

July 27, 2010

Secretary Janet Napolitano
Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

The following undersigned organizations and individuals, representing a spectrum of political and religious views, are writing to express our serious concerns with U.S. Immigration and Customs Enforcement's (ICE) response to the development and dissemination of the list of some 1300 Hispanic residents of Utah purported to be in the United States unlawfully.

We urge you to immediately:

- Issue a public statement, unequivocally rejecting the Utah blacklist and this kind of vigilante approach to immigration enforcement.
- Commit not to rely on information furnished in the blacklist to pursue any immigration investigations or enforcement actions.
- Notify all ICE officers and trial attorneys that they may not rely on the blacklist for purposes of immigration investigations, arrests, detention, prosecutions, or removals.
- Inform the undersigned organizations and individuals what actions, if any, that ICE undertook when it first received the blacklist in early April.

The publication of the blacklist has sent shockwaves throughout all segments of Utah society –whites, Latinos, and communities of color, Republicans and Democrats, U.S. citizens and undocumented immigrants. Conservatives and liberals alike have decried the breach of personal data:

- **U.S. Labor Secretary Hilda Solis** condemned the list, noting that “No one, regardless of race, gender or ethnic background, should fear that by applying for government benefits or programs he or she is at risk of having personal information revealed.”¹
- **Utah Governor Gary Herbert** said the publishing of the blacklist was “very inappropriate, and I condemn its use.”²
- **Utah Attorney General Mark Shurtleff** said “You replace ‘Mexican,’ you replace ‘illegal alien’ ... with ‘Jew,’ and use that same kind of language – that

¹ Lisa Riley Roche & Lee Davidson, *At Least 2 State Employees Compiled Immigrant List, Gov. Gary Herbert Says*, DESERET NEWS, July 17, 2010, available at <http://www.deseretnews.com/article/700048688/2-state-employees-made-immigrant-list-Gov-Gary-Herbert-says.html?pg=4>.

² *Id.*

was spread throughout Nazi hit lists in Germany.”³ He is seeking the help of the U.S. Attorney’s office into investigating and prosecuting “serious, felony-level crimes.”⁴

- **Tony Yapias, director of the Proyecto Latino de Utah**, said “Our community was traumatized and still is” by the publication of the list.⁵
- **Paul Mero, president of the Utah-based conservative Sutherland Institute**, said, “This list in Utah is reprehensible.”⁶
- **Most Rev. John C. Wester, bishop of the Catholic Diocese of Utah**, said the list “does not reflect at all what the people of Utah are about.”⁷
- **Ron Mortensen, a member of the Utah Coalition on Illegal Immigration**, objected to the methods behind the list and the tactic of making people’s private information public.⁸

According to the Utah Attorney General, the publication of the blacklist likely violated state and federal privacy laws.⁹ The government employees implicated in creating the blacklist worked for the Utah Department of Workforce Services (DWS) which administers a wide range of benefits programs including unemployment insurance, disability benefits, food stamps, Medicaid, prenatal care, child care, adoption assistance, homelessness prevention, refugee resettlement, and welfare. The development of the blacklist clearly involved a breach of government database(s) and could have exposed private information of untold numbers of low-income Utah residents, including U.S. citizens and permanent residents. DWS government files contain private, personal identifying information of many of Utah’s most needy and vulnerable, including jobless Americans, people with disabilities, poor working families, uninsured pregnant women, newborn infants, recently-arrived refugees – all of whom depend on critical economic support. This breach of government databases has created a chilling effect across the country that deters the needy and vulnerable from seeking benefits to which they are entitled.

³ Daniel B. Wood, “Outing” *Illegal Immigrants: Utah Grapples with “Listgate”*, CHRISTIAN SCIENCE MONITOR, July 19, 2010, available at <http://www.csmonitor.com/USA/2010/0719/Outing-illegal-immigrants-Utah-grapples-with-listgate>.

⁴ Brock Vergakis, *Utah identifies at least 2 State Workers Allegedly Behind List of Purported Illegal Immigrants*, SUN-SENTINEL, July 16, 2010, available at <http://www.sun-sentinel.com/news/nationworld/sns-ap-us-undocumented-immigrant-list,0,2374748.story>.

⁵ Michel Martin, *Utah Immigration ‘Hit’ List*, National Public Radio, July 19, 2010, transcript available at <http://www.npr.org/templates/story/story.php?storyId=12862281>.

⁶ Lisa Riley Roche & Lee Davidson, *At Least 2 State Employees Compiled Immigrant List, Gov. Gary Herbert Says*, DESERET NEWS, July 17, 2010, available at <http://www.deseretnews.com/article/700048688/2-state-employees-made-immigrant-list-Gov-Gary-Herbert-says.html?pg=4>

⁷ *Id.*

⁸ Nate Carlisle & Julia Lyon, *List of Alleged Undocumented Immigrants Sparks State Review*, THE SALT LAKE TRIBUNE, July 15, 2010, available at <http://www.sltrib.com/sltrib/home/49922073-76/list-dates-information-state.html.csp>.

⁹ *Utah AG: Leaked List of Immigrants ‘like a hit list,’* CNN, July 19, 2010, available at <http://edition.cnn.com/2010/US/07/19/utah.immigration.list/?fbid=7BcN2-Is9jC>.

In the face of strong condemnation of the Utah list from political leaders including Secretary Solis, ICE's response has entirely missed the mark. Last week ICE spokesperson Virginia Kice, when questioned about the Utah blacklist, provided a routine summary of ICE's reporting and removal practices without ever addressing the specifics of the Utah privacy breach.¹⁰ On July 19, 2010, Assistant Secretary John Morton spoke at a Defense Department briefing and was asked directly what ICE has done since the Salt Lake City ICE office received the blacklist in early April. Mr. Morton responded, "We're looking – we're investigating the circumstances of how the list was received at ICE. But at this point, there doesn't appear to be any indication that the list was used in any way to conduct an investigation or an enforcement action."¹¹

ICE's response is insufficient and unacceptable. ICE has yet to condemn the blacklist as a major breach of privacy and civil liberties. ICE has not clarified that the federal government alone has authority to enforce immigration laws and that ICE has previously pledged not to seek out immigration violators without criminal records.¹² Finally, ICE has neglected to report what it did, or did not do, when it first received the blacklist in early April. Given the extent of the privacy breach and the potential of these kinds of rogue actions being copycatted in other states, we urge you to immediately issue a public statement, unequivocally rejecting the Utah blacklist and this kind of vigilante approach to immigration enforcement. The statement should contain a clear directive that DHS will not rely on any information furnished in the blacklist to pursue any immigration investigations or enforcement actions. To implement this directive, we request that ICE immediately notify all officers and trial attorneys that they may not rely on the blacklist for purposes of immigration investigations, arrests, detention, prosecutions, or removals. Finally, we request that you inform the undersigned organizations and individuals what actions, if any, that ICE undertook when it first received the blacklist in April.

¹⁰ "As a matter of policy, we don't confirm we are investigating an allegation or possible violation unless the inquiry results in some type of public enforcement action." Virginia Kice noted that because ICE has finite resources, it focuses its efforts "first on those dangerous convicted criminal aliens who present the greatest risk to the security of our communities, not sweeps or raids to target undocumented immigrants indiscriminately." She added that ICE has had a means for the public to report suspected criminal activity for several years – a 24-hour tip line staffed by trained enforcement personnel. "ICE is focused on smart, effective immigration enforcement that prioritizes efforts to identify and remove criminal aliens who pose a threat to public safety and to target employers who knowingly break the law and drive demand for illegal immigration. To make a report or provide a case lead, the public should call 1/866/DHS-2ICE." *Mystery Group Names More Wendover Illegals Demands Deportation*, Coyote TV – High Desert Advocate, July 16, 2010, available at http://www.coyote-tv.com/index.php?option=com_content&task=view&id=2361&Itemid=269. See also Brock Vergakis, *Utah identifies at least 2 State Workers Allegedly Behind List of Purported Illegal Immigrants*, SUN-SENTINEL, July 16, 2010, available at <http://www.sun-sentinel.com/news/nationworld/sns-ap-us-undocumented-immigrant-list,0,2374748.story>.

¹¹ News Transcript, U.S. Department of Defense, July 19, 2010, available at <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=4654>.

¹² Nina Bernstein, *Plea to Obama Led to an Immigrant's Arrest*, THE NEW YORK TIMES, June 18, 2010, available at http://www.nytimes.com/2010/06/19/nyregion/19immig.html?_r=1&ref=nina_bernstein.

Thank you for your prompt attention to this urgent matter. We look forward to hearing from you. Please contact Helen Harnett at HHarnett@heartlandalliance.org or (312) 660-1363 with any questions.

Sincerely,

National Organizations

American Civil Liberties Union
The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Friends Service Committee
American Immigration Council
American Immigration Lawyers Association
Asian & Pacific Islander American Health Forum
The Asian Law Caucus
The Bill of Rights Defense Committee
Center for Digital Democracy
Consumer Action
Disciples Justice Action Network
Electronic Privacy Information Center
Families USA
First Focus
Florida Immigrant Advocacy Center
Friends Committee on National Legislation
Hebrew Immigrant Aid Society
Human Rights Watch
Jewish Alliance for Law & Social Action
Jewish Council on Urban Affairs
The Jewish Labor Committee
Jewish Reconstructionist Federation
The Leadership Conference on Civil and Human Rights
Lutheran Immigration and Refugee Service
National Council of Jewish Women
National Council of La Raza
National Employment Law Project
National Immigrant Justice Center
National Immigrant Solidarity Network
The National Immigration Forum
National Workrights Institute
National Immigration Law Center
9to5, National Association of Working Women
Patient Privacy Rights
Privacy Times
Privacy Rights Clearinghouse
South Asian Americans Leading Together
UNITED SIKHS

World Organization for Human Rights USA

State and Local Organizations and Individuals

Utah

Enrique Alemán, Jr., Ph.D., Associate Professor, Educational Leadership & Policy,
Faculty Affiliate, Ethnic Studies Program, University of Utah, College of
Education

Mark Alvarez, Salt Lake City Attorney

Robert "Archie" Archuleta, President, Utah Coalition of La Raza

Dr. Matt Bradley, David Quijada, Caitlin Cahill, Mestizo Arts & Activism Collective

Rep. Rebecca Chavez-Houck, District 24, Utah State House of Representatives

Frank Cordova, President, Centro Civico Mexicano

Karen Crompton, Executive Director, Voices for Utah Children

Dr. Dolores Delgado Bernal, Associate Professor, Education, Culture, & Society and the
Ethnic Studies Program, University of Utah

Enriching Utah Coalition

Jesse M. Garcia, former councilman for the city of Ogden ,Utah

Esperanza Granados, Salt Lake City Immigration Attorney

Linda Hilton, Director, Coalition of Religious Communities

Catherine Caputo Hoskins, Executive Director, Salt Lake Community Action Program

Rev. Steven A. Klemz, Pastor, Zion Evangelical Lutheran Church, Salt Lake City,
and Immigration Chair, Coalition of Religious Communities

Lutheran Social Service of Utah

Karen McCreary, Executive Director, and Marina Lowe, Legislative and Policy Counsel,
ACLU of Utah

Theresa Martinez, Associate Professor of Sociology, University of Utah

Isabel Rojas, Program Director, Comunidades Unidas

Dee Rowland, Government Liaison, Utah Catholic Diocese

Juan Manuel Ruiz, President, Utah Latin-American Chamber of Commerce

Salt Lake Religious Society of Friends (Quakers), Peace and Social Concerns Committee

Barbara M. Szweda, Legal Director, Utah Health and Human Rights Project

Pastor John Sandstrom, Stockton, UT

Dr. Octavio Villalpando, Associate Professor of Educational Leadership & Policy,
University of Utah

Tony Yapias, Director, Proyecto Latino de Utah

California

Alianza Latinoamericana por los Derechos de los Inmigrantes (ALIADI)

Asian Pacific American Legal Center

The California Immigrant Policy Center

California Pan-Ethnic Health Network

Clergy and Laity United for Economic Justice (CLUE-LA)

Leslie Gersicoff, Executive Director, Jewish Labor Committee Western Region

Floyd Glen-Lambert, President, Jewish Labor Committee Western Region

Having Our Say Coalition
Rabbi Lizzi Heydemann, IKAR
Legal Aid Society - Employment Law Center
Ann L. Millman, Chair, California State Public Affairs,
National Council of Jewish Women
Frances Tobin, RSCJ

Colorado

Lutheran Advocacy Ministry – Colorado

Connecticut

Collaborative Center for Justice

District of Columbia

Capital Area Immigrants' Rights Coalition

Georgia

Georgia Rural Urban Summit

Idaho

Idaho Community Action Network (ICAN)

Illinois

Illinois Coalition for Immigrant and Refugee Rights (ICIRR)
Rose Mary Meyer, BVM, Director, Project IRENE

Maryland

Pax Christi Metro DC-Baltimore
Public Justice Center
Virginia Richardson and Lois Herrmann, Latin America Task Force Network,
Social Justice Council, River Road Unitarian Universalist Congregation

Massachusetts

Marya Axner, Regional Director, New England Jewish Labor Committee
Jewish Community Relations Council of Greater Boston
Massachusetts Immigrant and Refugee Advocacy Coalition

Michigan

Michigan Immigrant Rights Center

Minnesota

Jewish Community Action

Nebraska

Nebraska Appleseed Center for Law in the Public Interest

New Jersey

Casa Esperanza
Lutheran Office of Governmental Ministry in New Jersey
Marion Munk
New Jersey Immigration Policy Network
Wind of the Spirit

New Mexico

El CENTRO de Igualdad y Derechos
Lutheran Advocacy Ministry-New Mexico

New York

Peter Cheng, Executive Director, Indochina Sino-American Community Center
Farmworker Legal Services of NY, Inc.
Rabbi Michael Feinberg, Executive Director, Greater New York Labor-Religion
Coalition
Maria Guevara
Rev. Mark Hallinan, S.J., Society of Jesus, NY Province
Make the Road New York
New York Lawyers for the Public Interest
Richard Wagner, Planning Chair, United Hebrew Trades - New York Jewish Labor
Committee

Oklahoma

Elizabeth McCormick, Director, Immigrant Rights Project, University of Tulsa
College of Law (title and affiliation listed for identification purposes only)

Pennsylvania

Judith Bernstein-Baker, Executive Director, Hebrew Immigrant Aid Society and Council
Migration Service of Philadelphia
Pennsylvania Council of Churches
The Shalom Center
Rosalind Spigel, Director, Philadelphia Jewish Labor Committee

Rhode Island

Pr. Rick Kremer, Gloria Dei Lutheran Church

Texas

Dominican Sisters of Houston
Doris Dwyer
Juan H. Flores, M.U.P., Executive Director, La Fe Policy Research and Education Center

Virginia

Emile Schepers

Washington

Northwest Federation of Community Organizations

Northwest Immigrant Rights Project

OneAmerica

Washington Defender Association's Immigration Project

CC:

John Morton, Assistant Secretary, DHS Immigration and Customs Enforcement

Cecilia Muñoz, White House Director of Intergovernmental Affairs

Michael Astrue, Commissioner, Social Security Administration

Thomas Vilsack, Secretary, Department of Agriculture

Kathleen Sebelius, Secretary, Department of Health and Human Services

Hilda Solis, Secretary, Department of Labor