate numbers to the courts?

Finally, it is my understanding that ICE has significantly reduced the number of migrants receiving GPS tracking devices or government- or contractor-issued SmartLINK devices when they are released at the southwest border.

6. What percentage of people released into the United States during FY 2023 have either GPS or government- or contractor-issued SmartLINK monitoring devices?
7. If these individuals have no monitoring device, what are their instructions for verifying location and complying with the terms of their release with ICE/DHS instructions?

Thank you for your attention to this matter. I look forward to receiving your response by not later than February 24, 2023.

In God We Trust,



James Lankford
Ranking Member
Subcommittee on Government Operations
and Border Management