

January 24, 2014

Senator Barbara Mikulski
Chair, Senate Appropriations Committee
503 Hart Senate Office Building
Washington, DC 20510

Representative Harold Rogers
Chair, House Appropriations Committee
2406 Rayburn House Office Building
Washington, DC 20515

Senator Richard C. Shelby
Ranking Member, Senate Appropriations
Committee
304 Russell Senate Office Building
Washington, DC 20510

Representative Nita M. Lowey
Ranking Member, House Appropriations
Committee
2365 Rayburn House Office Building
Washington, DC 20515

Senator Mary Landrieu
Chair, Senate Appropriations
Committee, Homeland Security
Subcommittee
703 Hart Senate Office Building
Washington, DC 20510

Representative John Carter
Chair, House Appropriations
Committee, Homeland Security
Subcommittee
409 Cannon House Office Building
Washington, DC 20515

Senator Dan Coats
Ranking Member, Senate Appropriations
Committee, Homeland Security
Subcommittee
493 Russell Senate Office Building
Washington, DC 20510

Representative David Price
Ranking Member, House Appropriations
Committee, Homeland Security
Subcommittee
2162 Rayburn House Office Building
Washington, DC 20515

Re: Immigration detention bed mandate in FY 2015 DHS Appropriations

Dear Chair Mikulski, Ranking Member Shelby, Chair Landrieu, Ranking Member Coats, Chair Rogers, Ranking Member Lowey, Chair Carter, and Ranking Member Price:

We, the 131 undersigned non-governmental civil rights, civil liberties, human rights, legal services, and faith-based organizations, urge you not to include immigration detention bed mandate language in the appropriations bill that funds the U.S. Department of Homeland Security (DHS) for FY 2015.

U.S. Immigration and Customs Enforcement (ICE), the interior enforcement agency of DHS, detains approximately 34,000 individuals across the country each day – about 400,000 annually – in a network of county jails, privately run contract facilities, and federal facilities that costs taxpayers \$2 billion each year. Congressional appropriations language covering ICE’s detention budget – most recently referenced in the Consolidated Appropriations Act of 2014 – states “[t]hat funding made available under this heading shall maintain a level of not less than 34,000 detention beds.” Because ICE and some members of Congress interpret the language to require ICE to maintain and fill 34,000 beds daily, it has become known as the detention bed “mandate.” The number itself is

arbitrary, and the concept of a legislatively mandated detention quota is an aberration among law enforcement agencies.¹

ICE's daily detention level should be determined only by actual need, based on individualized case-by-case assessments of whether detention is warranted. As former DHS Secretary Janet Napolitano acknowledged before Congress, the Department "ought to be managing the actual detention population to risk, not to an arbitrary number."²

Immigration detention is civil detention, as opposed to punitive incarceration, and is meant to ensure compliance with immigration court hearings and final orders of removal. For many men and women, detention is not necessary to meet this limited purpose. Alternatives to detention (ATDs) – widely used in criminal justice systems across the country, and to a limited degree by ICE already – are effective and far less costly than detention. Alternatives to detention are recommended as cost-savers by the American Jail Association, American Probation and Parole Association, American Bar Association, Association of Prosecuting Attorneys, Heritage Foundation, International Association of Chiefs of Police, National Conference of Chief Justices, National Sheriffs' Association, Pretrial Justice Institute, Texas Public Policy Foundation (home to Right on Crime), and the Council on Foreign Relations' Independent Task Force on U.S. Immigration Policy.³ A shift from detention to ATDs, including bond and release on

¹ For more information, *see*

<http://immigrantjustice.org/sites/immigrantjustice.org/files/Bed%20Mandate%20101%20Backgrounder%20FINAL.pdf>.

² House Committee on Appropriations, Subcommittee on Homeland Security, "House Appropriations Subcommittee on Homeland Security Hearing on President Obama's Fiscal 2014 Budget Proposal for the Homeland Security Department," 113th Congress, April 11, 2013, *available at* http://www.micevhill.com/attachments/immigration_documents/hosted_documents/113th_congress/TranscriptOfHouseAppropriationsSubcommitteeHearingOnFY14DHSAppropriations.pdf.

³ *See* American Jail Association, Resolution on Pretrial Justice (Oct. 24, 2010), *available at* <http://www.pretrial.org/download/policy-statements/AJA%20Resolution%20on%20Pretrial%20Justice%202011.pdf>; American Probation and Parole Association, APPA Supports Pretrial Supervision Services (June 15, 2010), *available at* http://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IE_NewsRelease&wps_key=4ce5b0cc-e5d6-4407-bcab-096640386f02; American Bar Association, ABA Criminal Justice Standards on Pretrial Release – Third Edition (Oct. 28, 2002), *available at* <http://www.pretrial.org/wpfb-file/aba-standards-on-pretrial-release-2002-pdf/>; Association of Prosecuting Attorneys, Policy Statement on Pretrial Justice, *available at* <http://www.pretrial.org/wp-content/uploads/2013/02/APA-Pretrial-Policy-Statement.pdf>; Matt Mayer, The Heritage Foundation, Heritage Web Memo 3455: Administrative Reforms Insufficient to Address Flawed White House Immigration and Border Security Policies (Jan. 10, 2012), *available at* <http://www.heritage.org/research/reports/2012/01/administrative-reforms-in-immigration-and-border-security-policies>; International Association of Chiefs of Police, "Law Enforcement's Leadership Role in the Pretrial Release and Detention Process (Feb. 2011), *available at* <http://www.pretrial.org/wp-content/uploads/2013/02/IACP-LE-Leadership-Role-in-Pretrial-20111.pdf>; National Conference of Chief Justices, Resolution 3, Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release (Jan. 13, 2013), *available at* <http://www.pretrial.org/wp-content/uploads/2013/02/CCJ-Resolution-on-Pretrial-1.pdf>; National Sheriffs' Association, National Sheriffs' Association Supports and Recognizes the Contribution of Pretrial Services Agencies to Enhance Public Safety (June 18, 2012), *available at* <http://www.pretrial.org/wp-content/uploads/filebase/policy-statements/NSA%20Pretrial%20Resolution.pdf>; Pretrial Justice Institute, The Solution, *available at* <http://www.pretrial.org/solutions/>; Marc Levin, Texas Public Policy Foundation, "Public Safety and Cost Control Solutions for Texas County Jails (Mar. 6, 2012),

recognizance when appropriate, could save taxpayers an estimated \$1.44 billion annually – a 79 percent reduction in immigration detention costs.⁴

In recent months, news outlets including the Washington Post, the Houston Chronicle, Univision, Bloomberg, Reuters, National Public Radio, The Hill, and Reason.com have covered this issue.⁵ In June 2013, Representatives Ted Deutch (D-FL) and Bill Foster (D-IL) introduced an amendment to strike the bed mandate from the House’s FY 2014 DHS Appropriations bill. It did not pass, but 190 representatives, including eight Republicans, voted for the amendment.

Broad consensus is beginning to align with common-sense fiscal responsibility, best practices in law enforcement, and basic due process principles. The mandate should be eliminated. We urge you to lead the way during the FY 2015 appropriations process.

For more information, please contact Lutheran Immigration and Refugee Service’s Brittney Nystrom (bnystrom@lirs.org or 202-626-7943) or Human Rights First’s Katharina Obser (obserk@humanrightsfirst.org or 202-888-7596).

Sincerely,

National/International Organizations

- The Advocates for Human Rights
- America's Voice Educational Fund
- American Civil Liberties Union
- American Federation of State, County and Municipal Employees (AFSCME)
- American Friends Service Committee
- American Immigration Lawyers Association (AILA)
- Amnesty International USA
- Arab American Institute
- Asian Americans Advancing Justice | Asian Law Caucus
- Asian Americans Advancing Justice-AAJC
- Association of Asian Pacific Community Health Organizations
- Black Alliance for Just Immigration (BAJI)
- Blacks in Law Enforcement of America
- Campaign for Community Change

available at <http://www.texaspolicy.com/center/effective-justice/reports/public-safety-and-cost-control-solutions-texas-county-jails>; and Council on Foreign Relations’ Independent Task Force, Task Force Report: U.S. Immigration Policy (July 2009), available at <http://www.cfr.org/immigration/us-immigration-policy/p20030>.

⁴ National Immigration Forum, “The Math of Immigration Detention,” August 2013, p. 11, available at <http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf>.

⁵ For links to recent media coverage, see http://immigrantjustice.org/sites/immigrantjustice.org/files/MediaCoverage_DetentionBedMandate_2013%2011%2004.pdf.

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for Constitutional Rights
Columban Center for Advocacy and Outreach
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)
Conference of Major Superiors of Men
Defending Dissent Foundation
Detention Watch Network
Disciples Home Missions
The Episcopal Church
Fair Immigration Reform Movement
Farmworker Justice
Friends Committee on National Legislation
Grassroots Leadership
Hispanic Federation
Human Rights Defense Center
Human Rights First
Human Rights Watch
Immigrant Defense Project
Immigrant Legal Resource Center
Immigration Equality Action Fund
In The Public Interest
Jesuit Refugee Service/USA
Justice Strategies
Lambda Legal
Leadership Conference of Women Religious
The Leadership Conference on Civil and Human Rights
Lutheran Immigration and Refugee Service
Mennonite Central Committee U.S. Washington Office
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
The National Alliance of Latin American and Caribbean Communities (NALACC)
National Asian Pacific American Women's Forum
National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Jewish Women
National Council of La Raza (NCLR)
National Day Laborer Organizing Network
National Gay and Lesbian Task Force Action Fund

National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Immigration Project of the NLG
National Latina Institute for Reproductive Health
NETWORK, A National Catholic Social Justice Lobby
Physicians for Human Rights
PICO National Network
Presbyterian Church (U.S.A.)
Private Corrections Institute
Queer Undocumented Immigrant Project
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center
Transgender Law Center
Unitarian Universalist Service Committee
United Food and Commercial Workers International Union
United We Dream
We Belong Together
Women's Refugee Commission

Regional/State/Local Organizations

Action Langley Park

New Jersey

Advocates for Basic Legal Equality

Ohio

African Services Committee

New York

Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center

Florida

Asian Americans Advancing Justice-Chicago

Illinois

Asian Americans Advancing Justice-Los Angeles

California

ASPIRE-Los Angeles

California

Border Action Network
Arizona

California Immigrant Youth Justice Alliance
California

Capital Area Immigrants' Rights Coalition
Washington, D.C.

Casa de Esperanza
New Jersey

Coalition for Humane Immigrant Rights of Los Angeles
California

Colorado Progressive Coalition
Colorado

Comite de Derechos Humanos de Forks
Washington

Community of Christ in the Desert
Arizona

Community to Community Development
Washington

Dream Team Los Angeles
California

DRUM - Desis Rising Up & Moving
New York

El Centro de la Raza
Washington

Esperanza de Libertad
Texas

Families For Freedom
New York

First Friends of NJ & NY Corp.
New Jersey and New York

Florida Immigrant Coalition
Florida

Friends of Broward Detainees
Florida

Georgia Detention Watch
Georgia

Georgia Latino Alliance for Human Rights
Georgia

Greater Cleveland Immigrant Support Network
Ohio

Gulf Coast Center for Law & Policy
Louisiana

Illinois Coalition for Immigrant and Refugee Rights
Illinois

Immigrant Law Center of Minnesota
Minnesota

Immigrant Rights Clinic of Washington Square Legal Services, Inc.
New York

Immigration Clinic, University of Miami School of Law
Florida

Inland Empire Immigrant Youth Coalition
California

Interfaith Coalition on Immigration (ICOM, MN)
Minnesota

ISAI AH Core Team Mayflower United Church of Christ
Minnesota

Jesuit Social Research Institute
Louisiana

Latino Advocacy
Washington

Lutheran Sevices of Georgia
Georgia

Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts

Mississippi NOW
Mississippi

Neighborhood Defender Service of Harlem
New York

New York Immigration Coalition
New York

North Carolina Justice Center
North Carolina

Northern Manhattan Coalition for Immigrant Rights
New York

Northwest Immigrant Rights Project
Washington

OneAmerica
Washington

Pax Christi New Jersey
New Jersey

Racial Justice Action Center
Georgia

Reformed Church of Highland Park
New Jersey

Services, Immigrant Rights, and Education Network (SIREN)
California

Sisters of Mercy West Midwest Community
Nebraska

Southeast Immigrant Rights Network
Southeast

Southern Poverty Law Center
South

Stop The Checkpoints
Washington

Tacoma Community House
Washington

Washington DREAM Act Coalition
Washington

WeCount!
Florida

Wind of the Spirit, Immigrant Resource Center
New Jersey

cc: Members of the Senate Appropriations Committee

Members of the House Appropriations Committee