

ONE HUNDRED NINETEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906

judiciary.house.gov

March 26, 2025

The Honorable Kristi Noem  
Secretary of Homeland Security  
Department of Homeland Security  
2707 Martin Luther King Jr. Avenue, SE  
Washington, DC 20528

The Honorable Pam Bondi  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

The Honorable Marco Rubio  
Secretary of State  
Department of State  
2201 C Street, NW  
Washington, DC 20520

Dear Secretary Noem, Attorney General Bondi, and Secretary Rubio:

I write to demand answers about the Administration's use of the Alien Enemies Act (AEA or Act), to forcibly remove non-citizens from the interior of the United States to a dangerous prison in El Salvador. The idea that the President of the United States can merely declare that the U.S. is being invaded—not by a foreign country but by a criminal gang—and then ship people off to yet another country to hand them over to a foreign dictator is shocking. Moreover, it is terrifying to think that these people being held indefinitely in an authoritarian mega-prison were sent there without any opportunity in America to appear before a judge, hear the evidence against them, establish that theirs is a case of mistaken identity, or challenge the substantive claims against them. It is a Kafkaesque violation of Due Process which runs counter to every basic principle of the American justice system.

On March 14, 2025, President Trump signed an Executive Order titled "Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua."<sup>1</sup> This activation of the AEA was only the fourth invocation of the Act in our country's history, the first since its last invocation during World War II, when it was used to justify the outrageous and indefinite internment of individuals of Italian, German, and Japanese descent, and the first time this authority has been used when the United States was *not even at war*.<sup>2</sup> The Act itself may only be invoked when war has been declared by Congress or when a foreign country "perpetrate[s], attempt[s], or threaten[s]" an invasion of the territory of the United States.<sup>3</sup> The President claims that Tren de Aragua, the "invading" force, is "sponsored" by the Maduro

<sup>1</sup> Proclamation 10903, 90 Fed. Reg. 13033 (Mar. 14, 2025).

<sup>2</sup> Luke Garrett, *U.S. deports hundreds of Venezuelans to El Salvador, despite court order*, NPR (Mar. 16, 2025), <https://www.npr.org/2025/03/18/nx-s1-5331857/alien-enemies-act-trump-deportations>.

<sup>3</sup> 50 U.S.C. § 21.

regime in Venezuela, an assertion that has been rejected by the consensus view of U.S. intelligence agencies.<sup>4</sup> Merely declaring an invasion by a gang is plainly insufficient grounds to invoke the AEA.<sup>5</sup>

Acting on this shaky legal authority, on March 15, 2025, the federal government flew multiple planes of non-citizens to El Salvador, including 137 individuals removed under the presumed authority of the AEA.<sup>6</sup> They were then taken to the Centro de Confinamiento del Terrorismo (CECOT), a notorious mega-prison created by El Salvador's self-proclaimed "dictator," Nayib Bukele.<sup>7</sup> The American Civil Liberties Union (ACLU) quickly brought suit, and Chief Judge Boasberg of the District Court of the District of Columbia issued a temporary restraining order preventing the government from removing individuals under the AEA.<sup>8</sup> While Chief Judge Boasberg ordered that any planes in the air at the time of the ruling be turned around, the government failed to comply with the order. The Administration is now, embarrassingly, attempting to argue that it did not intentionally defy the judge's order.<sup>9</sup>

While the government alleges the removed individuals are all members of the notorious gang, Tren de Aragua, they have failed to provide any real evidence, much less clear and convincing evidence, to support that assertion.<sup>10</sup> In fact, as the names of those removed were leaked to the press,<sup>11</sup> and as family members spotted their loved ones in President Bukele's disturbing propaganda video, evidence has surfaced refuting the government's basic claims that all of these individuals are somehow associated with Tren de Aragua.<sup>12</sup>

By the Administration's own admission, many of these individuals have no criminal record at all, whether of felonies or misdemeanors. Many are asylum seekers who were tortured

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<sup>4</sup> Charlie Savage and Julian E. Barnes, *Intelligence Assessment Said to Contradict Trump on Venezuelan Gang*, N.Y. TIMES (Mar. 20, 2025), <https://www.nytimes.com/2025/03/20/us/politics/intelligence-trump-venezuelan-gang-alien-enemies.html>.

<sup>5</sup> John Yoo & Robert J. Delahunty, *Trump's Risky Reliance on the Alien Enemies Act*, NATIONAL REVIEW (Mar. 21, 2025), <https://www.nationalreview.com/2025/03/trumps-risky-reliance-on-the-alien-enemies-act/>.

<sup>6</sup> Marianne LeVine, et. al., *White House official says 137 immigrants deported under Alien Enemies Act*, WASH. POST (Mar. 16, 2025), <https://www.washingtonpost.com/immigration/2025/03/16/alien-enemies-act-venezuela-el-salvador-prison/>

<sup>7</sup> Bryan Avelar, *How Bukele benefits from accepting US deportation flights: \$20,000 per inmate a year and Trump's favor*, EL PAÍS (Mar. 19, 2025) <https://english.elpais.com/international/2025-03-19/how-bukele-benefits-from-accepting-us-deportation-flights-20000-per-inmate-a-year-and-trumps-favor.html>.

<sup>8</sup> Press Release, *Federal Court Broadens Temporary Block on Trump Using Alien Enemies Act to Remove Immigrants from the U.S.*, ACLU (Mar. 15, 2025) <https://www.aclu.org/press-releases/federal-court-broadens-temporary-block-on-trump-using-alien-enemies-act-to-remove-immigrants-from-the-u-s>.

<sup>9</sup> Jeremy Roebuck, *Government answers on migrant flights 'woefully insufficient,' judge says*, WASH. POST (Mar. 20, 2025), <https://www.washingtonpost.com/immigration/2025/03/20/boasberg-trump-administration-alien-enemies-deportations-deadlines/>.

<sup>10</sup> Dec. of Acting Field Office Director Robert L. Cerna, [https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.26.1\\_3.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.26.1_3.pdf).

<sup>11</sup> Camilo Montoya-Galvez & Annabelle Hanflig, *Here are the names of the Venezuelans deported by the U.S. to El Salvador*, CBS NEWS (Mar. 20, 2025), <https://www.cbsnews.com/news/venezuelans-deported-el-salvador-names/>.

<sup>12</sup> Adam Isaacson, *Weekly U.S.-Mexico Border Update: The Alien Enemies Act, military buildup, border wall*, WOLA (Mar. 21, 2025) <https://www.wola.org/2025/03/weekly-u-s-mexico-border-update-the-alien-enemies-act-military-buildup-border-wall/>.

for voicing opposition to the Maduro regime, people who were granted refugee status, people who came here legally using lawful pathways, people with U.S. citizen children, and people who were following the law and attending check-in appointments with Immigration and Customs Enforcement (ICE).<sup>13</sup> One of the deported individuals, Mr. Jerce Reyes Barrios, was a professional soccer player in Venezuela, who was actually tortured by the Maduro regime after taking part in two demonstrations.<sup>14</sup> After making an appointment with U.S. Customs and Border Protection (CBP) at a U.S. Port of Entry and lawfully entering the country, Mr. Reyes Barrios applied for asylum. However, the Administration summarily deported him prior to his asylum hearing and accused him of being a gang member. It appears this absurd allegation was based on his tattoo of the logo of Real Madrid, a popular Spanish soccer club, and a photo he posted of himself making the “rock and roll” hand gesture on social media.<sup>15</sup> Another man, Andry, a gay makeup artist and barber who came to the United States to seek asylum, was similarly accused of gang membership because of his benign tattoos and removed before his asylum hearing.<sup>16</sup>

The families and attorneys of the deported men have spoken out on their behalf, to rebut the government’s claims of gang membership.<sup>17</sup> Under our immigration laws, these non-citizens should have been afforded the right to present these personal rebuttals in immigration court, but the Administration stole that opportunity from them by summarily removing them to El Salvador—a country to which they have no ties—without even a semblance of American Due Process.

The government acknowledges that “many of the [individuals] removed under the AEA do not have criminal records in the United States,” but makes the nearly comedic argument that their lack of criminal records “actually highlights the risk they pose.”<sup>18</sup> The idea that somehow *not being a criminal* makes someone more dangerous, more likely to be a gang member, is plainly absurd and has Orwellian resonances. If the government believes that someone is a dangerous gang member, it is the government’s burden to prove that allegation as fact, not rely on a catch-22 argument that the government not having any evidence of a person’s criminality is in fact evidence of that criminality. U.S. Immigration and Customs Enforcement’s (ICE) own gang investigations handbook (published during the first Trump Administration) says that

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<sup>13</sup> *Id.*; Verónica Egui Brito, *Despite refugee status in the U.S., young Venezuelan was deported to Salvadoran prison*, MIAMI HERALD (Mar. 21, 2025), <https://www.miamiherald.com/news/local/immigration/article302464134.html>.

<sup>14</sup> Dec. of Linette Tobin, [https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.44.5\\_5.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.44.5_5.pdf).

<sup>15</sup> *Id.*

<sup>16</sup> *‘Our client has been disappeared’: Lawyer seeks answers on Venezuelan imprisoned with no due process*, MSNBC (Mar. 21, 2025), <https://www.msnbc.com/rachel-maddow/watch/-our-client-has-been-disappeared-lawyer-seeks-answers-on-venezuelan-imprisoned-with-no-due-process-235013701978>; Philip Holsinger, *What the Venezuelans Deported to El Salvador Experienced*, TIME (Mar. 21, 2025), <https://time.com/7269604/el-salvador-photos-venezuelan-detainees>.

<sup>17</sup> Isaacson, *supra* note 12.

<sup>18</sup> Dec. of Director Cerna, *supra* note 10 at 4.

“Proper documentation of the gang membership criteria met by an individual is critical for judicial matters.”<sup>19</sup>

We strive to be a country of law and social order. If a non-citizen in this country poses a threat to public safety, by committing gang crimes, of course they should be removed. However, such removals *must* be effectuated through Due Process and our legal system, where individuals are able to be represented by counsel and present defenses on their own behalf. If the government is confident in its assertion that every single person removed to El Salvador is a member of Tren de Aragua, it should obviously be able to prove that allegation in court. Its refusal to do so speaks volumes about its essential inability to substantiate its claims. Indeed, on March 21, 2025, the ACLU revealed that some individuals deported by the government to El Salvador were then returned to the United States because of mistaken identifications and because some of the deportees were women.<sup>20</sup>

Under this Administration, ICE has illegally detained U.S. citizens and has created warrants only after arresting people.<sup>21</sup> It deported a 10-year-old U.S. citizen recovering from brain cancer with her undocumented parents, taking away her access to lifesaving medical care.<sup>22</sup> Now the Administration is asking that the American people simply trust that the people it forcibly removed to El Salvador are gang members without providing a shred of evidence, instead expecting us to accept their verbal assurances that they are “bad people.”<sup>23</sup> Even traditionally conservative outlets are questioning the legality of this move and whether the removed individuals were truly members of Tren de Aragua.<sup>24</sup> Last week, on Fox News, Martha MacCallum asked White House Deputy Chief of Staff Stephen Miller, “Can you prove these people were linked with Tren de Aragua and that Tren de Aragua is part of a Maduro operation...?”<sup>25</sup> Tellingly, Mr. Miller failed to answer either of those questions.<sup>26</sup>

As John Locke said, the end of law is the beginning of tyranny. If the government can remove someone from this country without trial, if it can declare someone a terrorist or gang

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<sup>19</sup> Homeland Security Investigations, *Criminal Gangs Investigations Handbook*, IMMIGR. AND CUSTOMS ENFORCEMENT (Aug. 13, 2018), [https://www.ice.gov/doclib/foia/policy/handbook\\_HSI\\_18-03\\_08.13.2018.pdf](https://www.ice.gov/doclib/foia/policy/handbook_HSI_18-03_08.13.2018.pdf).

<sup>20</sup> Josh Gerstein (@joshgerstein), X (Mar. 21, 2025, 3:42 PM), <https://x.com/joshgerstein/status/1903170316509007991?s=46>; Dec. of S.Z.F.R., [https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.55.1\\_3.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.55.1_3.pdf); Dec. of E.E.P.B., [https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.55.2\\_3.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.55.2_3.pdf).

<sup>21</sup> Adriana Cardona-Maguigad, *Immigration agents arrested a U.S. citizen and created warrants after an arrest, lawyers say in court*, WBEZ-CHICAGO (Mar. 13, 2025), <https://www.wbez.org/immigration/2025/03/13/chicago-attorneys-accuse-federal-agents-of-violating-immigrants-rights-and-take-legal-action>.

<sup>22</sup> Polo Sandoval, *Parents deported to Mexico file DHS complaint seeking return to US with sick American daughter* CNN (Mar. 20, 2025), <https://www.cnn.com/2025/03/15/us/parents-deported-mexico-daughter-cancer-treatment/index.html>.

<sup>23</sup> Nicholas Riccardi & Regina Garcia Cano, *Trump administration deports hundreds of immigrants even as a judge orders their removals be stopped*, ASSOCIATED PRESS (Mar. 17, 2025), <https://apnews.com/article/trump-venezuela-el-salvador-immigration-dd4f61999f85c4dd8bcaba7d4fc7c9af>.

<sup>24</sup> See, e.g., Yoo & Delahunty, *supra* note 5.

<sup>25</sup> Fox News, *Stephen Miller: Deported gang members had 'no right' to be in the US*, YOUTUBE (Mar. 18, 2025), [https://www.youtube.com/watch?app=desktop&v=3x\\_CcrEcZ4U](https://www.youtube.com/watch?app=desktop&v=3x_CcrEcZ4U).

<sup>26</sup> *Id.*

member without having to show proof and then send them to a prison run by a foreign dictator without the semblance of Due Process, then we are in dangerous territory. This regime of fear does not just affect non-citizens, it affects us all. With no apparent requirement for proof of criminality, gang affiliation, or legal status preventing ICE from deporting people under the AEA, there is nothing protecting innocent people, including U.S. citizens, from getting swept up in these removals, should they be allowed to continue.

Given the extraordinary concerns raised by the Administration's use of the AEA, we request you respond to the following questions by April 11, 2025.

1. What are the names, nationalities, genders, and ages of all the people the United States has sent to El Salvador to be imprisoned in CECOT?
2. How many people are currently being detained in the United States under the AEA, and where are they being held?
3. How many more people does the Administration believe are subject to the proclamation, and in what facilities will they be held?
4. What evidentiary standard and what procedures is the Administration using to determine whether someone is subject to the proclamation?
5. Has the United States sent any children to be imprisoned in CECOT?
6. Has the United States detained any children under the AEA proclamation?
7. Will the Administration commit to not detaining or transferring children under the AEA proclamation?
8. Were detainees told that they were being deported to a prison in El Salvador, or given any opportunity to express a fear of persecution or torture if transferred there?
9. According to news reports and official statements, the United States agreed to pay the government of El Salvador \$20,000 a year to imprison deportees.<sup>27</sup> What is the source of these funds? For how many years will this arrangement continue?
10. Asked about the possibility that detainees sent to CECOT are innocent of gang ties, Secretary of State Marco Rubio told Fox News, "If one of them turns out not to be, then they're just illegally in our country, and the Salvadorans can then deport them ... to Venezuela, but they weren't supposed to be in our country to begin with."<sup>28</sup> Has the U.S. reached any agreement with El Salvador on

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<sup>27</sup> Avelar, *supra* note 7.

<sup>28</sup> *Sec. Marco Rubio: "High Fidelity of Confidence" That Deported Individuals Are Known Criminals*, GUY BENSON SHOW (Mar. 17, 2025), <https://radio.foxnews.com/2025/03/17/sec-marco-rubio-guy-benson-show/>.

the circumstances under which deportees will be able to show their innocence and be released?

- a. If so, please provide a written copy of this agreement.
11. Please confirm how many individuals sent to El Salvador have pending applications for asylum or other forms of protection from removal.
12. Did any of the individuals sent to El Salvador have Temporary Protected Status or other immigration status in the United States?
13. Please provide the names, nationalities, and ages of the individuals returned from El Salvador to the United States, along with the reason for their return.

In addition to answering the above questions, please provide the Alien files for all individuals sent from the United States to El Salvador under the AEA, including those for individuals who were ultimately returned.

Thank you for your prompt attention to this grave and urgent matter.

Very truly yours,

  
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Ranking Member  
Jamie Raskin

cc: The Honorable Jim Jordan, Chairman