

# United States Senate

June 25, 2021

The Honorable Patrick Leahy  
Chairman  
Senate Committee on Appropriations

The Honorable Chris Murphy  
Chairman  
Subcommittee on Homeland Security  
Committee on Appropriations

The Honorable Richard Shelby  
Vice Chairman  
Senate Committee on Appropriations

The Honorable Shelley Moore Capito  
Ranking Member  
Subcommittee on Homeland Security  
Committee on Appropriations

Dear Chairman Leahy, Vice Chairman Shelby, Chairman Murphy, and Ranking Member Capito:

As you consider FY 2022 Department of Homeland Security (DHS) appropriations, we write to urge you to reduce funding for immigration enforcement and detention operations. Specifically, we urge you to ensure that the FY 2022 appropriations bill decreases funding for U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) agents and reduces funding for the administration's immigration enforcement and detention operations.

Under the Trump administration, funding for immigration and border enforcement, detention, barriers, and agents increased at an alarming pace. The prior administration used those funds to virtually eliminate the ability to seek refuge at the border and find safety in our communities. President Biden's discretionary budget request for FY 2022 calls for \$8.4 billion for ICE and

\$16.3 billion for CBP, a slight increase from the FY 2021 enacted level.<sup>1</sup> As the administration uses its executive action to begin the long process of rebuilding the United States' immigration system, the government's ability to realize its vision of a more humane and just immigration system relies on Congress utilizing the appropriations process to take bold action.

First, ICE has rapidly expanded the immigration detention system, which now sprawls across more than 200 private prisons, county jails, and detention centers.<sup>2</sup> This massive expenditure of taxpayer dollars is excessive and unnecessary. The large majority of non-detained immigrants attend all of their court hearings, and with representation there is nearly 100 percent court attendance rate.<sup>3</sup> Moreover, ICE was appropriated \$1.76 billion for FY 2021 for 34,000 beds; yet, taxpayers paid around \$1.34 million per day on unused beds.<sup>4</sup> The Government Accountability Office (GAO) reported in January 2021 on a significant jump in the number of guaranteed minimum beds ICE agreed to in detention contracts.<sup>5</sup> As of mid-May 2020, the GAO found that ICE was paying for more than 12,000 empty beds a day, at a cost of more than \$20 million a month.<sup>6</sup> It is our responsibility to prevent ICE from wasting taxpayers' dollars in this irresponsible way.

The COVID-19 pandemic has further illuminated the deep suffering that results from ICE detention.<sup>7</sup> In April 2020, a federal judge in California ordered ICE to begin considering for release from ICE custody of individuals at higher risk of severe illness from COVID-19.<sup>8</sup> Nonetheless, as of April 8, 2021, 896 of the 14,315 people still detained by ICE, have COVID-19 and are currently under isolation or monitoring.<sup>9</sup> This is an alarming increase from 332 active cases out of the 13,890 people in ICE detention at the end of February.<sup>10</sup> Moreover, as of May 7,

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<sup>1</sup> U.S. Department of Homeland Security, Fiscal Year 2022 Budget in Brief, May 28, 2021, [https://www.dhs.gov/sites/default/files/publications/dhs\\_bib\\_-\\_web\\_version\\_-\\_final\\_508.pdf](https://www.dhs.gov/sites/default/files/publications/dhs_bib_-_web_version_-_final_508.pdf)

<sup>2</sup> "Detention by the Numbers," Freedom for Immigrants, <https://www.freedomforimmigrants.org/detention-statistics> [last visited April 9, 2021].

<sup>3</sup> Ingrid Eagly, Esq. and Steven Shafer, Esq., "Measuring *In Absentia* Removal in Immigration Court," American Immigration Council, January 28, 2021, <https://www.americanimmigrationcouncil.org/research/measuring-absentia-removal-immigration-court>.

<sup>4</sup> Joel Rose, "Beyond The Border, Fewer Immigrants Being Locked Up But ICE Still Pays For Empty Beds," NPR, April 1, 2021, <https://www.npr.org/2021/04/01/982815269/beyond-the-border-fewer-immigrants-being-locked-up-but-ice-still-pays-for-empty->.

<sup>5</sup> U.S. Government Accountability Office, "Actions Needed to Improve Planning, Documentation, and Oversight of Detention Facility Contracts," GAO-21-149, (January 2021), <https://www.gao.gov/assets/gao-21-149.pdf>.

<sup>6</sup> Ibid.

<sup>7</sup> Jesse Franzblau, "New Documents Illuminate A Dark Pattern Of Abuse In ICA-Farmville," National Immigrant Justice Center, August 17, 2020, <https://immigrantjustice.org/staff/blog/new-documents-illuminate-dark-pattern-abuse-ica-farmville>.

<sup>8</sup> See, *Fraihat, et al. V. U.S. Immigration and Customs Enforcement, et al.* Order, April 20, 2020, [https://www.splcenter.org/sites/default/files/fraihat\\_pi\\_grant.pdf](https://www.splcenter.org/sites/default/files/fraihat_pi_grant.pdf).

<sup>9</sup> U.S. Immigration and Customs Enforcement, ICE Guidance on COVID-19, <https://www.ice.gov/coronavirus>. [last visited April 9, 2021]

<sup>10</sup> See, Jesse Franzblau, "Cut The Contracts: It's Time To End ICE's Corrupt Detention Management System," National Immigrant Justice Center, March 16, 2021, <https://immigrantjustice.org/research-items/policy-brief->

2021, ICE still had no clear plan to secure COVID-19 vaccines or provide vaccines for individuals in custody in detention centers.<sup>11</sup> In addition, ICE continues to face scrutiny for medical neglect in immigration detention,<sup>12</sup> and ICE has not implemented an effective case review process for the people in detention at grave risk in detention.<sup>13</sup>

Second, over the past two decades, ICE and CBP officer funding has increased dramatically. Since 2003, the number of Border Patrol agents has doubled and the number of ICE officers has tripled. DHS continues to request increased funding for CBP and ICE enforcement. Despite the increase in workforce, DHS has failed to accomplish its own enforcement goals.<sup>14</sup> Moreover, the demographic apprehended by Border Patrol has shifted significantly towards asylum-seeking unaccompanied children and families in recent years. Nonetheless, inadequate oversight has allowed for significant rates of corruption,<sup>15</sup> criminal misconduct,<sup>16</sup> and rights abuses.<sup>17</sup>

The FY 2022 DHS appropriations should significantly scale back ICE and CBP enforcement budgets and refocus that funding on building a culture of accountability within the agencies. Immigration enforcement in the United States has become dangerously militarized, as illustrated by the former administration sending border patrol agents with SWAT-style training to our communities, sending the military to the border, and border wall construction. Surveillance programs deployed to the border region must also be approached with caution.

The FY 2022 Homeland Security Appropriations bill represents a unique opportunity for Congress to support immigrant communities and roll back the worst of the policies from the

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[cutcontracts-its-time-end-ices-corrupt-detention-management-system](#).

<sup>11</sup> Elizabeth Trovall, “No Clear Plan for How to Vaccinate ICE Detainees,” Houston Public Media, May 7, 2021, <https://www.npr.org/2021/05/07/994812060/no-clear-plan-for-how-to-vaccinate-ice-detainees>

<sup>12</sup> See, *i.e.*, complaint filed with the Office of Civil Rights and Civil Liberties (CRCL) by the National Immigrant Justice Center on behalf of three individuals in Pulaski County Detention Center, Illinois, March 30, 2021, [https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2021-03/CRCL-Complaint\\_ICE-detention-conditions\\_Pulaski\\_NIJC.pdf](https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2021-03/CRCL-Complaint_ICE-detention-conditions_Pulaski_NIJC.pdf).

<sup>13</sup> See, “Biden Admin's New Immigration Enforcement Policies Have Failed To Protect People Languishing In ICE Detention During The Coronavirus Pandemic,” National Immigrant Justice Center, March 29, 2021, <https://immigrantjustice.org/press-releases/biden-admins-new-immigration-enforcement-policies-have-failed-protect-people>.

<sup>14</sup> “The Cost of Immigration Enforcement and Border Security,” American Immigration Council, Fact Sheet, January 20, 2021, [https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security#:~:text=Since%202003%2C%20the%20budget%20of,FY%202021%20\(Figure%2021\).](https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security#:~:text=Since%202003%2C%20the%20budget%20of,FY%202021%20(Figure%202021).)

<sup>15</sup> See, *i.e.*, Melissa del Bosque, A Group of Agents Rose Through the Ranks to Lead the Border Patrol. They’re Leaving It in Crisis,” ProPublica, February 10, 2020, <https://www.propublica.org/article/a-group-of-agents-rose-through-the-ranks-to-lead-the-border-patrol-theyre-leaving-it-in-crisis>.

<sup>16</sup> See, *i.e.*, U.S. Customs and Border Patrol, “Reported Employee Arrests,” last modified March 12, 2021, <https://www.cbp.gov/newsroom/stats/reported-employee-arrests>. See also, AC Thompson, “Years Ago, the Border Patrol’s Discipline System Was Denounced as “Broken.” It’s Still Not Fixed,” ProPublica, June 20, 2019, <https://www.propublica.org/article/border-patrol-discipline-system-was-denounced-as-broken-still-not-fixed>.

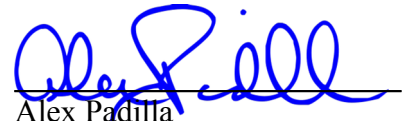
<sup>17</sup> See *i.e.*, Andrea Flores and Shaw Drake, “Border Patrol Violently Assaults Civil Rights and Liberties,” American Civil Liberties Union, July 24, 2020, <https://www.aclu.org/news/immigrants-rights/border-patrol-violently-assaults-civil-rights-and-liberties>.

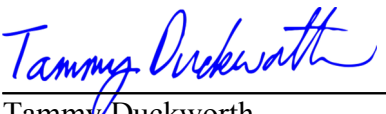
prior administration. Congress must be explicit in its provision of funds for the kind of transformative change that is needed to repair and build an immigration system that is centered around community and welcoming, not on tearing families apart, undermining community safety, and destabilizing communities and workplaces through punitive enforcement measures.

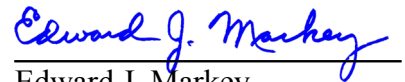
Thank you for your consideration of this request.


Sincerely,

  
Robert Menendez  
United States Senator


  
Alex Padilla  
United States Senator

  
Tammy Duckworth  
United States Senator

  
Edward J. Markey  
United States Senator

  
Elizabeth Warren  
United States Senator

  
Mazie K. Hirono  
United States Senator



Richard Blumenthal  
United States Senator



Tammy Baldwin  
United States Senator



Cory A. Booker  
United States Senator



Bernard Sanders  
United States Senator



Jeffrey A. Merkley  
United States Senator