

Cliff Johnson
Director, MacArthur Justice Center at the University of Mississippi School of Law
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“Immigration Raids: Impacts and Aftermath on Mississippi Communities”

Mr. Chairman and Members of the Committee, I first want to thank you for this opportunity to speak with you about the unprecedented ICE raids of August 7, 2019. I have practiced law in Mississippi for 27 years, and I have represented thousands of vulnerable and marginalized clients. Nothing I have ever done has impacted me like working on behalf of the more than 1,000 people affected by these raids. I have spoken to dozens of people who are scared, desperate, and confused, many of them telling their stories through tears, and I am struck time and again by how vulnerable they are and by their lack of resources and options.

I would like to focus my remarks today on two primary areas. First, I want to make clear that the raids of August 7 were not a response to any outcry from Mississippians regarding the presence of immigrant workers in our communities. Second, I want to address the fact that more than 100 of the 680 people detained in the raids have been charged with felonies by the local U.S. Attorney’s Office and explain my position that this aggressive use of the criminal justice system is inconsistent with the policies of the Department of Justice as set forth in its *Justice Manual*.

For more than 20 years, Latino immigrants have been employed in the poultry business in Mississippi. Whether working in chicken houses or processing plants, Latinos living in Mississippi have been vitally important to this industry that generates nearly \$3 billion in revenue each year. Since arriving here, our Latino neighbors and friends have proven to be hardworking, law-abiding, and family-oriented.

While matters of immigration policy and enforcement are hotly debated around the country, conversations with local residents of communities like Canton, Morton, Forest, and Carthage reveal that Mississippi is not a place where the presence of immigrants has resulted in resentment and fear. To the contrary, we have developed relationships over the years, and we know one another through our places of business, children’s activities at public schools and soccer fields, and interactions at shared worship space. Since August 7, local law enforcement officers repeatedly have confirmed that immigrant residents of our small towns are not involved in criminal activity and do not present any threat to local or national security. Indeed, the sheriff of Scott County informed me just last week that of the 125 people currently in his jail only one is a local Latino immigrant.

I do not know how this state where immigrants make up only two percent of the population was chosen to be the epicenter of ICE enforcement action, but I know that it was not the result of any plea from Mississippians for the government to take action. We did not ask for these raids. We do not think our immigrant friends and neighbors are dangerous. We do not complain that our immigrant friends and neighbors are taking jobs for which life-long Mississippians are clamoring. Mississippi is not better off as a result of what ICE has done here.

In addition to questioning the motivation behind bringing 600 ICE agents to Mississippi for the purpose of conducting the largest single state enforcement action in our country’s history, I am compelled to question the decision of the Department of Justice and the local United States Attorney to criminally charge approximately 120 of those people detained on August 7. As a former Assistant United States Attorney, I am familiar with the central role that prosecutorial discretion plays in our criminal justice system and the guidance provided to federal prosecutors

regarding when it is appropriate to bring federal felony charges. It is my opinion that the criminal prosecution of those detained on August 7 is unwarranted because prosecution does not serve a substantial federal interest and because there exists an adequate non-criminal alternative to prosecution. (*DOJ Justice Manual* 9-27.220).

The 680 individuals detained in the August 7 raids have cases pending against them in United States Immigration Courts. In addition, dozens of those detained also received a Notice of Intent to Fine. The civil administrative proceedings in Immigration Courts may result in deportation and a permanent bar from reentry into the United States, and, likewise, the administrative fine process also may result in deportation and a permanent bar from reentry. Despite the seriousness of these matters, the Department of Justice has sought and obtained felony indictments against approximately 120 people detained on August 7. It is unclear how many, if any, additional people will be criminally prosecuted. Charges brought thus far include illegal reentry and fraudulent use of documents, and those indicted face potential imprisonment of several years.

The *DOJ Justice Manual* makes clear that “the attorney for the government’s belief that a person’s conduct constitutes a federal offense and that the admissible evidence will probably be sufficient to obtain and sustain a conviction is not sufficient standing by itself to commence or recommend prosecution. The prosecution must also serve a substantial federal interest, and the prosecutor must assess whether...there exists an adequate non-criminal alternative to prosecution. It is left to the judgment of the attorney for the government to determine whether these circumstances exist.” (Comment to *DOJ Justice Manual* 9-27.220). The description of what constitutes a “substantial federal interest” in section 9-27.230 and the analysis of whether a non-criminal alternative to prosecution is adequate under section 9-27.250 mitigate against subjecting those detained on August 7 to criminal charges. As set forth in the comment to section 9-27.250, “[w]hen a person has committed a federal offense, it is important that the law respond promptly, fairly, and effectively. This does not mean, however, that a criminal prosecution must be commenced.”

The argument that criminal prosecutions should not be undertaken and constitute undue “piling on” in these circumstances is supported by both the prior conduct of prosecutors in the Southern District of Mississippi and the focus of Executive Order 13768 issued by President Trump on January 25, 2017. In a December 9, 2009, press release regarding the guilty plea of the human resources manager for a Mississippi facility at which more than 550 immigrant workers were detained, the United States Attorney for the Southern District at that time proclaimed, “This prosecution is in line with the Department’s emphasis on prosecuting employers, not employees. Prosecuting employees is hardly a deterrent to companies bent on ignoring the law.” Current United States Attorney Mike Hurst was one of the Assistant United States Attorneys responsible for prosecuting that case. (DOJ Press Release attached hereto). In that instance, criminal charges were brought against only nine of the nearly 600 immigrant workers detained.

In Executive Order 13768, President Trump identified the purpose of his emphasis on immigration enforcement as pursuing those who “engage in criminal conduct in the United States” and those who “have served time in our Federal, State, and local jails.” Consistent with this emphasis, then-Secretary of Homeland Security John Kelly stated on the April 16, 2017, episode of “Meet the Press” that “[o]f course, ICE operate [sic.] more or less in the interior and do targeted actions against illegal aliens plus. What I mean by that is, just because you’re in the

United States illegally doesn't necessarily get you targeted. It's gotta be something else.” (Transcript at <https://www.nbcnews.com/meet-the-press/meet-press-april-16-2017-n747116>).

My analysis of the intake forms collected by the Mississippi Immigration Coalition reveals that almost none of those detained in these raids had any criminal record prior to being rounded up and taken into custody on August 7. As for the approximately 120 people who have been indicted criminally, many of those individuals are young mothers with no more than a third-grade education who themselves have been the victims of sexual crimes. The majority of the Latino workers in Mississippi’s poultry processing plants have held their jobs for years without incident. To the extent that the goal of this administration’s enhanced immigration enforcement efforts is to ferret out those who actually do “present a significant threat to national security and public safety” as described in Executive Order 13768, those detained and criminally charged in Mississippi do not fit that profile. Again, Mississippi is not better off as a result of these raids, and it is hard to imagine how criminal prosecution of this collection of individuals already embroiled in serious civil administrative cases furthers any substantial federal interest.

Much will be said today about the staggering human cost being paid by those detained in the raids and their families. I will comment only briefly. While our Coalition has been able to provide direct financial assistance over the last three months, we will not be able to sustain our support for the hundreds of families who will be subjected to legal proceedings for months and years to come without any means of working and earning money. I am not an expert in immigration policy, and I will leave the complexities of immigration enforcement and reform to others. However, having spoken with countless families who are financially ruined and in desperate need of money for food, shelter, medicine, and other basic necessities, I respectfully request that the House Committee on Homeland Security take whatever action it can to provide those detained in the Mississippi raids of August 7, 2019, with temporary work authorization. Unless these people are permitted to earn money while awaiting disposition of civil administrative and criminal proceedings, hundreds of children, many of them American citizens, will face food scarcity, a winter without electricity, housing instability, and limited access to health care. Regardless of any differences of opinion we might have regarding politics or immigration policy, my prayer is that our shared humanity will unite us in the quest to make certain that serious harm does not come to these good people who have come to our country and demonstrated a work ethic and commitment to family that should serve as an inspiration for us all.