

Shalanda Young, Director
Office of Management and Budget
The White House
1600 Pennsylvania Ave. NW
Washington D.C. 20500

July 4, 2023

Re: Defund Hate Priorities for the FY2025 White House Budget

Dear Director Young:

The Defund Hate Campaign is led by a coalition of 69 organizations that represent directly impacted immigrant communities, border communities, faith leaders, and civil and immigrant rights advocates who are committed to divestment from Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), agencies that tear apart loved ones and harm our communities. Instead, tax dollars should be invested in what our communities need, like education, housing, clean energy and health care programs that create thriving communities.

The President's annual budget request is critical to these goals. We understand that the White House has to handle the reality of a politically divided legislature that is seeking to increase funding for harmful border security policies. While the FY2024 budget proposal made funding shifts in important areas, notably the 26% reduction in detention levels and cuts in funding for ICE's so-called "Alternatives to Detention" (ATD) program, we were disappointed to see that the administration still sought an increase of \$800 million to ICE and CBP funding, including money to hire an additional 350 Border Patrol agents and over \$535 million in funds for border surveillance technology.¹ The proposed cuts were also seriously eclipsed by the request for a \$4.7 billion "contingency fund" for DHS that would allow enforcement agencies to further militarize the border and expand mass enforcement with little scrutiny. **We strongly encourage the White House to craft a FY2025 budget that makes the meaningful reductions to ICE and CBP enforcement funding that the FY2024 budget failed to include without offering unaccountable sums of money to compensate.**

This is President Biden's last opportunity during this term to prove his stated values through a moral budget that supports rather than hurts immigrant communities. Specifically, we ask that the Office of Management and Budget (OMB) and the Department of Homeland Security (DHS) include the following priority recommendations in the FY2025 budget:

- 1. Decrease the average daily population level of ICE detention to no higher than 15,000, the size of the detention population at the start of the Biden administration, and decrease funding for ICE Custody Operations accordingly. The administration should also completely defund ICE's Alternatives to Detention.**

The FY2025 budget must decrease funding for ICE enforcement and detention. Every year, ICE uses billions of taxpayer dollars to incarcerate immigrants in abusive and deadly detention facilities, deport individuals seeking protection, and surveil immigrant communities. The agency's bloated budget has grown exponentially since its creation: in the last two decades, federal funding for ICE Custody

¹ Office of Management and Budget, "Budget of the U.S. Government," accessed June 28, 2023, https://www.whitehouse.gov/wp-content/uploads/2023/03/budget_fy2024.pdf.

Operations has more than quadrupled. This expansion has been fueled largely by private prison interests and has resulted in more than 225 deaths in detention since 2003.² The mass detention of immigrants is a relatively new and unnecessary phenomenon, serving no purpose apart from generating profits for corporations like The GEO Group, CoreCivic, and others.³ People can and should be able to navigate their immigration cases with loved ones and support services in community.

We are disheartened to see that detention numbers have continued to rise under the current administration. Since January 2021, the Biden administration has doubled the number of people in detention to just under 30,000,⁴ and levels are steadily rising since the end of the widely-condemned Title 42 expulsion policy in early May. Although DHS Secretary Alejandro Mayorkas has expressed concerns about the overuse of detention, ICE continues to seek new contracts and renew contracts with private prison companies and local governments to incarcerate people in facilities that have well-documented histories of harmful conditions and abuse, even in states that have banned immigration detention operations by law.⁵

There is robust documentation of the inhumane conditions and treatment pervasive in the immigration detention system, which disproportionately harm BIPOC communities. Reports of abuse in government detention abound even just within these last years under the Biden administration, including sexual abuse by medical professionals at a facility in Georgia and the death of 11 people in custody since the President took office. In one case, Kesley Vial, a 23 year-old Brazilian asylum seeker, died by suicide while detained in the Torrance County Detention Facility in New Mexico, which government watchdog agencies have twice unsuccessfully recommended ICE cease using.⁶ New research also exposed how ICE employs “circular transfer” practices as methods of retaliation and labor trafficking, wasting millions in federal funds each year to torture immigrants in custody.⁷

After years of attempts by Congress, government oversight bodies, and other entities to hold ICE accountable and conduct oversight of the detention system, we have only seen continued harm and mistreatment of immigrants in custody. It is clear that immigration detention cannot be fixed. It is unnecessary and inhumane by design—people should not be punished for migrating, but instead given the opportunity to navigate their immigration case while free in community with their loved ones. The Biden administration can take critical steps to make this a reality. We urge the administration to align its policies with its promises to protect immigrant communities and propose a FY2025 budget that seeks a decrease to ICE Custody Operations that at least reduces average daily detention levels to no higher than 15,000 people, the population size at the start of the Biden administration.

The FY2025 budget should altogether defund the surveillance and monitoring programs of ICE (“Alternatives to Detention”). Along with increasing detention numbers in the last two years, ICE has also

² American Immigration Lawyers Association, “Deaths in ICE Detention Centers,” accessed June 28, 2023, <https://www.aiala.org/infonet/deaths-at-adult-detention-centers>.

³ While we do not believe that compliance with a broken immigration system should define policy—especially when in contradiction with people’s human and civil rights—it is important to note that evidence shows high compliance rates for people not detained. This challenges the federal government’s motivations for its continued reliance on detention as a compliance mechanism. See American Immigration Council, “Measuring In Absentia Removal in Immigration Court,” January 8, 2001,

<https://www.americanimmigrationcouncil.org/research/measuring-absentia-removal-immigration-court>.

⁴ TRAC Immigration, “Immigration Detention Quick Facts,” accessed June 28, 2023,

<https://trac.syr.edu/immigration/quickfacts/#:~:text=Immigration%20and%20Customs%20Enforcement%20held,as%20of%20June%204%2C%202023>.

⁵ Nieto Del Rio, Guilia, “ICE Quietly Extends Elizabeth Detention Center Contract With CoreCivic,” Documented, August 13, 2021, <https://documentedny.com/2021/08/13/ice-quietly-extends-elizabeth-detention-center-contract-with-corecivic/>.

⁶ Fuhrman, Dylan, “Brazilian Migrant Dies from Suicide Attempt at New Mexico Facility,” KYMA, August 27, 2022, <https://kyma.com/news/2022/08/27/brazilian-migrant-dies-from-suicide-attempt-at-new-mexico-facility/>

⁷ Freedom For Immigrants, “Trafficked and Tortured: Mapping ICE Transfers,” February 2023, <https://www.freedomforimmigrants.org/trafficked-and-tortured-report>.

significantly expanded its ATD program, also known as the Intensive Supervision Appearance Program (ISAP). While ICE misrepresents this program as a means of reducing detention, it has not led to a decrease in detention numbers and DHS has been clear that the program's ultimate goal is to increase surveillance of those who are not detained. DHS also states that these programs are implemented to ensure court compliance, but they have not demonstrated any difference in appearance rates between those enrolled in the program and those who are not. There is no legitimate justification for the regular, dangerous intrusion into the lives of hundreds of thousands of people.

Currently, ICE is monitoring more than 215,000 immigrants through its ATD programs.⁸ While this number is lower than in FY2022, it is nearly three times the enrollment when President Biden took office (86,860 as of January 22, 2021) and a known underestimation of the number of people within ICE's surveillance dragnet, as "heads of households" are the only recorded figures for families.⁹ Records obtained through the Freedom of Information Act by the Transactional Records Access Clearinghouse (TRAC) have also revealed that long-time misreporting on ATD's by contractor BI, Inc.—a subsidiary of private prison company The GEO Group—may have resulted in inflated payments, and therefore reported costs, by as high as 31 percent.¹⁰

Further, the Biden administration has used this expansion to test out new forms of even more restrictive conditions of release, including a home confinement pilot for immigrants seeking asylum and other protections in the United States, which will subject many more people to ICE's control and include harsh requirements of house arrest, curfews, and electronic monitoring.¹¹ Although ICE touts these programs as more humane, they have been shown over time to cause serious, long-term harm to immigrants and their families. They rely on punitive surveillance measures, including ankle monitoring, facial recognition, and smart phone tracking, which restrict the liberty and livelihood of immigrants, create a constant sense of being watched, and cause deep and lasting emotional trauma to individuals, families, and communities. The absurd and indefinite length of time people are enrolled in the program exacerbates such harms. A report from May 2022 highlighted stories of the physical and mental toll that ICE's digital prisons take on immigrants¹² and referenced research from July 2021 that found that an alarming 12% of program participants surveyed reported suicidal thoughts.¹³ Further, both advocates and members of Congress have repeatedly raised concerns about the broad surveillance reach of these technologies—not only of the person being formally surveilled but also bystanders, including U.S. citizens and individuals with other legal status.

Although the White House's FY2024 budget decreased ICE's ATD budget compared to the previous fiscal year, from \$527 million in FY2023 to \$363 million in FY2024,¹⁴ this extreme level of funding for e-carceration programs still allows ICE to track and control hundreds of thousands more people. The next federal budget for FY2025 should be a moral document that reflects our values of strengthening and supporting our communities, not shackling and restricting them. We urge the administration to defund ICE's ATD program in its FY2025 budget.

⁸ See ICE Detention Management at <https://www.ice.gov/detain/detention-management>.

⁹ Bier, David J., "ICE Has Increased Enforcement Since Trump Left Office," CATO Institute, <https://www.cato.org/blog/ice-increased-enforcement-under-biden-not-prior-highs>

¹⁰ Transactional Records Access Clearinghouse, "False Reporting by Contractor on Alternatives to Detention Activities," March 7, 2023. <https://trac.syr.edu/reports/710/>.

¹¹ Aleaziz, Hamed, "New ICE Program Will Put Families Under Home Curfew, Deport Those Who Fail Asylum Screenings," Los Angeles Times, May 10, 2023, <https://www.latimes.com/politics/story/2023-05-10/ice-family-detention-curfew-gps-monitoring>.

¹² Abisa, Community Justice Exchange, et. al., "Tracked and Trapped: Experiences from ICE Digital Prisons," May 2022, https://notechforice.com/wp-content/uploads/2022/05/TrackedTrapped_final.pdf.

¹³ Giustini, Tosca, et. al., "Immigration Cyber Prisons: Ending the Use of Electronic Ankle Shackles," Benjamin Cardozo School of Law, July 2021, <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1002&context=faculty-online-pubs>.

¹⁴ Office of Management and Budget, "Budget of the U.S. Government," accessed June 28, 2023, https://www.whitehouse.gov/wp-content/uploads/2023/03/budget_fy2024.pdf.

2. Decrease funding for CBP, including reductions for U.S. Border Patrol operations and agents, invasive border technology, and surveillance programs. Rescind previously appropriated, unspent funds for border wall construction.

The FY2025 budget must significantly decrease funding for U.S. Border Patrol operations and agents. Although CBP's Border Patrol has shown itself to be an abusive, unaccountable force, its budget has continuously expanded over the years. Its budget of \$6.2 billion composes over a third of CBP's total discretionary budget, and the number of Border Patrol agents has nearly doubled since 2003.¹⁵ Border Patrol operates without accountability and transparency and is plagued by a troubling record of violence, corruption, human rights violations, and abuse against U.S. citizens and migrants alike. Its militarized over-policing of border communities, including roving patrols and dozens of interior checkpoints that subject border-region residents to harassment by agents, is deeply rooted in the nation's history of over-policing Black and Brown people.¹⁶ Funding increases for the agency have not solved these issues but instead have created a pervasive climate of fear among immigrant and border communities and contributed to the erosion of constitutional and civil rights for people living in and visiting the borderlands.

Whether evading or encountering our mass physical and virtual border infrastructure, this level of border militarization is fatal for migrants. According to data released by CBP to the media, an all-time record high of at least 853 people died while crossing the U.S.-Mexico border during Fiscal Year 2022.¹⁷ Last year on February 19th, a U.S. Border Patrol agent shot and killed Carmelo Cruz Marcos, a 32-year-old father of three, in southeast Arizona. And just this past May, Anadith Tanay Reyes Alvarez, an 8-year-old Panamanian girl, died in CBP custody after being denied medical care and spending nine days in detention, well exceeding the 72-hour limit imposed by law. Carmelo and Anadith are devastatingly among the more than 240 individuals who have lost their lives as the result of an encounter with CBP since 2010, according to tracking conducted by the Southern Border Communities Coalition.¹⁸ This violence also affects U.S. citizens. In May of this year, a member of the Tohono O'odham Nation was shot and killed by Border Patrol agents at his home near the U.S.-Mexico border in Arizona.¹⁹ Yet, the White House's FY2024 budget still proposed increasing Border Patrol's funding, including money for an additional 350 agents. Continuing this trend will only lead to more abuse and loss of life. We urge the administration to instead request significant cuts to Border Patrol's budget for FY2025.

The FY2025 budget must decrease funding for CBP's invasive border surveillance technology that harms border communities and has not been shown to impact migration patterns. These include biometric surveillance collection programs, unmanned aerial vehicles, automatic license plate readers, facial recognition technology, tethered blimps, thermal imaging technology, surveillance towers,²⁰ and

¹⁵ Statista, "Agent Staffing of the U.S. Border Patrol From FY 1992 to 2020," accessed June 28, 2023,

<https://www.statista.com/statistics/455866/us-border-patrol-agent-staffing/>.

See also Department of Homeland Security, "FY 2024 Budget in Brief,"

https://www.dhs.gov/sites/default/files/2023-03/DHS%20FY%202024%20BUDGET%20IN%20BRIEF%20%28BIB%29_Remediated.pdf.

¹⁶ Reece Jones, *Nobody is Protected: How the Border Patrol Became the Most Dangerous Police Force in the United States* (2022).

See also "In Conversation: Reece Jones on the U.S. Border Patrol's History of Impunity," Long Road Magazine, February 6, 2023,

<https://www.longroadmag.com/in-conversation/in-conversation-reece-jones-on-the-us-border-patrols-history-of-impunity>.

¹⁷ Montoya-Galvez, Camilo, "At Least 853 Migrants Died Crossing the U.S.-Mexico Border in Past 12 Months — a Record High,"

CBS News, October 28, 2022, <https://www.cbsnews.com/news/migrant-deaths-crossing-us-mexico-border-2022-record-high/>.

¹⁸ Southern Border Communities Coalition, "Fatal Encounters with CBP," accessed June 28, 2023,

https://www.southernborder.org/deaths_by_border_patrol.

¹⁹ Ryan Devereaux, "Border Patrol Video of Killing Shows Native Man Had No Gun, Complied With Orders." The Intercept, June 26,

2023, <https://theintercept.com/2023/06/26/border-patrol-killing-raymond-mattia/>.

²⁰ Dave Maass, "CBP Is Expanding Its Surveillance Tower Program at the U.S.-Mexico Border—And We're Mapping It." Electronic

Frontier Foundation (Mar. 20, 2023),

<https://www.eff.org/deeplinks/2023/03/cbp-expanding-its-surveillance-tower-program-us-mexico-border-and-were-mapping-it>

wide-area surveillance. At the southern border and northern border and far into the interior of the United States, CBP's weaponization of technology disrupts the lives and infringes on the privacy and civil liberties of all border residents, particularly Black, Brown, and Indigenous communities who are already disproportionately criminalized by border enforcement. For instance, research found that U.S.-developed algorithms misidentify Asian, African American, and Indigenous communities at significantly higher rates.²¹ This could lead to false accusations, detention, or deportation. Further, as decades of a deterrence-based approach to border policy have proven, mounting militarization does not prevent migration and will only result in more deaths as people are forced into more dangerous routes to evade detection. Development of a so-called "smart wall" — paired with the Biden Administration's continued construction of border wall miles — contributes to harming wildlife, interrupting tourism, and mass injuries and deaths along the border. The White House's FY2024 budget sought over half a billion dollars for these invasive surveillance technologies. We urge the administration to make cuts instead in the FY2025 budget.

The FY2025 budget must not include any funding for border wall construction and should instead rescind previously appropriated border wall funds to redirect them towards mitigating environmental and other harms caused by wall construction. We know that the prior administration's insistence on harmful and wasteful border wall construction wreaked destruction on the borderlands and the millions who call the border region home. Although the Biden Administration took an important step by canceling the border wall projects slated for construction using funds that the previous administration had diverted from the Pentagon's budget, we are deeply concerned and disappointed that the administration has continued wall construction using previously appropriated funds. DHS continues to construct additional border walls through the Rio Grande Valley, an area of considerable cultural and ecological value, including the conversion of preexisting earthen flood control levees into the most harmful type of wall for wildlife — concrete levee border wall. To prevent further harms, it is important that the administration request that Congress rescind unobligated balances of previously appropriated border wall funding and provide resources to restore and repair border communities, lands, and wildlife to mitigate the harms done.

For decades, immigrants and border residents have suffered the harms of increasing ICE and CBP budgets. Federal funding should center the dignity and wellbeing of all people, but each year these agencies continue to receive billions in taxpayer dollars to racially profile, arrest, jail, and deport our loved ones, and to militarize and destroy the border region. We ask that the White House's FY2025 budget proposal reverse course.

Sincerely,
The Defund Hate Campaign

²¹ Singer, Natasha and Cade Metz, "Many Facial-Recognition Systems Are Biased, Says U.S. Study," The New York Times, December 19, 2019, <https://www.nytimes.com/2019/12/19/technology/facial-recognition-bias.html>.