

United States Senate

WASHINGTON, DC 20510

April 15, 2019

The Honorable Richard Shelby
Chairman
Senate Committee on Appropriations

The Honorable Patrick Leahy
Vice Chairman
Senate Committee on Appropriations

The Honorable Shelley Moore Capito
Chairwoman
Subcommittee on Homeland Security
Committee on Appropriations

The Honorable Jon Tester
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations

Dear Chairman Shelby, Vice Chairman Leahy, Chairwoman Capito, and Ranking Member Tester:

As your Committee considers fiscal year 2020 Department of Homeland Security (DHS) appropriations, we ask that you reduce funding for the administration's reckless immigration enforcement and detention operations that are tearing families apart and harming the American economy. We also ask that you include language limiting the DHS Secretary's ability to transfer funds for the purpose of detaining immigrants. Furthermore, we urge you to reject President Trump's FY20 request for a significant increase in Immigration and Customs Enforcement (ICE) personnel and detention beds, as well as his request to fund construction of his costly and ineffective border wall.

First, consistent with our deep concern regarding the administration's embrace of indiscriminant enforcement, we urge the Committee to reduce funding for beds in the federal immigration detention system. The immigration detention system is plagued by limited oversight and accountability and inhumane conditions. Federal oversight bodies have identified extreme management shortcomings, including deficient contracting policies and a lack of reasonable inspections.¹ ICE immigration detention facilities and ICE contractors often fail to comply with ICE's own set of performance-based standards of care for detainees, and ICE does not have systems in place to provide for the comprehensive correction of deficiencies.² According to a

¹ U.S. Department of Homeland Security Office of Inspector General, "Management Alert—Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto California," September 27, 2018, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>; U.S. Department of Homeland Security Office of Inspector General, "ICE Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements," June 26, 2018, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>

² U.S. Department of Homeland Security Office of Inspector General, "Management Alert—Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto California," September 27, 2018, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>; U.S. Department of Homeland Security Office of Inspector General, "ICE Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements," June 26, 2018, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>; U.S. Department of Homeland Security Office of Inspector General, "Management Alert on Issues Requiring Immediate Action at the Theo Lacy

report published by the DHS Office of Inspector General (DHS OIG), problems in ICE detention facilities undermine the protection of detainee rights, the humane treatment of detainees, and the provision of a safe and healthy environment.³ We are alarmed by the reported mistreatment and abuse of pregnant women in these facilities that in some cases resulted in dehydration, bleeding, and miscarriage, as well as reported instances of coercion and abuse of detained separated parents who have been compelled to forgo their legal rights—including their right to reunify with their children.⁴ We cannot in good conscience support increased funding for immigration detention beds that effectively sustain such cruel purposes.

Second, we urge the Committee to reject President Trump’s request for funding to hire additional ICE agents at this time. Under current funding levels, the administration has expanded immigration enforcement within American communities indiscriminately, failing to distinguish hardworking individuals with deep community ties and no criminal record from individuals convicted of a serious crime. According to recently released data, ICE has set a record for arrests of undocumented immigrants with no criminal record—arresting an average of 4,219 undocumented immigrants without a criminal record for each month of the Trump administration.⁵ Congress should not support an unjustified increase in support for interior enforcement that separated numerous mixed-status families and traumatized American children.

Third, we request that you include the following legislative language: “Notwithstanding Section 503 of this Act or any other provision of law, ICE shall not obligate more than the amount that is appropriated by this Act for enforcement, detention and removal operations.” Congress must reassert its prerogative to determine the quantity of funds available to the Department of Homeland Security for specific purposes and return detention funding to Fiscal Year 2016 levels.

Facility in Orange, California,” March 6, 2017, available at:

<https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>

³ U.S. Department of Homeland Security Office of Inspector General, “Concerns about ICE Detainee Treatment and Care at Detention Facilities,” December 11, 2017, available at:

<https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>

⁴ See *Complaint: U.S. Immigration and Customs Enforcement’s Detention of Pregnant Women*, September 26, 2017, available at: <https://www.womensrefugeecommission.org/images/zdocs/Joint-Complaint-CRCL-ICE-Detention-of-Pregnant-Women-Sep2017.pdf>;

American Academy of Pediatrics, American College of Obstetricians and Gynecologists, and American Academy of Family Physicians, *Letter to ICE Acting Director Homan*, March 30, 2018, available at: <https://www.aafp.org/dam/AAFP/documents/advocacy/prevention/women/LT-DeputyDirectorHoman-033018.PDF>;

Opheli Garcia Lawler, *Nearly 30 Women Have Miscarried While Detained by ICE Since 2017*, THE CUT, March 4, 2019, available at: <https://www.thecut.com/2019/03/nearly-30-women-miscarried-while-detained-by-ice-since-2017.html>; Scott Bixby, *Immigrant Miscarriages in ICE Detention Have Nearly Doubled Under Trump*, March 1, 2019, THE DAILY BEAST, available at:

<https://www.thedailybeast.com/immigrant-miscarriages-in-ice-detention-have-nearly-doubled-under-trump>; See *Complaint: The Use of Coercion by U.S. Department of Homeland Security Officials Against Parents Who Were Forcibly Separated From Their Children*, August 23, 2108, available at: <https://www.aila.org/advo-media/press-releases/2018/complaint-re-coercive-tactics-on-separated-parents/the-use-of-coercion-by-us-department-of-homeland>

⁵ Alan Gomez, *ICE Sets Record for Arrests of Undocumented Immigrants with No Criminal Record*, USA TODAY, March 21, 2019, available at: <https://www.usatoday.com/story/news/politics/2019/03/21/ice-sets-record-arrests-undocumented-immigrants-no-criminal-record/3232476002/>

Finally, we strongly urge the Committee to reject funding for President Trump's border wall.⁶ A border wall would do little to aid drug interdiction efforts, as the majority of narcotics entering the U.S. from Mexico by land move primarily through our ports—a fact confirmed by DHS and the U.S. Drug Enforcement Agency.⁷ Instead, supporting the use of new technologies to monitor border crossings at ports-of-entry represents a better investment in border security. President Trump's attempt to secure funding for his border wall by circumventing Congress and declaring a national emergency would siphon funds from critical programs such as the Department of Defense's drug interdiction program and the Treasury Department's drug forfeiture fund.⁸ Congress must resist efforts to raid critical and effective public safety programs in order to pay for political theatrics. The president's manufactured emergency cannot justify spending taxpayer dollars on an ineffective wall.

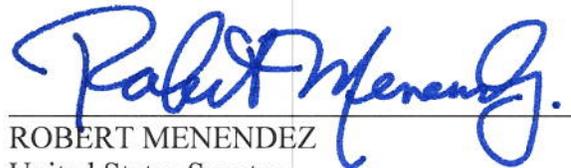
We cannot support the appropriation of funds that would expand this administration's unnecessarily cruel immigration enforcement policies, its inhumane immigrant detention systems, or its efforts to build the president's vanity project.

Thank you for your consideration of this request.

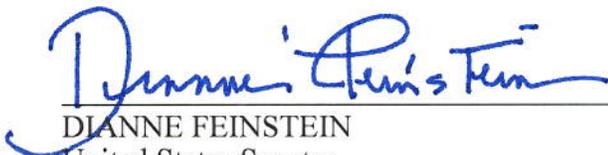
Sincerely,



KAMALA D. HARRIS
United States Senator



ROBERT MENENDEZ
United States Senator



DIANNE FEINSTEIN
United States Senator



RICHARD J. DURBIN
United States Senator

⁶ Jacob Pramuk, *Trump's \$8.6 Billion Border Wall Request Sets Up Months More Fighting with Democrats Ahead of 2020*, March 11, 2019, CNBC, available at: <https://www.cnbc.com/2019/03/11/pelosi-and-schumer-criticize-border-wall-money-request-in-trump-budget.html>

⁷ Phillip Bump, *Want to Know Where Most Drugs Cross the Border? Look at the Border Patrol's News Releases*, February 1, 2019, THE WASHINGTON POST, available at https://www.washingtonpost.com/politics/2019/02/01/want-know-where-most-drugs-cross-border-look-border-patrols-press-releases/?utm_term=.46103cc7a4d0; Alan Gomez, *Fact Checking Trump Officials: Most Drugs Enter U.S. Through Legal Ports of Entry, Not Vast, Open Border*, January 16, 2019, available at: <https://www.usatoday.com/story/news/politics/2019/01/16/fact-check-mike-pence-donald-trump-drugs-crossing-southern-border-wall/2591279002/>

⁸ Amanda Macias and John W. Schoen, *Here's Where the Money for Trump's Border Wall Will Come From*, February 15, 2019, available at: <https://www.cnbc.com/2019/02/15/heres-where-the-money-for-trumps-border-wall-will-come-from.html>



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