

March 23, 2012

The Honorable Mary Landrieu
Chairman, Subcommittee on Homeland Security Appropriations
The Honorable Dan Coats
Ranking Member, Subcommittee on Homeland Security Appropriations
Members of the Subcommittee
U.S. Senate
Washington, DC 20515

The Honorable Robert B. Aderholt
Chairman, Subcommittee on Homeland Security Appropriations
The Honorable David E. Price
Ranking Member, Subcommittee on Homeland Security Appropriations
Members of the Subcommittee
U.S. House of Representatives
Washington, DC 20515

Dear Members of the Senate and House Subcommittees on Homeland Security Appropriations,

We the undersigned organizations, working to ensure civil liberties and human rights in our communities, urge you to reduce wasteful spending on immigration detention and enforcement. Specifically, we ask the Subcommittee to reduce funding for immigration detention and recommend closure of the worst detention facilities, to stop requiring the Department of Homeland Security (DHS) to detain a minimum number of people each day, to eliminate the 287(g) program, and to build in smart and effective limitations to the Secure Communities program. DHS detention and enforcement programs have resulted in the separation of families and the unnecessary suffering of those living in our country.

DHS has proposed a \$53.4 million decrease in immigration detention funding in its fiscal year (FY) 2013 budget. This is a good start, but detention funding should be cut even further. In FY 2012, immigration detention will cost U.S. taxpayers more than \$2 billion. Given the rampant abuse in detention facilities across the country, and the crippling federal deficit, the government should start closing down the prisons and jails used to incarcerate immigrants.

If Immigration and Customs Enforcement (ICE) determines that supervision of some individuals in removal proceedings is necessary, community-based programs are available which are more humane and cost-effective, and which have excellent track records in supporting people to appear for their immigration hearings. DHS's proposed \$40 million increase in funding for Alternatives to Detention should be designated for programs like these, operated in partnership with non-governmental organizations that have the relevant experience and community relationships, and not for restrictive and stigmatizing ankle bracelet programs administered by for-profit corporations.

For the transition away from the mass-detention of immigrants to be successful, DHS must have flexibility in how it spends its custody and enforcement budget. Congress must therefore clarify

that there is no requirement for ICE to detain persons who would not otherwise be detained in order to fill a minimum number of detention beds. The subcommittee should make clear that the expenditure of money to detain immigrants is discretionary based on ICE's determined needs and that ICE should never detain anyone unless it can show such need.

We were pleased to see the President's budget request included a reduction in funding to the 287(g) program. In the budget request, the Administration indicated that this reduction made fiscal sense given the expansion of the Secure Communities program. We are deeply concerned however, to learn that ICE plans to enter into two new 287(g) agreements. The overwhelming evidence on 287(g) proves it is a failed program.¹ It has been found to lack internal controls, performance objectives, training, oversight, and protections against racial profiling and other civil rights abuses. Funding to both the taskforce and jail-models of the 287(g) program must be eliminated. Further, in jurisdictions where both 287(g) agreements and Secure Communities are operative, the 287(g) agreements should be terminated immediately to avoid wasteful duplication of ICE resources.

With regard to Secure Communities, localities throughout the country have expressed deep concerns about this program. The program has had profound impacts on community policing and has resulted in racial profiling and civil rights abuses, including the erroneous arrest of many US citizens for immigration violations since its inception.² The subcommittee should direct ICE to terminate Secure Communities in jurisdictions that have laws or policies in place indicating that they do not want to participate in the program. ICE should suspend deployment of Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing. Though ICE Director John Morton referred to this as a "draconian step" in recent testimony before Congress, ICE adjusted the program in Maricopa County, AZ after the issuance of disturbing findings of discriminatory policing by the Department of Justice, as well as suspended the deployment in Alabama given the Department of Justice litigation of its state immigration law, H.B. 56. The subcommittee should direct ICE to continue this trend and suspend the program in jurisdictions where discriminatory policing is a concern.

In short, we ask that the subcommittee:

- Clarify that ICE is not required to detain a minimum number of people each day.
- Reduce detention funding even further than the \$53.4 million recommended by DHS, and justify that reduction by recommending closure of the worst ICE facilities.
- Stipulate that the funding for Alternatives to Detention be used to develop

¹ See generally Department of Homeland Security, Office of Inspector General, *The Performance of 287(g) Agreements: Report Update*. (Sept. 2010) available at http://www.dhs.gov/xoig/assets/mgmttrpts/OIG_10-124_Sep10.pdf; United States Government Accountability Office, Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws (Jan. 2009), available at <http://www.gao.gov/new.items/d09109.pdf>; and Randy Capps, Marc R. Rosenblum, Cristina Rodriguez and Muzzaffar Chishti, "A Study of 287(g) State and Local Immigration Enforcement," Migration Policy Institute, January 2011 available at <http://www.migrationpolicy.org/pubs/287g-divergence.pdf>.

² See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, "Secure Communities by the Numbers: An Analysis of Demographics and Due Process," The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011 available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

community based support and supervision programs in partnership with local non profit organizations.

- Eliminate funding to the entire 287(g) program.
- Direct ICE to terminate Secure Communities in jurisdictions that have laws or policies indicating they do not want the program; and
- Direct ICE to suspend deployment of Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing.

Thank you for your attention to these urgent issues. If you have any questions, please contact Emily Tucker, Policy Director of Detention Watch Network at etucker@detentionwatchnetwork.org or Sameera Hafiz, Policy Director of Rights Working Group at shafiz@rightsworkinggroup.org.

Sincerely,

National Organizations

African Services Committee
American Civil Liberties Union
American Friends Service Committee
Americans for Immigrant Justice
Amnesty International
Asian American Justice Center
Asian American Legal Defense Fund
Asian Law Alliance
Asian Law Caucus
Center for Constitutional Rights
Defending Dissent Foundation
Detention Watch Network
Franciscan Action Network
Human Rights Defense Center
Immigration Equality
Latin American Legal Defense & Education Fund, Inc.
Latina Institute for Reproductive Health
Muslim Legal Fund of America
National Asian Pacific American Women's Forum
National Center for Transgender Equality
National Immigration Project of the National Lawyers Guild
National Immigrant Solidarity Network
National Immigration Law Center
Private Corrections Institute
Rights Working Group
Southeast Asia Resource Action Center
Tenants and Workers United

United Methodist Church, General Board of Church and Society
Women's Refugee Commission

State and Local Organizations

American Gateways, Austin, TX
Casa Esperanza, Plainfield, NJ
Coalition for Human Immigrant Rights of Los Angeles
Colorado Immigrant Rights Coalition, Denver, CO
Comunidad Liberación/Liberation Community, Aurora, CO
Desis Rising Up & Moving, Jackson Heights, NY
Farmworker Association of Florida, Apopka, FL
Florida Immigration Coalition, Miami, FL
Georgia Detention Watch
Illinois Coalition for Immigrant and Refugee Rights, Chicago, IL
Immigration Working Group of the North East Iowa Peace & Justice Center, Decorah, IA
Interfaith Coalition on Immigration, MN
The International Teamster Defense Guard, Calumet City, IL
Jesuit Social Research Institute/Loyola University, New Orleans, LA
League of United Latin American Citizens – Syracuse Chapter, Syracuse, NY
Massachusetts Immigrant and Refugee Advocacy Coalition, Boston, MA
MinKwon Center for Community Action, Flushing, NY
New York Immigration Coalition, New York, NY
North Carolina Immigrant Rights Project, Durham, NC
Northwest Immigrant Rights Project, Seattle, WA
Pennsylvania Immigration Resource Center, York, PA
Prison Project of Santa Fe
Rutgers-Newark Immigrant Rights Clinic, Newark, NJ
Silicon Valley Alliance for Immigration Reform, San Jose, CA
Sisters of Mercy West Midwest Justice Team, Omaha, NE
Student Action with Farmworkers, Durham, NC
Texas Criminal Justice Coalition, Austin, TX