

Congress of the United States

Washington, DC 20515

February 5, 2019

The Honorable Richard Shelby
Chairman
Senate Appropriations 304 Russell
Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Chairwoman
Homeland Security Subcommittee
171 Russell Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Senate Appropriations
437 Russell Senate
Washington, DC 20510

The Honorable Jon Tester
Ranking Member
Homeland Security Subcommittee
311 Hart Senate
Washington, DC 20510

The Honorable Richard Durbin
711 Hart Senate
Washington, DC 20510

The Honorable John Hoeven
338 Russell Senate
Washington, DC 20510

The Honorable Roy Blunt
260 Russell Senate
Washington, DC 20510

The Honorable Tom Graves
2078 Rayburn HOB
Washington, DC 20515

The Honorable Steven Palazzo
2349 Rayburn HOB
Washington, DC 20515

The Honorable Nita Lowey
Chairwoman
House Appropriations Committee
2365
Rayburn HOB
Washington, DC 20515

The Honorable Lucille Roybal-Allard
Chairwoman
Homeland Security Subcommittee
2083 Rayburn HOB
Washington, DC 20515

The Honorable Kay Granger
Ranking Member
House Appropriations
1026 Longworth HOB
Washington, DC 20515

The Honorable Chuck Fleischmann
Ranking Member
Homeland Security Subcommittee
2410 Rayburn HOB
Washington, DC 20515

The Honorable David Price
2108 Rayburn HOB
Washington, DC 20515

The Honorable Barbara Lee
2470 Rayburn HOB
Washington, DC 20515

The Honorable Henry Cuellar
2372 Rayburn HOB
Washington, DC 20515

The Honorable Pete Aguilar
109 Cannon HOB
Washington, DC 20515

Honorable Members of the Department of Homeland Security Conference Committee,

We are still recovering from the longest shutdown in U.S. history due to President Trump's obstinate demand for a border wall. President Trump is responsible for inflicting irreparable harm to communities and government workers and contractors across the nation. Simultaneously, we continue to see the Trump administration hold real people hostage—from Dreamers and TPS holders to federal personnel—as it carries out its xenophobic and cruel immigration policy agenda. This heartless and often illegal agenda includes: the Muslim Ban, family separation, mass jailing of immigrants, community raids and arrests of long-time U.S. residents, tear gassing families and toddlers at our border, gutting asylum protections, terminating the Northern Mariana Islands' parole policies and the rescissions of the Deferred Action for Childhood Arrivals (DACA) program and grants of Temporary Protected Status (TPS).

As you determine how to allocate taxpayer dollars for the remaining fiscal year, we urge you to: **(1) oppose increases in funding for U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) for the purposes of immigration detention, Trump' deportation force, the border wall-- and ensure that certain types of detention are not expanded or replaced in ways that conflict with the goal of reducing detention overall; (2) increase transparency, accountability, and oversight of ICE and CBP, including by requiring annual audits of spending in all programs and inspections of all detention facilities whether operated by DHS or its contractors and limiting ICE and CBP's ability to transfer or reprogram funds from other accounts in order to build a wall or border barriers, increase detention, or ramp up enforcement; (3) ensure that investments in border technology do not infringe on privacy and civil liberties.**

The Trump administration has carried out its anti-immigrant agenda with appropriated funds from Congress. Since the inception of the Department of Homeland Security in 2003, the budget for Immigration and Customs Enforcement (ICE) has more than doubled and

the budget for Customs and Border Protection (CBP) has nearly tripled.^[i] ICE and CBP are now funded at unprecedented levels, enabling this administration to continue its overly aggressive enforcement against immigrant and border communities.

Worse still, this administration deliberately ignores oversight and undermines the role of Congress as a co-equal branch of government. Although border crossings are near historic lows, and a majority of crossers are families and children who usually turn themselves in to seek protection, President Trump continues to manufacture crises at our border to justify needless spending on border enforcement.^[ii] Yet the border security plan required by the fiscal year (FY) 2018 Omnibus Appropriations Act, which was due on September 19, 2018,^[iii] but not submitted until December 21, 2018, utterly failed to address almost all of the statutorily mandated requirements. We expect the Government Accountability Office (GAO) to validate that conclusion when it reports back to Congress on the strengths and weaknesses of the plan. Rather than using the evidence-based approach mandated by the FY 2018 funding bill, the agency is once again requesting a blank check from Congress and asking us to trust the agency's prioritization of funds.

ICE is also consistently undermining basic principles of fiscal responsibility to inflict suffering on immigrants. During the government shutdown, ICE inexplicably expanded its use of detention beds above congressionally mandated levels.^[iv] The agency has also used the DHS Appropriations Act to transfer and reprogram funds in ways that violate the intent of Congress. For example, last summer, ICE quietly moved more than \$200 million into its detention and removal account, including \$10 million from the Federal Emergency Management Agency (FEMA) just before the height of hurricane season.^[v]

We can all agree our immigration system is in desperate need of reform. Yet an enforcement-only approach to immigration will only exacerbate our serious problems. DHS has poorly prioritized its funding, but Congress can move toward meaningful reforms through the funding decisions it makes. For example, CBP is the nation's largest federal law enforcement agency, but refuses to adopt law-enforcement best practices like body-worn cameras and has a longstanding track record of abuse and acting with impunity. CBP has already constructed 654 miles of wall at our southern border, yet disregards the urgent need for critical investments at ports of entry. Border walls and the associated hyper-militarization of the border region don't make us safer or address the root causes that motivate individuals to make the trek to our border. Instead, walls harm quality of life for border communities, endanger wildlife and the environment, and are a colossal waste of taxpayer dollars. Indeed, 30 cities and counties in the southern border region have issued resolutions opposing border walls.

ICE, for its part, has long-ignored deaths, sexual assaults, and other serious abuses in its detention facilities.^[vi] Instead, the agency operates a network of over 200 jails with insufficient oversight and accountability; the DHS Inspector General recently issued a report finding ICE's inspection process--through which ICE inspects its own facilities--to be significantly deficient.^[vii] Rather than allowing the agency to expand its jailing of immigrants, Congress has an opportunity to reverse that growth and tie funding to increased oversight and accountability mechanisms.

ICE and CBP also have a long history of deploying technology wastefully and irresponsibly, without sufficient consideration of the potential privacy and civil liberties impact. Thus, efforts to deploy additional technology at the border cannot amount to simply a blank check to the agency to deploy additional surveillance technologies that trample the privacy of border communities. For example, reports from the DHS Inspector General have found that CBP failed to prove the value of its drone program, drastically understated its costs, and lacked effective safeguards for surveillance information including videos and images.^[viii]

Any new technology deployment should be premised on a finding by an independent auditor, such as the Government Accountability Office (GAO), that the technology has efficacy and appropriate privacy protections; clearly limits the use, retention, and collection of information; requires transparency; and ensures appropriate rulemaking. In addition, there should be a prohibition of funding technologies, like aerial surveillance, likely to adversely impact the rights of border residents.

Rather than reward CBP and ICE for the agencies' fiscal mismanagement and deliberate defiance of congressional intent and the Constitution--not to mention their long list of human rights and civil liberties abuses--we ask our colleagues to hold these agencies accountable through the appropriations process. Providing DHS with a blank check for more enforcement resources would vindicate President Trump's so-called "crisis" at our southern border and fortify his out-of-control detention and deportation force. At a time when the country is deeply disturbed by the Trump administration's anti-immigrant agenda, we cannot miss this opportunity to rein in the agency chiefly responsible for carrying it out.

Sincerely,



Joaquin Castro
Congressional Hispanic Caucus
Chair



Ruben Gallego
Congressional Hispanic Caucus
First Vice Chair

Nanette Diaz Barragan

Nanette Diaz Barragan
Congressional Hispanic Caucus
Second Vice Chair

Adriano Espaillat

Adriano Espaillat
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Veronica Escobar

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Darren Soto

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Norma J. Torres

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Jesus "Chuy" Garcia

Jesus "Chuy" Garcia
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Sylvia Garcia

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Debbie Mucarsel-Powell

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Raul M. Grijalva

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Gregorio Kilili Camacho Sablan

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Jimmy Gomez

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Ben Ray Lujan

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Member of Congress

Linda T. Sanchez

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Member of Congress

J. Luis Correa

J. Luis Correa
Member of Congress

^[i] 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).

^[ii] See, e.g., 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.

^[iii] See Section 231 of the Consolidated Appropriations Act of 2018, requiring the Secretary to submit to both Appropriations Committees, on or before September 19, 2018 a risk-based border-security plan.

^[iv] Hamed Aleaziz, BuzzFeed, "ICE might be violating federal law by keeping immigrants detained during the shutdown," Jan. 9, 2019,

<https://www.buzzfeednews.com/article/hamedaleaziz/shutdown-ice-detention-may-violate-federal-law>; 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>.

^[v] Camila Domonoske, 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/>.

^[vi] See, e.g., 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#>; Alice Speri, Detained, Then Violated, The Intercept (Apr. 11, 2018), <https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/>.

^[vii] Dep't of Homeland Security Office of Inspector General, *OIG 18-67, ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements* (June 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

^[viii] https://www.oig.dhs.gov/assets/pr/2015/oigpr_010615.pdf