

January 24, 2014

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

**Re: Immigration detention bed mandate in FY 2015 DHS Appropriations**

Dear President Obama:

We, the 136 undersigned non-governmental civil rights, civil liberties, human rights, legal services, and faith-based organizations, urge the Administration to request flexibility to transfer funds between the accounts for detention and alternatives to detention and reject the principle of a mandated daily detention level in its FY 2015 budget request to Congress.

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

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.”<sup>2</sup>

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

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<sup>1</sup> For more information, *see* <http://immigrantjustice.org/sites/immigrantjustice.org/files/Bed%20Mandate%20101%20Backgrounder%20FINAL.pdf>.

<sup>2</sup> 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,” 113<sup>th</sup> Congress, April 11, 2013, *available at* [http://www.micevhill.com/attachments/immigration\\_documents/hosted\\_documents/113th\\_congress/TranscriptOfHouseAppropriationsSubcommitteeHearingOnFY14DHSAppropriations.pdf](http://www.micevhill.com/attachments/immigration_documents/hosted_documents/113th_congress/TranscriptOfHouseAppropriationsSubcommitteeHearingOnFY14DHSAppropriations.pdf).

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.<sup>3</sup> A shift from detention to ATDs, including bond and release on recognizance when appropriate, could save taxpayers an estimated \$1.44 billion annually – a 79 percent reduction in immigration detention costs.<sup>4</sup>

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.<sup>5</sup> 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 make it clear to Congress that the mandate hinders the

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<sup>3</sup> 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](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), 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>.

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

<sup>5</sup> For links to recent media coverage, see [http://immigrantjustice.org/sites/immigrantjustice.org/files/MediaCoverage\\_DetentionBedMandate\\_2013%2011%2004.pdf](http://immigrantjustice.org/sites/immigrantjustice.org/files/MediaCoverage_DetentionBedMandate_2013%2011%2004.pdf).

Administration's efforts to run a cost-efficient, effective, and just immigration enforcement system.

For more information, please contact Lutheran Immigration and Refugee Service's Brittney Nystrom ([bnystrom@lirs.org](mailto:bnystrom@lirs.org) or 202-626-7943) or Human Rights First's Katharina Obser ([obserk@humanrightsfirst.org](mailto: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)  
Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center  
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  
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  
Just Detention International  
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.)  
Presente  
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*

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*

ISIAAH Core Team Mayflower United Church of Christ  
*Minnesota*

Jesuit Social Research Institute  
*Louisiana*

Latino Advocacy  
*Washington*

Latino Policy Forum  
*Illinois*

Lutheran Sevices of Georgia  
*Georgia*

Make the Road New York  
*New York*

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*

Tennessee Immigrant & Refugee Rights Coalition  
*Tennessee*

Washington DREAM Act Coalition  
*Washington*

WeCount!  
*Florida*

Wind of the Spirit, Immigrant Resource Center  
*New Jersey*

cc: Cecilia Munoz, Assistant to the President and Director, Domestic Policy Council,  
Executive Office of the President

Felicia Escobar, Senior Policy Director for Immigration, Domestic Policy  
Council, Executive Office of the President

Sylvia Mathews Burwell, Director, Office of Management and Budget

Jeh Johnson, Secretary, Department of Homeland Security

Alejandro Mayorkas, Deputy Secretary, Department of Homeland Security

John Sandweg, Acting Director, Immigration and Customs Enforcement,  
Department of Homeland Security