

March 7, 2018

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, The Capitol
Washington, D.C. 20515

The Honorable Thad Cochran
Chairman
U.S. Senate Committee on Appropriations
113 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member
U.S. Senate Committee on Appropriations
437 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Rodney Frelinghuysen
Chairman
U.S. House Committee on Appropriations
2306 Rayburn House Office Building
Washington D.C. 20515

The Honorable Nita Lowey
Ranking Member
U.S. House Committee on Appropriations
2365 Rayburn House Office Building
Washington, D.C. 20515

Dear Majority Leader McConnell, Leader Schumer, Speaker Ryan, Leader Pelosi, Chairman Cochran, Ranking Member Leahy, Chairman Frelinghuysen, and Ranking Member Lowey:

As negotiations continue regarding the Department of Homeland Security's (DHS) Fiscal Year (FY) 2018 omnibus appropriations bill, we urge you to reduce funding for DHS's harmful enforcement infrastructure—in particular, to cut appropriations for detention beds; Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) agents; and border militarization—and to oppose funding to expand construction of any walls and pedestrian fencing on the southern border. It is imperative to ensure that taxpayer dollars are not wasted on unnecessary and abusive enforcement that threatens our immigrant neighbors, separates families, and destabilizes the border region and interior communities. Instead, we encourage you to pass a clean Dream Act that does not trade protection for one group of immigrants for the harsh and unaccountable punishment of others, and to wisely invest taxpayer dollars in health, education, and housing, which are essential to healthy, thriving communities.

Even with current funding levels, CBP—the umbrella agency of the U.S. Border Patrol—and ICE are both aggressively expanding the detention and deportation system. Although border apprehensions have been trending downward for the past two decades, CBP has ramped up community raids in border neighborhoods. CBP's use of discretion has all but disappeared, perhaps most tragically demonstrated by Border Patrol's recent choices to apprehend parents

who were accompanying their infant child to the hospital for emergency surgery¹ and to detain a 10-year-old girl with cerebral palsy at the hospital for emergency surgery.² ICE has similarly increased its enforcement activity, apprehending nearly one and a half times as many people in the first nine months of 2017 as the same time period the year before.³ At the President's direction, ICE and CBP are accomplishing this through the erasure of all discretion. ICE engages in increasingly aggressive and even violent raid tactics with almost no consideration of a person's equities, including length of time in the U.S., having U.S. citizen children, or proof of other strong ties to the community.⁴ ICE and CBP have instilled fear, not trust, in our border and interior communities alike by harassing and deporting DACA recipients,⁵ men coming out of a church ministry that provides shelter in extremely cold conditions,⁶ and arresting a domestic violence survivor in a courthouse seeking a protective order against her abuser.⁷

In many cases, in their efforts to detain and deport as many people as possible, CBP and ICE are acting in violation of their own policies. ICE, for example, has a pattern of ignoring its own "Sensitive Locations" memo by conducting enforcement actions just outside schools, hospitals, and places of worship.⁸ ICE is also detaining large numbers of pregnant women—nearly 300 in 2017, many of whom received inadequate medical care—despite a directive discouraging the practice.⁹ CBP's recent enforcement against parents accompanying their children requiring emergency medical attention similarly violates the letter and spirit of the

¹ John Burnett, *Border Patrol Arrests Parents While Infant Awaits Serious Operation*, NPR (Sep. 20, 2017) available at: <https://www.npr.org/2017/09/20/552339976/border-patrol-arrests-parents-while-infant-awaits-serious-operation>.

² Vivian Yee, *The U.S. Nursed an Undocumented 10-Year-Old. Now It May Deport Her*, N.Y. TIMES (Oct. 27, 2017) available at: <https://www.nytimes.com/2017/10/27/us/immigrant-girl-surgery-detained.html>

³ Clara Long, *The Deported: Immigrants Uprooted from the Country They Call Home*, HUMAN RIGHTS WATCH (Dec. 2017) available at: <https://www.hrw.org/report/2017/12/05/deported/immigrants-uprooted-country-they-call-home>.

⁴ Roque Planas, *Trump Order Views Most Undocumented Immigrants as Deportation Priorities*, HUFFINGTON POST (Jan. 26, 2017) available at: https://www.huffingtonpost.com/entry/trump-order-views-most-undocumented-immigrants-as-deportation-priorities_us_588a8ac6e4b0cef5cf871b02.

⁵ Alan Gomez & David Agren, *First protected DREAMer is deported under Trump*, USA TODAY (Apr. 18, 2017) available at: <https://www.usatoday.com/story/news/world/2017/04/18/first-protected-dreamer-deported-under-trump/100583274>.

⁶ Julie Carey, *ICE Agents Arrest Men Leaving Fairfax County Church Shelter*, NBC (Feb. 15, 2017) available at: <https://www.nbcwashington.com/news/local/ICE-Agents-Arrest-Men-Leaving-Alexandria-Church-Shelter-413889013.html>.

⁷ Daniel Borunda, *Agent won't face perjury charge in controversial El Paso courthouse arrest*, USA TODAY (Sep. 22, 2017) available at <https://www.usatoday.com/story/news/immigration/2017/09/22/agent-wont-face-perjury-charge-controversial-el-paso-courthouse-arrest-group-says/695087001>.

⁸ Ted Sherman, *AG criticizes ICE arrests of immigrants as kids were going to school*, THE STAR-LEDGER (Jan. 26, 2018) available at: http://www.nj.com/news/index.ssf/2018/01/ag_criticizes_ice_arrests_of_immigrants_as_kids_we.html. See also Jeff Goldberg, *Pushback from political leaders after ICE immigration arrests outside church in Va.*, ABC (Mar. 2, 2017) available at: <http://wjla.com/news/local/pushback-from-political-leaders-after-ice-immigration-arrests-at-church-in-va>.

⁹ *Complaint: U.S. Immigration and Customs Enforcement Detention and Treatment of Pregnant Women*, ACLU, WOMEN'S REFUGEE COMMISSION, et al. (Updated version filed Nov. 13, 2017) available at: <https://www.womensrefugeecommission.org/rights/resources/1524-joint-complaint-ice-detention-treatment-of-pregnant-women>.

agency's Sensitive Locations memo, and these actions have left families and communities afraid to seek emergency medical care, even for children.¹⁰

Both agencies have woefully inadequate oversight and accountability mechanisms. ICE's oversight of its contractor-run detention system consistently fails to identify or address egregious failures of their own detention standards, including medical neglect resulting in death.¹¹ Within CBP, more than 95 percent of all cases of alleged misconduct by Border Patrol agents resulted in "no action taken," including very serious allegations of physical abuse and sexual assault.¹² This has resulted in alarming rates of sexual assault, abuse of unaccompanied children, wrongful deaths for which no one is held accountable, and supervisors distorting facts to cover up misconduct.¹³

ICE has a demonstrated history of fiscal mismanagement that warrants a swift and powerful congressional response. In the FY17 Appropriations bill, Congress rightly reprimanded ICE for its "lack of fiscal discipline and cavalier management of funding for detention operations," ascribing this fiscally irresponsible attitude to "a perception that ERO is funded by an indefinite appropriation." ICE was directed to "manage-to-budget" and not "operate under the false perception that Congress will provide a bailout if financial controls fail or are simply ignored."¹⁴ Despite this, just weeks later, ICE returned with a reprogramming request, asking for *more* funds for immigration detention.¹⁵ Further demonstrating ICE's decision to ignore Congress's warning, news broke in late September 2017 that ICE was planning Operation Mega, which was internally billed as the largest immigration raid in history and likely timed to manufacture inflated detention numbers before the close of the fiscal year.¹⁶ In mid-October, despite the fact that Congress has yet to make decisions about funding for FY18, ICE began the process of identifying contractors for four new privatized detention facilities in the Midwest to

¹⁰ Ileana Najarro & Jenny Deam, *Fearing deportation, undocumented immigrants in Houston are avoiding hospitals and clinics*, HOUSTON CHRONICLE (Dec. 28, 2017) available at: <https://www.houstonchronicle.com/news/houston-texas/houston/amp/Fearing-deportation-undocumented-immigrants-are-12450772.php>.

¹¹ Jennifer Chan, Mary Small & Carl Takei, *Fatal Neglect: How ICE Ignores Deaths in Detention*, ACLU, DWN, NIJC (Feb. 2016) available at: <http://www.detentionwatchnetwork.org/pressroom/reports/2016/fatal-neglect>; HUMAN RIGHTS WATCH, *U.S.: Deaths in Immigration Detention* (Jul. 2016) available at: <https://www.hrw.org/news/2016/07/07/us-deaths-immigration-detention>.

¹² Guillermo Cantor & Walter Ewing, *Still No Action Taken: Complaints Against Border Patrol Agents Continue to Go Unanswered*, AMERICAN IMMIGRATION COUNCIL (Aug. 2017) available at: <https://www.americanimmigrationcouncil.org/research/still-no-action-taken-complaints-against-border-patrol-agents-continue-go-unanswered>.

¹³ *Id.*

¹⁴ U.S. House of Representatives, "Explanation of Division F -- Dep't of Homeland Security Appropriations Act," 2017 (May 2017) available at: <http://docs.house.gov/billsthisweek/20170501/DIVISION%20F-%20HOMELAND%20SOM%20OCR%20FY17.pdf>

¹⁵ Heidi Altman & Julia Toepfer, *Congressional Appropriators Must Reject ICE's Request for Even More Money for Abusive Immigration Detention*, NATIONAL IMMIGRANT JUSTICE CENTER (Jul. 18, 2017) available at: <http://immigrantjustice.org/staff/blog/congressional-appropriators-must-reject-ices-request-even-more-money-abusive-immigration>.

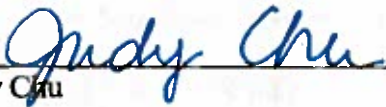
¹⁶ Julia Ainsley & Andrew Blankstein, *Homeland Security Cancels Massive Roundups of Undocumented Immigrants*, NBC NEWS (Sep. 7, 2017) available at: <https://www.nbcnews.com/news/us-news/ice-plans-mega-largest-immigration-raid-operation-its-kind-n799691>.

detain up to 3,000 additional people daily.¹⁷ Moreover, recent data demonstrates that ICE regularly misrepresents its operational needs for detention space and inflates detention cost estimates and prioritizes the demands of prison contractors over responsible stewardship.¹⁸

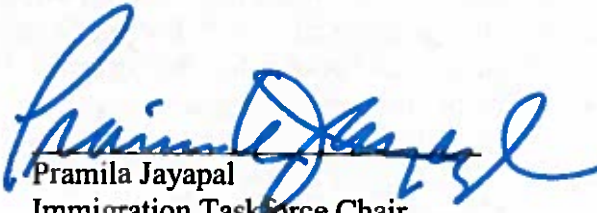
In order to play its appropriate role with regard to the power of the purse, Congress must not make empty threats in the face of chronic agency misbehavior. Rather, Congress should move to decrease ICE's funding, not bail them out once again, and heed then-Chairman Hal Rogers's warning of the "mini-industrial complex syndrome"¹⁹ that has led to irrational border spending, which does more to harm the quality of life of border residents than strengthen community safety. Border communities are among the safest in the nation.²⁰ Investing in their vibrancy and building bridges—rather than constructing walls or hiring heavily armed, poorly trained border agents—benefits not only local economies but fuels job creation across the nation.

We call on you to demonstrate bold leadership and reduce funding for immigration detention, border militarization, the mass deportation force, and interior enforcement operations. Instead, we must focus on passing a clean Dream Act—a proposal that has overwhelming support from the American people and bipartisan support in Congress.

Sincerely,



Judy Chu
Chair
Congressional Asian Pacific
American Caucus



Pramila Jayapal
Immigration Taskforce Chair
Congressional Asian Pacific
American Caucus

¹⁷ Benjamin C. Gowlay and Shannon M. Ely, *Immigration Detention Service Multiple Areas of Responsibility*, GOVTRIBE (Oct. 26, 17) available at: <https://govtribe.com/project/immigration-detention-services-multiple-areas-of-responsibility>.

¹⁸ Mary Small and Heidi Altman, *ICE Lies: Public Deception, Private Profit*, DETENTION WATCH NETWORK & NATIONAL IMMIGRANT JUSTICE CENTER (Jan. 2018) available at: http://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-02/IceLies_DWN_NIJC_Feb2018.pdf.

¹⁹ Ted Robbins, *U.S. Grows an Industrial Complex Along The Border*, NPR (Sept. 12, 2012) available at: <https://www.npr.org/2012/09/12/160758471/u-s-grows-an-industrial-complex-along-the-border>.

²⁰ Roque Planas, *2 U.S.-Mexico Border Cities Boast Lowest Crime Rates, New Data Shows*, HUFFINGTON POST (Feb. 8, 2013) available at: https://www.huffingtonpost.com/2013/02/08/2-us-mexico-border-cities_n_2647897.html.