

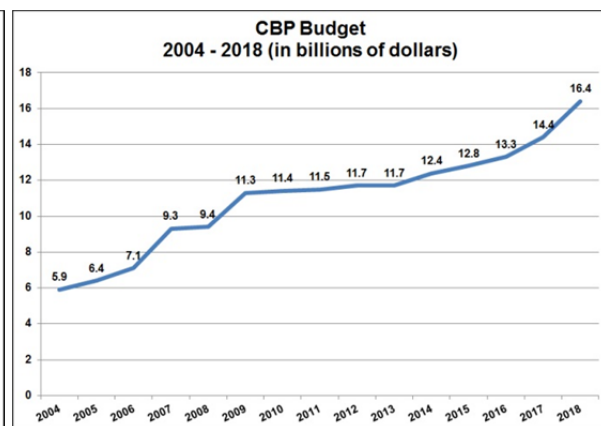
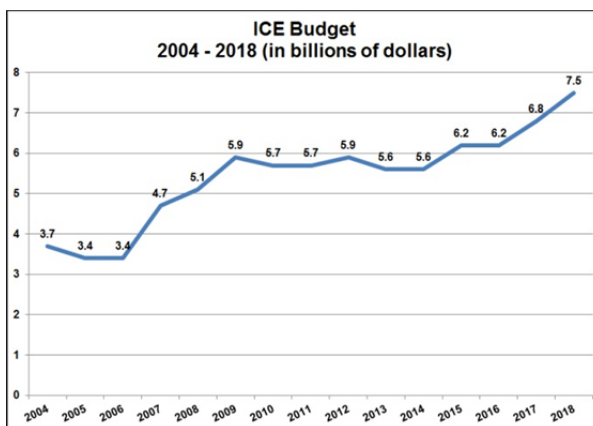
Principles for Negotiating a DHS Budget: Cut Funding for Detention and Enforcement & Ensure Accountability Measures

January 27, 2019

With the longest government shutdown in United States history over, the country turns its attention to the conference negotiating a final spending bill for the Department of Homeland Security (DHS). The stakes are high. The outcome will impact the lives and safety of immigrant communities throughout the United States and asylum seekers seeking safety at our borders. The final bill will also be viewed, in the United States and throughout the world, as a reflection of our national values. Below are three principles that should govern these critical negotiations.

1. Detention and enforcement budgets for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) already are at unprecedented highs, and must be cut.

These negotiations *begin* with ICE and CBP's budgets totaling \$24 billion in taxpayer dollars, a historically unprecedented high.¹ CBP's budget has nearly tripled since DHS's inception in 2003 and ICE's has more than doubled.² The agency's funding has increased while border apprehensions have significantly decreased, with hundreds of thousands fewer people crossing today than decades ago.³ Ironically, even with these massive budget increases, CPB has struggled to hire agents.⁴ Experts warn that efforts to grow the force is making the agency's infamous culture of corruption and abuse even worse.⁵ ICE's immigration detention system has grown by 40 percent just since Trump's inauguration,⁶ with vast sums flowing to private prison companies with histories of abuse and corner-cutting.⁷



ICE's reckless expansion of its network of jails and enforcement operations and CBP's increasingly militarized force exertion on the southern border cause serious harms that must be reined in. DHS's own Inspector General has sounded alarm bells regarding DHS's failure to provide a safe environment for people it detains.⁸ Immigrants in detention endure sexual abuse⁹ and involuntary labor¹⁰ and struggle to communicate with their loved ones and lawyers in remote jails.¹¹ At the southern border, CBP agents are implementing the Trump administration's orchestrated effort to close the border to those seeking safety, illegally turning back asylum seekers and imposing an arbitrary and unnecessary "metering" system that leaves refugees stranded and vulnerable in Mexico.¹² In the interior, CBP is brazenly expanding its zone of militarization through the use of disruptive interior checkpoints.¹³ Refusing to grow the budgets that fuel these abuses is no longer enough; it's time for significant cuts to funding for detention beds, agents, and interior and border enforcement.

2. In any spending deal, Congress must hold DHS accountable to agreed-upon spending levels by limiting the agency's authority to transfer or reprogram money toward building the wall, new detention facilities, or enforcement programs.

In a credible threat to democratic checks and balances, DHS has become extremely effective at manipulating the appropriations process to grow its detention and enforcement machinery. Sections 209 and 503 of the DHS Appropriations Act provide the agency wide discretion to transfer and reprogram money toward its political priorities, and DHS has taken unrelenting advantage of this to grow its detention system in violation of congressional intent.¹⁴ Just last summer, ICE moved more than \$200 million into its detention and removal account from other accounts including the Federal Emergency Management Agency and the Coast Guard.¹⁵ All told, this chicanery has allowed ICE to grow its detention and enforcement budget by nearly one billion dollars (from \$3.2 to \$4.1 billion) in just two years.¹⁶ This pattern is now echoed in the President's threats to pull billions of dollars from other agencies including the Department of Defense to build his wall.¹⁷



The only effective way to end this cycle of harmful spending beyond congressionally imposed limits is to include statutory language in DHS's spending bill sharply limiting its ability to reprogram or transfer funds into detention and enforcement accounts or toward construction of physical barriers on the border.

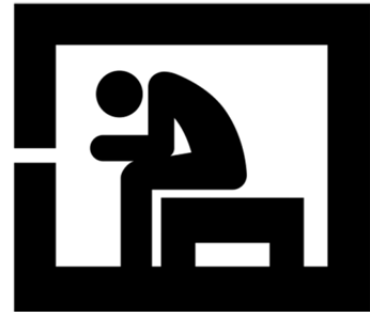
3. Congressional report language is critical for imposing safeguards and reporting obligations, but is not sufficient to hold DHS accountable for abuses.

DHS has repeatedly demonstrated under the Trump administration that it is willing to blow past deadlines and ignore obligations imposed by congressional report language. In December, under intense pressure from civil society and Congress, ICE finally published a web page purporting to comply with congressional reporting requirements regarding in-custody deaths;¹⁸

yet the reporting excluded three deaths that had occurred within the required reporting range and those that were posted were entirely insufficient by any expert's standards.¹⁹ These sham death reviews are only one example of numerous failures by the agency to comply with the letter and/or spirit of congressional reporting obligations. Other recent examples have included posting ICE detention facilities lists that omit entire facilities²⁰ and failing to provide congressionally mandated protections against sexual assault in custody.²¹

Moving forward, obligations put forward in reports and explanatory statements that accompany congressional budgets must be accompanied by stringent oversight mechanisms, and critical obligations should be in statutory text.

Civil society continues to report that approximately half of all deaths in ICE custody are attributable to negligence.²² Whistle blowers warn that conditions in DHS custody are so punishing that Jakelin and Felipe, who recently lost their lives in CBP custody, will not be the last children to die there.²³ In the case of the DHS budget, where and how dollars are spent is literally a life and death matter.



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Read and share these principles online at <https://immigrantjustice.org/staff/blog/principles-negotiating-dhs-budget>

¹ See Department of Homeland Security *Budgets in Brief, FY 2005 – 2019*, available at <https://www.dhs.gov/dhs-budget>; see also Consolidated Appropriations Act of 2018, H.R. 1625, 115th Cong. (2018).

² See *id.* for sourcing for the ICE and CBP spending charts.

³ Miriam Valverde, *Immigration in 5 Charts: A 2018 Midterm Report*, POLITIFACT (Oct. 7, 2018), <https://www.politifact.com/truth-o-meter/article/2018/oct/07/immigration-5-charts-2018-midterm-report/>.

⁴ Molly O'Toole, *Trump Ordered 15,000 New Border and Immigration Officers – But Got Thousands of Vacancies Instead*, L.A. TIMES (Jan. 27, 2019), <http://www.latimes.com/politics/la-na-pol-border-patrol-hiring-20190126-story.html>.

⁵ Vicki B. Gaubeca, *Newly Confirmed CBP Chief Must Tackle Agency's Culture of Violence, Corruption*, THE HILL (Mar. 26, 2018), <https://thehill.com/blogs/congress-blog/homeland-security/380376-newly-confirmed-cbp-chief-must-tackle-agencys-culture>.

⁶ Heidi Altman, *DHS's Secret Detention Expansion is Dangerous for Immigrants, and Democracy*, NATIONAL IMMIGRANT JUSTICE CENTER (Jan. 10, 2019), <https://immigrantjustice.org/index.php/staff/blog/dhss-secret-detention-expansion-dangerous-immigrants-and-democracy>.

⁷ Michaela Ross, *Immigration Spending Surges as White House Calls for More Funds*, BLOOMBERG GOV'T (Jan. 25, 2019), <https://about.bgov.com/blog/immigration-spending-surges/>.

⁸ Tara Tidwell Cullen, *DHS Inspector General Finds Egregious Rights Violations at Immigration Prisons*, NATIONAL IMMIGRANT JUSTICE CENTER (Dec. 14, 2017), <https://immigrantjustice.org/index.php/press-releases/dhs-inspector-general-finds-egregious-rights-violations-immigration-prisons>.

⁹ Alice Speri, *Detained, Then Violated*, THE INTERCEPT (Apr. 11, 2018), <https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/>.

¹⁰ Betsy Woodruff, *Republicans Say Forced Labor is Good for Detained Immigrants in Letter Defending Private Prison*, THE DAILY BEAST (Mar. 15, 2018), <https://www.thedailybeast.com/republicans-say-forced-labor-is-good-for-detained-immigrants-in-letter-defending-private-prison/>.

¹¹ *What Kind of Miracle . . . – The Systematic Violation of Immigrants' Right to Counsel at the Cibola County Correctional Center*, NATIONAL IMMIGRANT JUSTICE CENTER (Nov. 29, 2017), <https://immigrantjustice.org/research-items/report-what-kind-miracle-systematic-violation-immigrants-right-counsel-cibola-county>.

¹² *Refugee Blockade: The Trump Administration's Obstruction of Asylum Claims at the Border*, HUMAN RIGHTS FIRST (Dec. 2018), https://www.humanrightsfirst.org/sites/default/files/December_Border_Report.pdf.

¹³ Ray Sanchez, *Border Patrol Agents are Stopping People on Highways in New England to Check Their Citizenship*, CNN (June 24, 2018), <https://www.cnn.com/2018/06/23/us/maine-new-hampshire-border-patrol-checkpoints/index.html>.

¹⁴ Julia Toepfer and Tara Tidwell Cullen, *ICE Lies, Manipulates, and Takes Money From Other Agencies to Lock Up and Deport More Immigrants*, NATIONAL IMMIGRANT JUSTICE CENTER (Sept. 13, 2018), <https://immigrantjustice.org/index.php/staff/blog/ice-lies-manipulates-and-takes-money-other-agencies-lock-and-deport-more-immigrants>.

¹⁵ Camila Damososke, *Trump Administration Transferred \$9.8 Million From FEMA to ICE*, NPR (Sept. 12, 2018), <https://www.npr.org/2018/09/12/647021316/trump-administration-transferred-9-8-million-from-fema-to-ice/>.

¹⁶ See Heidi Altman and Mary Small, *By the Numbers: Manipulation of the Appropriations Process by DHS Fuels Detention Expansion*, NATIONAL IMMIGRANT JUSTICE CENTER and DETENTION WATCH NETWORK (Aug. 2018), http://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-08/DHS_Manipulates_Appropriations_OnePager_2018-08-29_FINAL.pdf.

¹⁷ Priscilla Alvarez and Tammy Cupperman, *Exclusive: White House Preparing Draft National Emergency Order, Has Identified \$7 Billion for Wall*, CNN (Jan. 24, 2019), <https://www.cnn.com/2019/01/24/politics/trump-border-wall-emergency-draft/index.html>.

¹⁸ Heidi Altman and Tara Tidwell Cullen, *Dear ICE: Congress is Watching, and So Are We*, NATIONAL IMMIGRANT JUSTICE CENTER (Apr. 05, 2018), <https://immigrantjustice.org/staff/blog/dear-ice-congress-watching-and-so-are-we>.

¹⁹ Tara Tidwell Cullen, *ICE Releases Sham Immigrant Death Reports As It Dodges Accountability and Flouts Congressional Requirements*, NATIONAL IMMIGRANT JUSTICE CENTER (Dec. 19, 2018), <https://immigrantjustice.org/press-releases/ice-releases-sham-immigrant-death-reports-it-dodges-accountability-and-flouts>.

²⁰ *Secret Expansion: ICE's Deception About Metastasizing Detention System Continues*, DETENTION WATCH NETWORK and NATIONAL IMMIGRANT JUSTICE CENTER, https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2018-09/ICE_Facilities_Matrix_Memo_2018-09-05_1.pdf.

²¹ NGO Letter to Appropriators – Reject Transfer (June 26, 2018), https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2018-06/NGOLettertoAppropriators-reject_transfer-June26-2018.pdf.

²² *Code Red – The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention*, HUMAN RIGHTS WATCH, <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration#>.

²³ Scott A. Allen and Pamela McPherson, *We Warned DHS That a Migrant Child Could Die in U.S. Custody. Now One Has.*, WASH. POST (Dec. 19, 2018), https://www.washingtonpost.com/outlook/2018/12/19/we-warned-dhs-that-migrant-child-could-die-us-custody-now-one-has/?utm_term=.64b1c0c0e045; see also Scott Bixby, *No Place For Children – Doctors Warn More Children in Border Patrol Stations Could Die like Felipe and Jakelin*, THE DAILY BEAST (Dec. 28, 2018), <https://www.thedailybeast.com/doctors-warn-more-children-in-border-patrol-stations-could-die-like-felipe-and-jakelin>.

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