

Congress of the United States
Washington, DC 20515

July 22, 2015

The Hon. Jeh Johnson
Secretary of Homeland Security
Washington, DC 20528

The Hon. Loretta Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Dear Secretary Johnson and Attorney General Lynch:

On July 1, 2015, Kathryn Steinle was walking with her father on a San Francisco pier when she was shot and killed. The person charged in connection with her death, Juan Francisco Lopez Sanchez, has a long criminal history dating back to a series of misdemeanor and felony drug convictions in the 1990s. Because Mr. Lopez Sanchez has been convicted on three separate occasions for illegally re-entering the country after previously being removed, he spent a total of 16-and-a-half years in federal prison between September 1998 and March 2015. Rather than being transferred from the custody of the Bureau of Prisons (BOP) to Immigration and Customs Enforcement (ICE) at the end of his last prison term on March 26, 2015 based on an October 9, 2013, detainer lodged by ICE with BOP, Mr. Lopez Sanchez was transferred to the custody of the San Francisco Sheriff's Department based on a March 23, 2015 detainer for a 20-year-old bench warrant for a drug offense.

Whenever an innocent person is lost to violence, as a society we should consider what steps we can take to make our communities safer. Moving forward, we believe San Francisco and the Departments of Homeland Security and Justice should improve communication to ensure all interests are weighed in future cases. We write now to ask that the Department of Homeland Security and the Department of Justice undertake a joint review of the policies and practices pertaining to the release of BOP prisoners against whom ICE has lodged a detainer request.

Under current BOP policy, "Federal detainees, excluding ICE deportation matters, will take priority over non-Federal detainees. Normally, ICE will not accept custody of an inmate until all state and Federal criminal matters have been satisfied."¹ This policy generally makes sense, because justice demands that a person who commits a crime be held to answer for that offense. Moreover, a person who stands accused of a crime deserves the opportunity to appear in court to respond to the charges. To civilly deport all defendants and deny the ability of states and localities to pursue criminal prosecution would prevent such objectives.

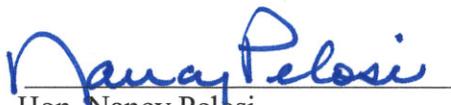
¹ Federal Bureau of Prisons, *Correctional Systems Manual*, U.S. Department of Justice, P5800.15, Jan. 1, 2009, Ch. 6, p. 4, at http://www.bop.gov/policy/progstat/5800_015.pdf.

However, in some circumstances, rigid adherence to this policy may not actually serve the interests of justice. Rather, where the outstanding criminal warrant pertains to a particularly old charge not involving violence or serious damage to property—as was the case here—and the state or local prosecutor is unlikely to proceed with a prosecution, there is no purpose to be served in deferring deportation.

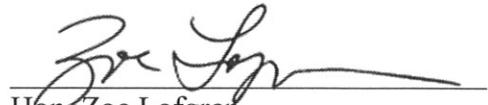
When BOP is deciding whether to respect a federal immigration detainer or a non-federal criminal detainer, it would seem to be advantageous for the BOP, ICE, and the state or local jurisdiction to communicate regarding the competing interests at stake. Such a conversation would have to involve not only the law enforcement entity that is asserting the detainer as a result of the outstanding criminal warrant, but also the prosecuting entity that ultimately will decide whether or not to pursue prosecution. In the case of Mr. Lopez Sanchez’s transfer to San Francisco, it appears that the San Francisco District Attorney’s office only reviewed the case and made the decision not to proceed with a prosecution for the old drug offense after the Sheriff’s Department had already issued a detainer and retrieved him from BOP custody. Prosecuting such an offense might well have been difficult from an evidentiary standpoint, since witnesses may no longer have been available and officer recollection would be challenging in a 20-year-old case.

Adopting such a protocol would no doubt serve an important federal interest in facilitating the removal of certain high-priority individuals. But it also would serve compelling state and local interests. Even if Mr. Lopez Sanchez had not gone on to shoot Kathryn Steinle after his release from custody, as has been alleged, adopting a protocol to facilitate such conversations would preserve limited time, money, and manpower that state or local law enforcement entities would otherwise expend needlessly retrieving from federal custody and housing people who simply will not be prosecuted.

There is much to be learned from this tragedy and we share your commitment to adopt sensible policy reforms that will strengthen public safety and reinforce our values. Thank you for your attention to the very important matter. We look forward to working with you on this review and in helping to implement any needed reforms.



Hon. Nancy Pelosi
Democratic Leader
United States House of Representatives



Hon. Zoe Lofgren
Ranking Member
Immigration and Border Security
Subcommittee