

# United States Senate

WASHINGTON, DC 20510

April 27, 2018

The Honorable Richard Shelby  
Chairman  
Senate Committee on Appropriations

The Honorable Patrick Leahy  
Ranking Member  
Senate Committee on Appropriations

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

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

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

As your Committee considers fiscal year 2019 appropriations for the Department of Homeland Security (DHS), we ask you to reject President Trump's FY19 funding request for a costly and ineffective border wall, new Border Patrol agents, and a large increase in U.S. Immigration and Customs Enforcement (ICE) personnel and detention beds. We urge you to reduce funding for the administration's reckless immigration enforcement operations that are tearing families apart and harming our economy. We are particularly concerned about the threat that such operations pose to former and current Deferred Action for Childhood Arrivals (DACA) recipients who are now at risk as a result of the administration's unilateral and callous decision to end the program.

Under current funding levels, the Administration has expanded immigration enforcement within American communities in an indiscriminate manner, failing to distinguish Dreamers and other hardworking individuals with deep community ties from actual threats to our public safety. ICE Acting Director Thomas Homan has made repeated statements confirming that ICE is no longer adhering to enforcement priorities that focus resources on individuals who pose the greatest public safety threats. Homan has repeatedly declared, for example, that, "No population is off the table."<sup>1</sup>

During Fiscal Year 2017, ICE Enforcement and Removal Operations (ERO) arrests of individuals without criminal convictions doubled compared to the prior year.<sup>2</sup> During the last three months of 2017, ICE arrests of individuals who had no criminal background tripled compared to the same period the prior year.<sup>3</sup> Further, over the past year, ICE ERO has

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<sup>1</sup> *Detentions Spike, Border Arrests Fall in Trump's First Year*, ASSOCIATED PRESS, Dec. 5, 2017, available at <https://wtop.com/national/2017/12/apnewsbreak-border-arrests-plunge-deportation-arrests-soar/>

<sup>2</sup> U.S. Immigration and Customs Enforcement, *Fiscal Year 2017 ICE Enforcement and Removal Operations Report*, Dec. 2017, available at <https://www.ice.gov/sites/default/files/documents/Report/2017/iceEndOfYearFY2017.pdf>

<sup>3</sup> Elliot Spagat, *U.S. Deportations Targeting More People with No Crime Records*, ASSOCIATED PRESS, Feb. 23, 2018, available at <http://abcnews.go.com/US/wireStory/us-deportations-targeting-people-crime-records-53320158>



dramatically ramped up immigration raids targeting American workplaces and neighborhoods.<sup>4</sup> DHS has articulated no strategy for how it will ensure that Dreamers are not caught up in the expanding enforcement net.

In line with our deep concern about the Administration's embrace of indiscriminate enforcement, we urge the Committee to reduce funding for beds in the federal immigration detention system. This system is plagued by limited oversight and accountability and inhumane conditions – multiple federal oversight bodies have identified extreme management shortcomings, including deficient contracting practices and a lack of reasonable inspections.<sup>5</sup> Immigration detention facilities do not adhere to a consistent set of performance-based standards, allowing for unsanitary, dangerous, and even life-threatening conditions within some facilities.<sup>6</sup> We are also alarmed by the Administration's announcement of a new policy to expand detention of pregnant women and reporting that DHS is also frequently separating immigrant families and holding children in federal custody for prolonged periods.<sup>7</sup> We cannot in good conscience support funding immigration detention beds that may be used for such cruel purposes.

We also strongly urge the Committee to reject any funding for President Trump's border wall, estimated to cost up to \$70 billion, not including projected maintenance.<sup>8</sup> Rigorous study of border security needs and the relative effectiveness of technology and infrastructure investments is essential before Congress appropriates any funds for the construction of a wall along the southwestern border. Investment in port-of-entry security and technologies to monitor border crossings would be a much more effective border security investment than a physical wall. A wall, in fact, would do little to aid federal drug interdiction efforts as the U.S. Drug Enforcement Agency has found – and DHS officials have publicly admitted – that drugs entering the U.S. from Mexico by land are mostly concealed in passenger vehicles and tractor trailers entering through ports of entry, while drugs from other sources mostly enter the country via plane and boat.<sup>9</sup>

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<sup>4</sup> *Fiscal Year 2017 ICE ERO Report*

<sup>5</sup> See Office of Inspector General, U.S. Department of Homeland Security, *Concerns about ICE Detainee Treatment and Care at Detention Facilities*, Dec. 17, 2017, available at <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>; *Immigration and Customs Enforcement Did Not Follow Federal Procurement Guidelines When Contracting for Detention Services*, Feb. 21, 2018, available at <https://www.oig.dhs.gov/sites/default/files/assets/2018-02/OIG-18-53-Feb18.pdf>; *Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California*, March 6, 2017, available at <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>;

<sup>6</sup> *Id.*

<sup>7</sup> Maria Sacchetti, *Trump Administration Ends Automatic Release from Immigrant Detention for Pregnant Women*, THE WASHINGTON POST, March 29, 2018, available at: [https://www.washingtonpost.com/local/immigration/trump-administration-ends-automatic-release-from-detention-for-pregnant-women/2018/03/29/8b6b1bc0-3365-11e8-8abc-22a366b72f2d\\_story.html](https://www.washingtonpost.com/local/immigration/trump-administration-ends-automatic-release-from-detention-for-pregnant-women/2018/03/29/8b6b1bc0-3365-11e8-8abc-22a366b72f2d_story.html); Caitlin Dickerson, *Hundreds of Immigrant Children Have Been Taken From Parents at U.S. Border*, THE NEW YORK TIMES, Apr. 20, 2018, available at <https://www.nytimes.com/2018/04/20/us/immigrant-children-separation-ice.html?mtref=undefined&gwh=669D4F470AFBF5CA981BE532B875F184&gwt=pay>

<sup>8</sup> *Southern Border Wall: Soaring Cost Estimates and Lack of Planning Raise Fundamental Questions About Administration's Key Domestic Priority*, HSGAC, MINORITY STAFF REPORT 4, April 2017, available at <https://www.hsgac.senate.gov/border-wall-report>

<sup>9</sup> Jana Winter, *Trump Says Border Wall Will Stop Drugs. Here's What a DEA Intel Report Says*, FOREIGN POLICY, Aug. 29, 2017, available at <http://foreignpolicy.com/2017/08/29/trump-says-border-wall-will-stop-drugs-heres-what-a-dea-intel-report-says/>; Eugene Kiely, *Fact Check: Will President Trump's Border Wall Stop Drug*



We urge the Committee additionally to reject President Trump's proposal for funding to hire new Border Patrol personnel at this time. The current Border Patrol workforce is smaller in size than is statutorily authorized and the agency suffers from well-documented challenges in retention of personnel.<sup>10</sup> This stems in part from management failures to retain the talent of existing Border Patrol agents, who face insufficient job mobility and pay. Rather than increase the size of the Border Patrol, current agents should be supported with retention incentives, enhanced training and improved guidance to promote the highest standards of integrity and to enhance public safety.

The Trump administration has fueled great anxiety and undermined the public safety of communities nationwide with its embrace of indiscriminate immigration enforcement. We cannot support the appropriation of funds that may be used by federal officials to support efforts to arrest, detain, and deport Dreamers who have needlessly been placed in a circumstance of immense fear and insecurity by this administration.

Thank you for your consideration of this request and for your considerable efforts on the omnibus appropriations bill.

Sincerely,



KAMALA D. HARRIS  
United States Senator



ROBERT MENENDEZ  
United States Senator



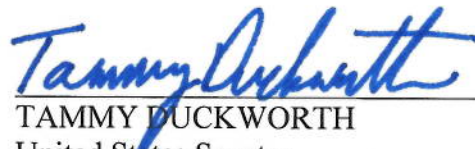
RICHARD J. DURBIN  
United States Senator



MAZIE K. HIRONO  
United States Senator



DIANNE FEINSTEIN  
United States Senator



TAMMY DUCKWORTH  
United States Senator

*Smuggling?* USA TODAY, Aug. 31, 2017, available at <https://www.usatoday.com/story/news/politics/2017/08/31/fact-check-president-trump-border-wall-drug-smuggling/619865001/>

<sup>10</sup> Office of Inspector General, U.S. Department of Homeland Security, *Special Report: Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers*, July 27, 2017, available at <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-98-SR-Jul17.pdf>



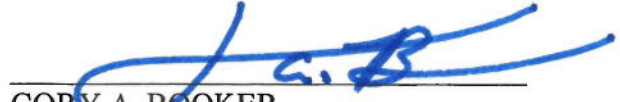
TINA SMITH  
United States Senator



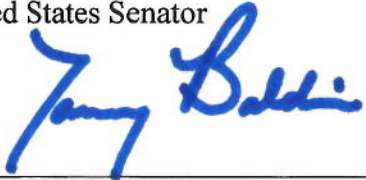
BERNARD SANDERS  
United States Senator



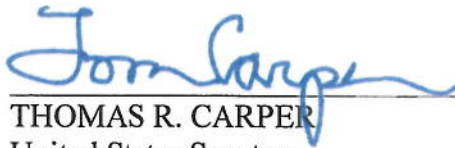
KIRSTEN GILLIBRAND  
United States Senator



CORY A. BOOKER  
United States Senator



TAMMY BALDWIN  
United States Senator



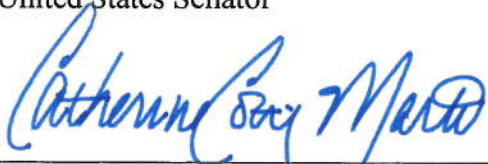
THOMAS R. CARPER  
United States Senator



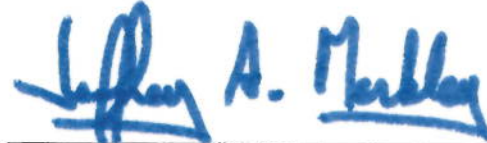
CHRISTOPHER A. COONS  
United States Senator



RICHARD BLUMENTHAL  
United States Senator



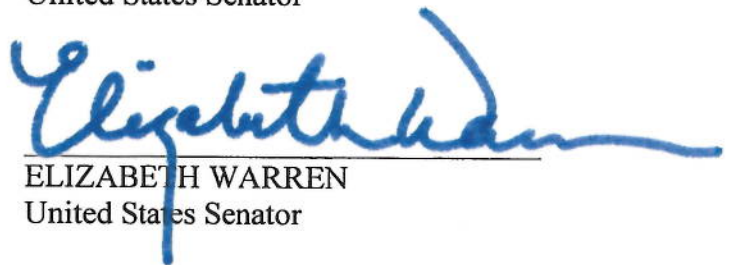
CATHERINE CORTEZ MASTO  
United States Senator



JEFFREY A. MERKLEY  
United States Senator



EDWARD J. MARKEY  
United States Senator



ELIZABETH WARREN  
United States Senator



MICHAEL F. BENNET  
United States Senator



CHRIS VAN HOLLEN  
United States Senator

A handwritten signature in blue ink that reads "Ben Cardin". The signature is fluid and cursive, with the first name "Ben" and last name "Cardin" clearly distinguishable.

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BENJAMIN L. CARDIN

United States Senator