

March 13, 2013

The Honorable Bob Goodlatte
Chairman, U.S. House of Representatives Committee on the Judiciary
The Honorable John Conyers Jr.
Ranking Member, U.S. House of Representatives Committee on the Judiciary
Members of the Committee
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Patrick Leahy
Chairman, Senate Committee on the Judiciary
The Honorable Chuck Grassley
Ranking Member, Senate Committee on the Judiciary
Members of the Committee
U.S. Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Members of the House and Senate Judiciary Committees,

We the undersigned organizations, working to ensure civil liberties and human rights in our communities, urge you to support the Department of Homeland Security Immigration and Customs Enforcement's (ICE) efforts to increase efficiencies and fiscal accountability by releasing individuals who do not need to be detained under responsible immigration and fiscal policy.

At the end of February, ICE confirmed that it was releasing people from its custody as part of a plan to reduce the detained population. ICE's decision to reconsider when detention is necessary and to start releasing people from detention when there is no need to detain, is a step in the right direction on many levels. First and foremost, it means fewer people have to endure the indignities of imprisonment. Substandard medical care, physical, verbal and sexual abuse, lack of outdoor recreation, lack of access to legal services, and limited contact with family or the outside world, are just some of the hardships that pervade the experience of being detained. Second, detention is extraordinarily and unnecessarily expensive, costing approximately \$164 per person per day, or nearly \$60,000 per person for a year. In the last year, ICE custody operations cost American taxpayers nearly \$2 billion. By reducing reliance on physical detention, the government can greatly reduce unnecessary costs. Third, there are proven alternatives to detention that meet the agency's needs while being far more cost effective and humane. As ICE noted in its statements about the releases, alternative methods for supporting individuals to

appear for their immigration hearings can cost as little as \$12 a day and are extremely effective in ensuring compliance with immigration procedures and orders. Releasing individuals on their own recognizance or on bond costs the U.S. government even less. In FY 2010, ICE's ATD programs resulted in a 93.8 percent appearance rate for immigration hearings. Other models and pilots have had even higher compliance rates. Alternatives to detention also allow individuals to continue to work, to care for themselves and their families, and to access legal services to help with their immigration court cases. Finally, releasing parents who have been shown to qualify for release or alternatives to detention prevents children from ending up in our state foster care systems and saves our communities.

Several members of Congress have criticized ICE for utilizing alternatives to detention, claiming that the agency is releasing people who pose a threat to public safety. ICE has confirmed publicly that no one was released who presented a safety threat and that it continues to evaluate custody decisions to ensure public safety. When evaluating our nation's detention system, it is important to remember that while some immigrants in ICE custody have past criminal convictions, most do not, and those who do have already served their sentences. Furthermore, the overwhelming majority of those immigrants with past criminal convictions committed minor, non-violent offenses that did not threaten the safety of any other person.

The sole legal purpose of immigration detention is for ICE to ensure that individuals appear for their court proceedings and comply with a final order of deportation. This goal can be met through far less costly and more humane alternatives. Congress should support the use of smarter and more consistent methods of determining when detention is necessary and releasing people from detention who need not be detained. Additional steps towards reforming immigration detention should include:

- 1. Eliminating the detention bed quota.**

Congress has directed ICE to maintain 34,000 detention beds --each day--, and DHS strives to fill all of these beds each day. Quotas are antithetical to criminal law enforcement policy and, similarly, do not belong in immigration enforcement. No corrections system in the U.S. operates with quotas or target population levels. The deprivation of liberty is a serious matter that cannot be based on a quota rather than on justified need. DHS must have flexibility in how it spends its custody and enforcement budget based on determined needs. Congress must therefore clarify that ICE need not detain persons who would not otherwise be detained in order to fill a minimum number of detention beds.

- 2. Reducing the detention budget and increasing funding for community-based programs.**

In its FY 2013 budget, the White House asked for a reduction in the detention budget, an increase in funding for alternatives programs, and the flexibility to use detention funds for alternatives where appropriate. Congress should honor this request and explicitly permit

flexibility in how ICE uses its detention funding, allowing ICE to divert detention dollars to programs that rely on effective, cheaper, and more humane, forms of custody.

3. Repealing all mandatory detention laws and restoring discretion over custody.

In FY 2011, approximately 45-64% of people in immigration detention on any given day were subject to mandatory detention. Mandatory detention, as prescribed in several sections of the Immigration and Nationality Act, requires that ICE hold certain categories of people in custody without access to the basic due process of a bond hearing. Congress should amend these statutes to restore discretion to the Department of Homeland Security and the Department of Justice to evaluate whether detention is necessary based on an assessment of flight risk and threat to public safety for every individual apprehended, including those subject to mandatory custody, and to make custody determinations subject to judicial review.

We, the undersigned organizations, urge you to support these efforts to reform the immigration detention system so it may operate in a more fiscally sound and humane manner in accordance with our values as a nation that stands for liberty and justice. If you have any questions, please contact Emily Tucker, DWN Director of Policy and Advocacy, etucker@detentionwatchnetwork.org.

Sincerely,

National Organizations:

American Civil Liberties Union
Americans for Immigrant Justice
American Friends Service Committee
American Immigration Council
American Muslim Voice
Communities in Action
Cuentame
Detention Watch Network
Ella Baker Center for Human Rights
Grassroots Leadership
Human Rights Defense Center
Immigrant Defense Project
Immigrant Legal Resource Center

Lawler & Lawler
Lutheran Immigration and Refugee Service
National Center for Transgender Equality
National Immigrant Justice Center
National Network for Immigrant and Refugee Rights
Rights Working Group
The Advocates for Human Rights
The Alliance for a Just Society
United We Dream Network
Unitarian Universalist Service Committee
Women's Refugee Commission

State and Local Organizations:

African Services Committee, NY
American Gateways, TX
Austin Immigrant Rights Coalition, TX
Baurkot & Baurkot, NY
Boston New Sanctuary Movement, MA
Breakthrough, NY
Coalicion de Lideres Latinos-CLILA, GA
Colorado Immigrant Rights Coalition, CO
Colorado Progressive Coalition, CO
Conversations with Friends, MN
El Refugio Ministry, GA
Families for Freedom, NY
Fanm Ayisyen Nan Miyami, Inc., FL
First Friends of New Jersey and New York Corp, NJ
Florida Coastal School of Law's Immigrant Rights Clinic, FL
Florida Immigrant Coalition, Inc., FL
Florida New Majority, FL
Georgia Detention Watch, GA
Illinois Coalition for Immigrant and Refugee Rights, IL
Immigrant Law Center of Minnesota, MN
Immigrant Rights Clinic, Washington Square Legal Services, NY
Interfaith Coalition on Immigration, MN
Jesuit Social Research Institute/Loyola University New Orleans, LA
La Raza Centro Legal, CA
Massachusetts Immigrant and Refugee Advocacy Coalition, MA
New Sanctuary Coalition, NY

New York Immigration Coalition, NY
No More Deaths, AZ
Northern Manhattan Coalition for Immigrant Rights, NY
One Horizon Institute, KY
Political Asylum/Immigration Representation Project, MA
Rocky Mountain Immigrant Advocacy Network, CO
Sisters of Mercy, Mid-Atlantic Justice Office, PA
Sisters of Mercy, West Midwest Community, NE
Sisters of Notre Dame de Namur, CA
Survivors of Torture, International, CA
Tennessee Immigrant and Refugee Rights Coalition, TN
Texans United For Families, TX
The Benedictine Sisters of Baltimore, MD
The Immigration Justice Group – Central Baptist Church of Wayne, PA
The Reformed Church of Highland Park, NJ
University of Maryland Carey School of Law Immigration Clinic, MD
Washington Community Action Network, WA
Washington Defender Association's Immigration Project, WA
WeCount!, FL
Who Is My Neighbor? Inc., NJ

Cc:

The Honorable Janet Napolitano, Secretary, U.S. Department of Homeland Security

The Honorable John Morton, Director, U.S. Immigration and Customs Enforcement