

May 14, 2012

The Honorable Mary L. Landrieu, Chairwoman
Subcommittee on Homeland Security
Senate Committee on Appropriations
Dirksen Senate Office Building, Suite 431
Washington, DC 20510

The Honorable Dan Coats, Ranking Member
Subcommittee on Homeland Security
Senate Committee on Appropriations
Dirksen Senate Office Building, Suite B430E
Washington, DC 20510

Dear Chairwoman Landrieu and Ranking Member Coats,

As a coalition of immigration, civil rights, civil liberties, faith-based, and community organizations, we offer the following views with respect to the funding of immigration detention and custody in the fiscal year 2013 Homeland Security appropriations bill. Specifically, we ask you to support the Department of Homeland Security's (DHS) request to decrease spending on detention beds by \$53.4 million, which will reduce the government's reliance on costly and unnecessary immigration detention. We also ask that the Senate be particularly vigilant in keeping out of the bill any language that establishes a mandatory number of beds that DHS must maintain each day. Finally, we recommend greater spending for alternatives to detention.

Reduce detention bed funding. Institutional detention is extremely expensive and often unnecessary to achieve the government's law enforcement and homeland security goals. In FY 2012, Congress appropriated funds to maintain 34,000 detention beds per day—the highest number of beds ever funded and far above what the Administration had requested. While the number of individuals held in detention continues to increase annually, attempted illegal crossings have dropped to a level not seen since the 1970s and the undocumented population in the U.S. continues to fall. On February 15, 2012, Secretary Napolitano testified before the House Appropriations Subcommittee on Homeland Security regarding the 2013 budget and stated that DHS did not need the extra bed capacity that Congress had funded for FY 2012. “Today as I sit here before you, we have enough beds to handle the detained population.”

In its FY 2013 request, the Administration asked for a \$53.4 million decrease in detention bed funding for a total of 32,800 daily detention beds. We ask, at a minimum, that you appropriate no more funds than the Administration has sought for detention.

No mandatory minimum on detention beds. In addition, Congress should not impose upon DHS a mandatory minimum number of detention beds for it to maintain on a daily basis. The FY 2012 bill includes such language:¹

¹ See pp. 165, 195 of H.R. 2055, Consolidated Appropriations Act, 2012, P.L. 112-74 *available at* <http://www.gpo.gov/fdsys/pkg/BILLS-112hr2055enr/pdf/BILLS-112hr2055enr.pdf>

Provided further, That funding made available under this heading shall maintain a level of not less than 34,000 detention beds through September 30, 2012

Provided further, That any sale or collocation of federally owned detention facilities shall not result in the maintenance of fewer than 34,000 detention beds

DHS has interpreted these phrases as requiring that 34,000 beds be filled on a daily basis resulting in the unnecessary spending of funds on detention beds. Such a mandate prevents ICE from using its enforcement resources in the most efficient and cost-effective way possible, at great expense to the American taxpayer. Rather than a per-day bed quota, ICE's use of bed space should be based on actual need. The Administration has requested "flexibility" in its allocation of detention and custody dollars. We urge you to ensure that no language be included in the bill or report language requiring a mandatory minimum number of beds.

Increase alternatives to detention. Finally, locking up individuals facing civil immigration charges should be a last resort—used only when other means of supervision cannot mitigate flight risk or threats to public safety. Though ICE has made improvements to its immigration detention system, conditions remain unsafe and inhumane in many facilities. Detention can also have a devastating impact on families particularly children who cannot understand why their parents have been taken away. A recent report estimates that there are over 5000 children currently living in foster care whose immigrant parents have either been detained or deported.²

Rather than incarceration, ICE's supervision and monitoring methods—often referred to as alternatives to detention—should be used to a much greater extent. In recognition that such alternatives are effective and less costly, the Administration has requested a \$40 million increase in alternative to detention program funding. In addition to supporting this request, we urge you to direct \$15 million of the increase to contracts with non-governmental organizations (NGOs) to develop additional alternative programs. NGOs are mission-driven and generate more community resources because of their ability to attract volunteers and donations of goods and services, and have a track record of creating effective community-centered release programs.

We thank you for your consideration. Please contact Greg Chen, gchen@aila.org, or Alexa Alonzo, aalonzo@aila.org if you have questions.

Sincerely,

African Services Committee
The Advocates for Human Rights
American Immigration Lawyers Association
Asian American Justice Center, a member of the Asian American Center for Advancing Justice
Chicago Religious Leadership Network

² *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*, Applied Research Center, November 2011 available at <http://arc.org/shatteredfamilies>.

Farmworker Justice
Florida Coastal Immigrant Rights Clinic
Georgia Detention Watch
Heartland Alliance's National Immigrant Justice Center
Human Rights First
Immigration Equality
Immigrant Law Center of Minnesota
Jacksonville Area Legal Aid, Inc.
Jesuit Social Research Institute/Loyola University New Orleans
Just Detention International
Kids in Need of Defense (KIND)
Lutheran Immigration and Refugee Service
Massachusetts Immigrant and Refugee Advocacy Coalition
National Center for Transgender Equality
National Council of La Raza (NCLR)
National Immigration Forum
National Immigration Law Center
New York Immigration Coalition
Northwest Immigrant Rights Project
Physicians for Human Rights
Rights Working Group
South Asian Americans Leading Together (SAALT)
The Constitution Project
The Reformed Church of Highland Park, NJ
United Methodist Church, General Board of Church and Society
University of Miami School of Law Immigration Clinic
U.S. Conference of Catholic Bishops
Who Is My Neighbor? Inc.
Women's Refugee Commission