

EXHIBIT A



DETENTION
WATCH NETWORK

November 25, 2013

Freedom of Information Act Request
U.S. Immigration and Customs Enforcement
500 12th Street SW, Stop 5009
Washington, DC 20536-5009
Attn: Catrina Pavlik-Keenan, FOIA Director

Freedom of Information Act Request
U.S. Department of Homeland Security
245 Murray Drive SW
STOP-0655
Washington, D.C. 20528-0655

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552 ("FOIA"), on behalf of the Center for Constitutional Rights ("CCR") and the Detention Watch Network ("DWN") (collectively "the Requesters") for information regarding U.S. Immigration and Customs Enforcement agency ("ICE") and Department of Homeland Security ("DHS") Detention Bed Mandate, also known as the Immigration Detention Quota or the Detention Mandate. We ask that you please direct this request to all appropriate offices and components and/or departments within ICE and DHS, including, but not limited to the following offices or components within DHS: Office of Operations Coordination and Planning; Office of Policy; Office of Legislative Affairs; Office of Intergovernmental Affairs; and Office of General Counsel; and the following offices within ICE: Office of the Director and Deputy Director; Office of Detention Policy and Planning; State and Local Coordination; Office of Detention Oversight; Congressional Relations; Office of Acquisition Management; Enforcement and Removal Operations; Office of Detention Management, Enforcement and Removal Operations; and Office of the Principal Legal Advisor.

A. Purpose of Request

The purpose of this request is to obtain information for the Requestors and the public on the Detention Bed Mandate, Bed Mandate and/or Detention Quota, decision-making surrounding the mandate, and its impact on detention policy and detention contracting decisions nation-wide from June

2006 to the present. This information will enable the public to engage in an important on-going policy debate¹ and the upcoming Congressional appropriations debate (likely to begin as early as February 2014).

The use of local jails and correctional facilities, as well as private correctional facilities, to detain non-citizens in civil immigration detention is a matter of concern to the Requestors and the general public. The suggestion in recent news articles that the mandate is not welcomed by high-level Department of Homeland Security (“DHS”) officials such as former DHS Secretary Janet Napolitano,² but is the result of private prison corporations lobbying certain members of the Senate and House DHS appropriations subcommittees, raises questions regarding fiscal responsibility and appropriations priorities.³ The public has a right to understand the motives of government officials and agencies on this important policy issue, especially in light of the upcoming appropriations and continued Comprehensive Immigration Reform debate.

Further, the Requesters and the public have an interest in understanding how the Detention Bed Mandate impacts enforcement operations, including the Quota and/or Mandate’s relationship with how Immigrations Customs Enforcement (“ICE”) determines how many and whom to detain. The extent to which decisions regarding lucrative intergovernmental service agreements (“IGSAs”) with ICE and DHS are determined on the basis of local law enforcement cooperation with ICE enforcement programs such as 287(g), the Criminal Alien Program or Secure Communities is unknown to the public at this time. In addition, the Requesters and the public have an interest in understanding the costs of the Detention Bed Mandate as well as the decision-making to use detention in lieu of cost-effective alternatives.

B. Definitions

- 1) **Record(s).** In this request the term “Record(s)” includes, but is not limited to, all Records or communications preserved in electronic (including metadata) or written form, such as correspondences, emails, documents, data, videotapes, audio tapes, faxes, files, guidance,

¹ See e.g., Stephen Dinan, *Obama’s Budget a Blow to Immigrant Enforcers; Funding Cut for Detentions, States*, Washington Times (Apr. 11, 2013), <http://www.washingtontimes.com/news/2013/apr/11/obamas-budget-a-blow-to-immigrant-enforcers/?page=all>; Editorial, *The Madness of U.S. Immigration Policy, Continued*, Bloomberg View (Sept 26, 2013), <http://www.bloomberg.com/news/2013-09-26/the-madness-of-u-s-immigration-policy-continued.html>; Human Rights First, *Growing Bipartisan Support in Congress on Eliminating Detention Bed Mandate* (June 5, 2013), <http://www.humanrightsfirst.org/2013/06/05/growing-bipartisan-support-in-congress-on-eliminating-immigration-detention-bed-mandate-2/>.

² William Selway & Margaret Newkirk, *Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit*, Bloomberg (Sept. 24, 2013), <http://www.bloomberg.com/news/2013-09-24/congress-fuels-private-jails-detaining-34-000-immigrants.html> (“At an April hearing, then-Homeland Security Secretary Janet Napolitano, whose department includes ICE, called the mandate ‘artificial’ and said reducing the required number of detainees would let the agency free low-risk offenders who could be on supervised release.”)

³ *Id.*

guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, legal opinions, protocols, reports, rules, technical manuals, technical specifications, training manuals, studies, or any other Record of any kind.

- 2) **Agreements.** In this request the term “Agreement(s)” refers to any agreement, written or otherwise; communications; contracts and/or supplements, modifications or addendums to contracts or agreements.
- 3) **Detention and/or Detain.** In this request the term “Detention” or “Detain” refers to the placement in custody of a non-citizen or individual suspected to be a non-citizen, based on purported violations of the Immigration and Nationality Act, into a local or state jail or prison, not limited to Intergovernmental Service Agreement facilities. The term further refers to private contractual facilities, run or managed by private prison companies or corporations.
- 4) **Bed Mandate and/or Detention Bed Mandate and/or Detention Quota:** In this request the terms “Bed Mandate”, “Detention Bed Mandate” and/or “Detention Quota” refer to the concept and practice, since 2007, that the Immigration and Customs Enforcement agency, including its regional and field offices and various local law enforcement agency partners and private contractors, to maintain a certain numerical level of detention.
- 5) **Communication(s).** In this request the term “communication” means the transmittal of information (in the forms of facts, ideas, inquiries or otherwise).
- 6) **Local Governments.** In this request the term “local” government includes state/local government, municipal corporations, tribal governments, tribal business entities, and Alaska Native Corporations.

C. Request for Information

- a. Most Recent Copies of Executed Agreements Related to Detention Facilities or Detention Beds
 - i. Executed Agreements between Private Prison Corporations (such as Corrections Corporation of America and the Geo Group) and ICE, DHS and/or the Federal Bureau of Prisons;
 - ii. Executed Agreements between DHS/ICE and local, state, city or municipal governments, including all Intergovernmental Service Agreements.
 - iii. Executed contract renewal, supplemental agreements, addendums, riders, etc. of the agreements in (i) and (ii).
- b. Communications regarding contract renewal, supplemental agreements, addendums, riders, etc. of the aforementioned agreements listed in Part C(a).
- c. Agreements (formal and informal) regarding detention space, financing of detention beds, and the allocation of beds limited to the following ICE jurisdictions: the Atlanta Field Office; the Dallas, El Paso, Houston and San Antonio Field Offices; the New Jersey Field Office and the Philadelphia Field Office.
- d. Data and Statistics from 2007 to present:
 - i. Copies of all regularly generated statistical reports on detention; enforcement prioritization and detained population; detention occupancy by geographic location (i.e. ICE field office, state or county).

- ii. Copies of any cumulative data or information on numerical payouts to private prison corporations by ICE or DHS.
 - iii. Financial records of actual payments to private prison companies or contractors, including the “guaranteed minimums,” “guaranteed minimum” prices and “variable” prices under contracts with private prison corporations.⁴
- e. Records Related to the Creation or Revision (including drafts, memoranda, correspondence and communications) of Specific Media-Related and Public Relations Documents such as Press Releases, Talking Points, emails with press quotes, etc.:
- i. William Selway & Margaret Newkirk, *Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit*, Bloomberg (Sept. 24, 2013), <http://www.bloomberg.com/news/2013-09-24/congress-fuels-private-jails-detaining-34-000-immigrants.html>;
 - ii. Stephen Dinan, *Obama’s Budget a Blow to Immigrant Enforcers; Funding Cut for Detentions, States*, Washington Times (Apr. 11, 2013), <http://www.washingtontimes.com/news/2013/apr/11/obamas-budget-a-blow-to-immigrant-enforcers/?page=all>; and
 - iii. Spencer S. Hsu and Andrew Becker, *ICE officials set quotas to Deport More Illegal Immigrants*, Washington Post (Mar. 27, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/26/AR2010032604891.html>.
- f. All Reports and Memoranda Reporting on the Detention Bed Mandate and Detention-related Appropriations Decisions to/from the Secretary of Homeland Security, Assistant Secretary of Homeland Security in Charge of Immigration and Customs Enforcement, Members of Congress and/or the White House.
- g. Records, including communications, about releases from detention due to budget constraints or loss of funding, including but not limited to the following:
- i. Effects of the 2013 Budget Sequestration and the government shutdown in the fall of 2013;⁵ and
 - ii. Testimony of John Morton before the Judiciary Committee of the U.S. House of Representatives in March 19, 2013.⁶

⁴ E.g., Department of Homeland Security, Contract ACD-3-C-0015, at 3 (Oct. 1, 2003), available at <http://www.ice.gov/doclib/foia/contracts/ccaacd3c0015asofp00023.pdf>.

⁵ E.g. *Release of Criminal Detainees by U.S. Immigration and Customs Enforcement: Policy or Politics? Before the H. Comm. on the Judiciary*, 113th Cong. (Mar. 19, 2013); See 159 Cong. Rec. 1973 (2013) (“My amendment would hold the Obama administration accountable for its recent decision to release more than 2,000 undocumented immigrants from detention centers across the country in the past month.”) (Grassley, Mar. 20, 2013).

⁶ Testimony of John Morton, Director of ICE, “The Release of Criminal Detainees by U.S. Immigration and Customs Enforcement: Policy or Politics,” March 19, 2013,

- iii. Communications with or about John Morton's decisions on or about December 2009 and Spring 2010 to release ICE detainees from detention.⁷
- h. Records of ICE or DHS communications with local, state or Congressional officials or law enforcement agencies related to costs, reimbursements, profits, or monetary agreements for detention; monetary or contractual incentives related to immigration detention or detention contracting; or the need for additional detainees or possible sources of additional detainees to fulfill contractual obligations with ICE.
- i. Records related to the relationship between ICE and private prison corporations including email communications, letters, memoranda, policy memos for contract bidding processes or Requests for Proposals.

D. Format of Production

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents in the following format:

- Saved on a CD, CD-ROM or DVD;
- In PDF or TIF format wherever possible;
- Electronically searchable wherever possible;
- Each paper record in a separately saved file;
- "Parent-child" relationships maintained, meaning that the requester must be able to identify the attachments with emails;
- Any data records in native format (i.e. Excel spreadsheets in Excel);
- Emails should include BCC and any other hidden fields;
- With any other metadata preserved.

E. The Requesters

The Center for Constitutional Rights ("CCR") is a non-profit, public interest, legal, and public education organization that engages in litigation, public advocacy, and the production of publications in the fields of civil and international human rights. CCR's diverse dockets include litigation and advocacy around immigration detention, post-9/11 immigration enforcement policies, policing, and racial and ethnic profiling. CCR is a member of immigrant rights networks nationally and provides legal support to immigrant rights movements. One of CCR's primary activities is the publication of newsletters, know-you-rights handbooks, legal analysis of current immigration law issues, and other similar materials for public dissemination. These and other materials are available through CCR's

<http://www.dhs.gov/news/2013/03/19/written-testimony-us-immigration-and-customs-enforcement-director-john-morton-house>

⁷ See 159 Cong. Rec. 1973 (2013) ("My amendment would hold the Obama administration accountable for its recent decision to release more than 2,000 undocumented immigrants from detention centers across the country in the past month.") (Grassley, Mar. 20, 2013).

Development, Communications, and Education & Outreach Departments. CCR operates a website, www.ccrjustice.org, which addresses the issues on which the Center works. The website includes material on topical civil and immigrant rights issues and material concerning CCR's work. All of this material is freely available to the public. In addition, CCR regularly issues press releases and operates a listserv of over 50,000 members and issues "action alerts" that notify supporters and the general public about developments and operations pertaining to CCR's work. CCR staff members often serve as sources for journalist and media outlets, including on immigrant rights.

Detention Watch Network is a national coalition of organizations and individuals working to expose and challenge the injustices of the U.S. immigration detention and deportation system and advocate for profound change that promotes the rights and dignity of all persons. DWN was founded in 1997 in response to the explosive growth of the immigration detention and deportation system in the United States. Today, DWN is the only national network that focuses exclusively on immigration detention and deportation issues. The Network is recognized as the "go-to" resource on detention issues by media and policymakers and known as a critical national advocate for just policies that promote an eventual end to immigration detention. As a member-led network, we unite diverse constituencies to advance the civil and human rights of those impacted by the immigration detention and deportation system through collective advocacy, public education, communications, and field-and-network-building. DWN has a well-known website featuring the latest news, information and developments on detention policy.

F. Fee Waiver

The Requesters are entitled to a fee waiver pursuant to 5 U.S.C.(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k) on the grounds that "disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester[s]." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k) (records furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of institution). *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987). Requesters meet the requirements of 6 C.F.R. § 5.11(k) because the subject of the request concerns the operations or activities of the government; the disclosure of the information is likely to contribute to a significant public understanding of government operations or activities due to the requesters' expertise in the subject area and ability to convey the information; the Requesters' primary interest is in disclosure; and they have no commercial interest in the information. In addition, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), the Requesters qualify as a "representatives of the news media," defined as "any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii).

As described in Part D above, the Requesters are non-profit organizations dedicated to civil rights, human rights, and immigrant rights, and have a proven track-record of compiling and disseminating information and reports to the public about government functions and activities, including the government's record and position on immigrants' rights, detention and policy matters. The Requesters have undertaken this work in the public interest and not for any private commercial interest. Similarly, the primary purpose of this FOIA request is to obtain information to further the public's understanding of federal immigration enforcement actions and policies. Access to this information is

crucial for the Requesters and the communities they serve to evaluate immigration enforcement actions and their potential detrimental efforts.

As stated above, the Requesters have no commercial interest in this matter. The Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters.'").

In the alternative, we request a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II). ("[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by . . . a representative of the news media."). See also 6 C.F.R. § 5.11(d). If no fee waiver is granted and the fees exceed \$250.00, please contact the Requesters' undersigned counsel to obtain consent to incur additional fees.

G. Expedited Processing

The Requesters are entitled to expedited processing of this request because there is a "compelling need" for the information. 5 U.S.C. § 552(a)(6)(E)(i)(I). A "compelling need" is established when there exists an "urgency to inform the public concerning actual or alleged Federal Government activity," when the requester is a "person primarily engaged in disseminating information," 6 C.F.R. § 5.5(d)(ii).

There is an urgent need to inform the public of the policies and decision-making regarding the ICE detention bed quotas or detention bed mandate. The appropriations debate will begin in a matter of months and it is paramount that the public have the requested information to meaningfully engage in the public debate surrounding the cost of detention; decisions regarding the number of beds ICE is required to occupy; and incentives by local governments to arrest and fill ICE detention beds. Politicians on both sides of the aisle have also called attention to excessive use of immigration detention, which is directly tied to the mandate. For example, during a March 2013, House Judiciary Committee Hearing, Representative Spencer Bachus (R-Ala.) warned of an "overuse of detention by this administration," and was among 190 House members who voted for the amendment to eliminate the detention bed mandate.⁸

Given the bipartisan critique of the Detention Bed Mandate, the public has an urgent need to know why it is still in place. Congress debates the appropriations for the Department of Homeland Security as early as February of each calendar year.⁹ It is necessary for the requested information to be made available in advance of Congressional discussions of the appropriations debate, so that the public can engage meaningfully with the political issues surrounding the Detention Bed Mandate.

⁸ Jude Joffe-Block, *Ice Head Answers More Questions on Detainee Release*, KPBS, March 19, 2013, <http://www.kpbs.org/news/2013/mar/19/ice-head-answers-more-questions-detainee-release/>.

⁹ See Senate Appropriations, Homeland Security Subcommittee Hearing Dates, <http://www.appropriations.senate.gov/ht-homeland-security.cfm?method=hearings.default&subcommitteeId=7a93b400-6178-4c04-9711-094f5d87a0c4> (indicating DHS budget was brought before Senate in February or March for Fiscal Years 2010-2014).

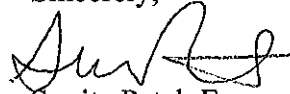
H. Certification & Conclusion

The Requesters certify that the above information is true and correct to the best of the Requesters' knowledge. *See* 6 C.F.R. § 5.5(d)(3). If this Request is denied in whole or in part, the Requesters ask that the Department of Homeland Security and ICE justify all deletions by reference to specific exemptions of FOIA. The Requester expects DHS and ICE to release all segregable portions of otherwise exempt material, and reserves the right to appeal a decision to withhold any records or to deny the within application for expedited processing and waiver of fees.

Please furnish all applicable Records in electronic format as specified above to: Sunita Patel, Center for Constitutional Rights, 666 Broadway, 7th Floor, New York, NY 10012.

If you have any questions regarding the processing of this request, please contact Sunita Patel at (212) 614-6439, or Ian Head at (212) 614-6470. Thank you for your consideration.

Sincerely,



Sunita Patel, Esq.

Center for Constitutional Rights

666 Broadway, 7th Floor

New York, NY 10012

spatel@ccrjustice.org

On Behalf of the Requesters

EXHIBIT B

U.S. Department of Homeland Security
Washington, DC 20536-5009



**U.S. Immigration
and Customs
Enforcement**

November 27, 2013

IAN HEAD
CENTER FOR CONSTITUTIONAL RIGHTS
666 BROADWAY, 7TH FL
NEW YORK CITY, NY 10012

Re: 2014FOIA3585

Dear Mr. Head:

This acknowledges receipt of your November 25, 2013, Freedom of Information Act (FOIA) request to the Immigration and Customs Enforcement (ICE), for information on the Detention Bed Mandate and/or Detention Quota and its impact on detention policy and detention contracting decisions nation-wide from June 2006 to present. Including copies of executed agreements related to detention facilities or detention beds, between ICE and private prison corporations, local, state, city or municipal governments. Communications regarding contract renewal, supplemental agreements, addendums and riders. Copies of all regularly generated statistical reports on detention; enforcement prioritization and detained population; detention by geographic location. Copies of cumulative data on numerical payouts to private prison corporations by ICE or DHS. Reports and memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations Decisions to/from the Secretary of Homeland Security. Records about releases from detention due to budget constraints or loss of funding. Your request was received in this office on November 27, 2013.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 1072 open requests ahead of yours.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged 10-cents a page for duplication, although the first 100 pages are


free, as are the first two hours of search time, after which you will pay the quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2014FOIA3585**. Please refer to this identifier in any future correspondence. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,



Catrina M. Pavlik-Keenan
FOIA Officer 

U.S. Department of Homeland Security
Washington, DC 20536-5009



**U.S. Immigration
and Customs
Enforcement**

November 27, 2013

IAN HEAD
CENTER FOR CONSTITUTIONAL RIGHTS
666 BROADWAY, 7TH FL
NEW YORK CITY, NY 10012

Re: 2014FOIA3585

Dear Mr. Head:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the U.S. Immigration and Customs Enforcement (ICE), dated November 25, 2013, seeking information on the Detention Bed Mandate and/or Detention Quota and its impact on detention policy and detention contracting decisions nation-wide from June 2006 to present. Including copies of executed agreements related to detention facilities or detention beds, between ICE and private prison corporations, local, state, city or municipal governments. Communications regarding contract renewal, supplemental agreements, addendums and riders. Copies of all regularly generated statistical reports on detention; enforcement prioritization and detained population; detention by geographic location. Copies of cumulative data on numerical payouts to private prison corporations by ICE or DHS. Reports and memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations Decisions to/from the Secretary of Homeland Security. Records about releases from detention due to budget constraints or loss of funding. Your request was received in this office on November 27, 2013.

After careful review of your FOIA request, we determined that your request is too broad in scope or did not specifically identify the records which you are seeking. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the records, if known, or the DHS component or office you believe created and/or controls the record. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please resubmit your request containing a reasonable description of the records you are seeking. Upon receipt of a perfected request, you will be advised as to the status of your request.

If we do not hear from you within 10 days from the date of this letter, we will assume you are no longer interested in this FOIA request, and the case will be administratively closed. Please be advised that this action is not a denial of your request and will not preclude you from filing other requests in the future.

Your request has been assigned reference number **2014FOIA3585**. Please refer to this identifier in any future correspondence. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,



Catrina M. Pavlik-Keenan

FOIA Officer





**U.S. Immigration
and Customs
Enforcement**
Freedom of Information Act Office
500 12th St., S.W., MS 5009
Washington, D.C. 20536-5009

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300



1001262399 0017

RECEIVED
U.S. DEPARTMENT OF HOMELAND SECURITY
FREEDOM OF INFORMATION ACT OFFICE
500 12TH ST SW
WASHINGTON DC 20536-5009
MAY 15 2013



US OFFICIAL MAIL
\$300 Penalty
For Private Use

\$00.460
Mailed From 20743
12/04/2013
US POSTAGE
Hasler

U F0174300 U 13

EXHIBIT C



December 19, 2013

RE: 2014FOIA3585

Dear Ms. Pavlik-Keenan:

I am writing in response to your two letters addressed to Ian Head at Center for Constitutional Rights, postmarked December 4th (but dated November 27th) and received in my office on December 9th. The letters regard a Freedom of Information Act request submitted by the Center for Constitutional Rights (CCR) and Detention Watch Network (“DWN”) to Immigration Customs Enforcement (ICE) (“the FOIA Request”). After continued unsuccessful attempts to discuss our request with the ICE FOIA office, we are seeking confirmation that ICE will respond immediately to this time-sensitive matter of public concern.

BACKGROUND

We filed the FOIA Request to obtain important information regarding the Detention Bed Mandate, Bed Mandate and/or Detention Quota, decision-making surrounding the mandate, and the impact the Mandate has had on detention policy and detention contracting decisions nationwide from June 2006 to the present.¹ There is an increasingly urgent need for the public to be better informed on these issues, especially with the upcoming Congressional appropriations debate likely to take place early next year, with hearings beginning as early as February 2014.

In response to the FOIA Request, in an envelope postmarked December 4, 2013, you sent two responses, somewhat inconsistent, to the FOIA Request. The first letter acknowledged receipt of our request by your office on November 27, 2013 and invoked a “10 day extension” in responding to our request, but “assured” us that ICE will be responding to our request “as expeditiously as possible.” (See Ex. A, “Letter 1”). The second letter also acknowledges receipt of our request on November 27, 2013, but states that the FOIA Request is “too broad” and asks us to resubmit the request. (See Ex. B, “Letter 2”). Without citing a specific authority, Letter 2 mandates a response within 10 days ICE, without which your office will administratively close our case.

On several occasions during the week of December 9th, immediately upon receiving your letters, our office attempted to confirm that we do not want this request administratively closed, as well as obtain further clarification as the issues outlined in Letter 2. We did so by phone and email. On December 13th, a representative of the ICE FOIA office informed us that a supervisor would call us back, presumably immediately, to address our concerns and work with us to process the request. As of the date of this letter, we have not received any further communication from your office.

¹ Please review our November 25, 2013 FOIA Request, Section A (“Purpose of the Request”), for full description.

LETTER 2

First, you state the request was “too broad in scope or did not specifically identify the records” we are seeking. (*See Ex. B, Letter 2, at 1*). The FOIA Request meets the requesters’ obligation to “reasonably describe” the materials sought, *see* 5 U.S.C. § 552(a)(3). The subject matter of the request—the detention bed quota and/or mandate—is well-known by ICE and has received considerable media attention. Additionally, we seek specific records, some of which are “agreements” of a specified nature, subject, parties and time period; data and statistics regularly held and produced within the agency; records related to three specific media stories; reports and memoranda between specific custodians and offices related to the detention bed mandate. The FOIA Request is in no way “too broad” or unspecific to justify ICE’s evading its FOIA obligations, and we have sought --for over a week -- further clarification by your office. As you are aware, FOIA requires your agency to “liberally construe” the request, and must search field offices where the requestor has indicated they would have responsive records. *See Kowalczyk v. DOJ*, 73 F.3d 386 (D.C. Cir. 1996); *Kidder v. FBI*, 517 F.Supp. 2d 17 (D.D.C. 2007).

Second, the issues with the FOIA Request raised in Letter 2 are all contained in our original FOIA request: We have named the offices and components within ICE which we are asking to be searched for records, and we have identified, defined and given a “reasonable description” specifying the records sought.

Third, your letter suggests CCR has a deadline of 10 days to respond, after which time if we did not respond, the case would be administratively closed. You cited no authority for this deadline and therefore we dispute any such 10-day requirement. Moreover, even if one existed, it would surely not begin to run on November 27th when the letter is postmarked 9 days later. .

We ask for a response from your office no later than December 30, 2013. As we have indicated in prior communications, we would like to answer any questions regarding #2014FOIA3585 to aid the agency in its searching and processing of for responsive records immediately. Please contact me, Ghita Schwarz, at (212) 614-6445 or gschwarz@ccrjustice.org if you have urgent questions or concerns.

Thank you for your attention to this matter.

Sincerely,



Ghita Schwarz

Encl/

Exhibit A

U.S. Department of Homeland Security
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

November 27, 2013

IAN HEAD
CENTER FOR CONSTITUTIONAL RIGHTS
666 BROADWAY, 7TH FL
NEW YORK CITY, NY 10012

Re: 2014FOIA3585

Dear Mr. Head:

This acknowledges receipt of your November 25, 2013, Freedom of Information Act (FOIA) request to the Immigration and Customs Enforcement (ICE), for information on the Detention Bed Mandate and/or Detention Quota and its impact on detention policy and detention contracting decisions nation-wide from June 2006 to present. Including copies of executed agreements related to detention facilities or detention beds, between ICE and private prison corporations, local, state, city or municipal governments. Communications regarding contract renewal, supplemental agreements, addendums and riders. Copies of all regularly generated statistical reports on detention; enforcement prioritization and detained population; detention by geographic location. Copies of cumulative data on numerical payouts to private prison corporations by ICE or DHS. Reports and memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations Decisions to/from the Secretary of Homeland Security. Records about releases from detention due to budget constraints or loss of funding. Your request was received in this office on November 27, 2013.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 1072 open requests ahead of yours.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged 10-cents a page for duplication, although the first 100 pages are

free, as are the first two hours of search time, after which you will pay the quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2014FOIA3585**. Please refer to this identifier in any future correspondence. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,



Catrina M. Pavlik-Keenan
FOIA Officer





U.S. Immigration
and Customs
Enforcement

Freedom of Information Act Office
500 12th St., S.W., MS 5009
Washington, D.C. 20536-5009

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300



U.S. OFFICIAL MAIL
\$300 Penalty
For Private Use
\$00.46⁰
12/04/2013
Mailed From 20743
US POSTAGE
Heister



1001282399 0017

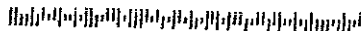


Exhibit B

U.S. Department of Homeland Security
Washington, DC 20536-5009



**U.S. Immigration
and Customs
Enforcement**

November 27, 2013

IAN HEAD
CENTER FOR CONSTITUTIONAL RIGHTS
666 BROADWAY, 7TH FL
NEW YORK CITY, NY 10012

Re: 2014FOIA3585

Dear Mr. Head:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the U.S. Immigration and Customs Enforcement (ICE), dated November 25, 2013, seeking information on the Detention Bed Mandate and/or Detention Quota and its impact on detention policy and detention contracting decisions nation-wide from June 2006 to present. Including copies of executed agreements related to detention facilities or detention beds, between ICE and private prison corporations, local, state, city or municipal governments. Communications regarding contract renewal, supplemental agreements, addendums and riders. Copies of all regularly generated statistical reports on detention; enforcement prioritization and detained population; detention by geographic location. Copies of cumulative data on numerical payouts to private prison corporations by ICE or DHS. Reports and memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations Decisions to/from the Secretary of Homeland Security. Records about releases from detention due to budget constraints or loss of funding. Your request was received in this office on November 27, 2013.


After careful review of your FOIA request, we determined that your request is too broad in scope or did not specifically identify the records which you are seeking. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the records, if known, or the DHS component or office you believe created and/or controls the record. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please resubmit your request containing a reasonable description of the records you are seeking. Upon receipt of a perfected request, you will be advised as to the status of your request.

If we do not hear from you within 10 days from the date of this letter, we will assume you are no longer interested in this FOIA request, and the case will be administratively closed. Please be advised that this action is not a denial of your request and will not preclude you from filing other requests in the future.

Your request has been assigned reference number **2014FOIA3585**. Please refer to this identifier in any future correspondence. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,


Catrina M. Pavlik-Keenan
FOIA Officer





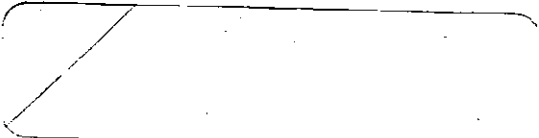
**U.S. Immigration
and Customs
Enforcement**

Freedom of Information Act Office
500 12th St., S.W., MS 5009
Washington, D.C. 20536-5009

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300



US OFFICIAL MAIL
\$300 Penalty
For Private Use
\$00.469
12/04/2013
Mailed From 20743
US POSTAGE
Hastler



1001282399 0017

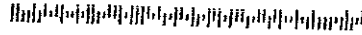


EXHIBIT D

U.S. Department of Homeland Security
500 12th ST. SW; STOP 5009
Washington, DC 20536-5009



**U.S. Immigration
and Customs
Enforcement**

December 27, 2013

Ghita Schwarz
Center for Constitutional Rights
666 Broadway, 7th Floor
New York City, NY 10012

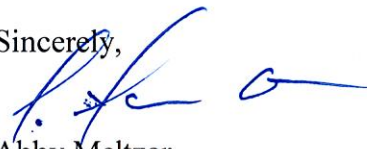
Dear Sir or Madam:

The Department of Homeland Security has received your letter appealing the adverse determination of your Freedom of Information Act/Privacy Act (FOIA/PA) request by U.S. Immigration and Customs Enforcement seeking all information on the Detention Bed Mandate and/or Detention Quota and its impact on detention policy and detention contracting decisions nation-wide from June 2006 to present. Including copies of executed agreements related to detention facilities or detention beds, between ICE and private prison corporations, local, state, city or municipal governments. Communications regarding contract renewal, supplemental agreements, addendums and riders. Copies of all regularly generated statistical reports on detention; enforcement prioritization and detained population; detention by geographic location. Copies of cumulative data on numerical payouts to private prison corporations by ICE or DHS. Reports and memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations Decisions to/from the Secretary of Homeland Security. Records about releases from detention due to budget constraints or loss of funding. Your appeal, dated December 19, 2013 was received on December 23, 2013.

On behalf of the Chief for the Government Information Law Division, we acknowledge your appeal request of **2014FOIA3585** and are assigning it number **OPLA14-1042** for tracking purposes. Please reference this number in any future communications about your appeal.

A high number of FOIA/PA requests have been received by the Department. Accordingly, we have adopted the court-sanctioned practice of generally handling backlogged appeals on a first-in, first-out basis.¹ While we will make every effort to process your appeal on a timely basis, there may be some delay in resolving this matter. Should you have any questions concerning the processing of your appeal, please contact ICE FOIA at (866) 633-1182, or by email at ice-foia@dhs.gov.

Sincerely,



Abby Meltzer
Acting Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
Department of Homeland Security

¹ Appeals of expedited treatment denials will be handled on an expedited basis.



**U.S. Immigration
and Customs
Enforcement**
Freedom of Information Act Office

500 12th St., S.W., MS 5009
Washington, D.C. 20536-5009

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300



US OFFICIAL MAIL
For Private Use
\$300 Penalty

\$00.460

12/30/2013

Mailed From 20743

US POSTAGE

1001282399 0017

EXHIBIT E

U.S. Department of Homeland Security
500 12th St. SW; STOP 5009
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

January 24, 2014

VIA E-MAIL AND REGULAR U.S. POSTAL SERVICE

Ghita Schwarz
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

RE: OPLA14-1042, 2014FOIA3585

Dear Ms. Schwarz:

This is in response to your letter dated December 19, 2013, appealing the adverse determination by the U.S. Immigration and Customs Enforcement (ICE), Freedom of Information Act (FOIA) Office in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request. The initial request, dated November 25, 2013, asked for information regarding the Detention Bed Mandate and/or Detention Quota and its impact on detention policy and detention contracting decisions nation-wide from June 2006 through present, including: (1) copies of executed agreements related to detention facilities or detention beds between ICE and private prison corporations as well as local/state/city/municipal governments; (2) communications regarding contract renewal, supplemental agreements, addenda and riders; (3) copies of all regularly generated statistical reports on detention, enforcement prioritization, detained population and detention by geographic location; (4) copies of cumulative data on numerical payouts to private prison corporations by ICE or DHS; (5) reports and memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations decisions to/from Secretary of Homeland Security; (6) records about releases from detention due to budget constraints or loss of funding; and (7) records related to three specific media releases.

ICE FOIA Office mailed you two acknowledgement letters which were both dated November 27, 2013. The first letter invoked a 10-day extension under 5 U.S.C. section 552(a)(6)(B) with respect to the processing of your request. The second letter informed you that your request was "too broad in scope or did not specifically identify the records [sought]," invited you to resubmit a perfected request, and informed you that your case would be administratively closed within 10 days from the date of the letter if ICE FOIA did not hear from you in the interim. Within your appeal you have enclosed: (1) evidence that both letters from ICE FOIA, dated November 27, 2013, were postmarked December 4, 2013; and (2) a copy of the December 10, 2013, email you sent to ICE FOIA inbox, requesting that your case not be administratively closed. In your appeal, you also state that you have had a telephonic conversation regarding your FOIA request on December 13, 2013, with an unnamed person from the ICE FOIA Office who stated that a supervisor was going to call you back, but that you never received the call-back. It appears that ICE FOIA Office

Ghita Schwarz
OPLA14-1042, 2014FOIA3585
Page 2 of 2

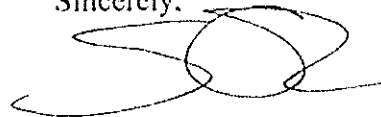
administratively closed your case on December 13, 2013. Finally, you argue both that your request was not too broad in scope and that your description of the documents/records requested was specific enough.

Upon review of the entire administrative record and your appeal letter dated December 19, 2013, we are denying in part and remanding in part the aforementioned appeal. Specifically, we are affirming the decision by ICE FOIA to deem your request overbroad in that it did not describe the records that you seek in enough detail to enable ICE personnel to locate them with a reasonable amount of effort, as required under 6 C.F.R. § 5.3(b). We are also reversing the decision of the ICE FOIA Office to administratively close your case.

This appeal will thus be remanded for ICE FOIA Office to reopen your case and contact you as soon as practicable regarding clarifying the scope of your request, consistent with this opinion.

Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal", your appeal number, which is **OPLA14-1042** and the FOIA case number, which is **2014FOIA3585**.

Sincerely,



Debbie Seguin
Chief, Government Information Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security



**U.S. Immigration
and Customs
Enforcement**

500 12th St. SW: STOP 5009
Washington, DC 20536-5009

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

Ghita Schwarz
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

CAPITAL DISTRICT 200708

27 JAN 2014 PM 3:13



US OFFICIAL BUSINESS
\$300 Penalty
For Private Use

\$00480

01/27/2014

Mailed From 20743

US POSTAGE

10012239999

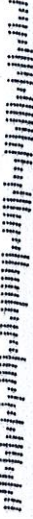


EXHIBIT F

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
DETENTION WATCH NETWORK
and CENTER FOR CONSTITUTIONAL
RIGHTS,

Plaintiffs,

**DECLARATION OF
SILKY SHAH**

v.

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT AGENCY,
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendants.

-----X

I, SILKY SHAH, declare pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am the Interim Executive Director of Detention Watch Network (“DWN”), a Plaintiff, along with the Center for Constitutional Rights (“CCR”) in the above-captioned matter. I make this statement in support of Plaintiffs’ Motion for a Preliminary Injunction, seeking that Defendants release information regarding the implementation and effects of the Detention Bed Quota, a policy enacted by Congress and ostensibly interpreted by Defendants to require the incarceration of 34,000 immigrants every day.
2. DWN and CCR filed a Freedom of Information Act (“FOIA”) request with ICE and DHS in November 2013 asking for specific documents and information about the Quota, as well as expedited processing because of the imminent congressional appropriations debates for Fiscal Year 2015.

3. As of the date of this Declaration, DWN and CCR have not received any documents pursuant to our request.

4. Release of the records Plaintiffs requested is a matter of urgency. The records requested are crucial for our work in alerting the public to the effects of the Detention Bed Quota as Congress prepares to consider the President's budget proposal for Fiscal Year 2015, scheduled to be submitted to Congress on March 4, 2014.

Detention Watch Network

5. DWN is a national coalition of 200 organizations and individuals working to reform the U.S. immigration detention and deportation system. We are the only national network focused exclusively on immigration detention reform. Many of our members have been detained themselves or work with families and communities that have been subject to detention. Our organizational membership is diverse both geographically and by issue. National legal and policy groups include the American Immigration Lawyers Association, Human Rights First, the National Immigration Law Center, National Latina Institute for Reproductive Health, Women's Refugee Commission, and the American Civil Liberties Union (and many of their state affiliates). DWN members also include numerous faith-based groups, including Lutheran Immigration and Refugee Service, Catholic Legal Immigration Network, Jesuit Refugee Service/USA, United Methodist Women, and Unitarian Universalist Service Committee. Our members are also state and regional coalitions and organizations, such as Puente (Arizona), Families for Freedom (New York), Texans United For Families, Georgia Detention Watch, Florida Immigrant Coalition, Colorado Immigrant Rights Coalition, and Illinois Coalition for Immigrant and Refugee Rights. Members also include legal services providers and law schools, such as the Florence Immigrant and Refugee Rights Project (Arizona), ProBAR (Texas), Public

Counsel (California), Northwest Immigrant Rights Project (Washington), Immigrant Defense Project (New York), University of Houston Law Center, Legal Aid Clinic (Texas), Stanford Law, Immigrants' Rights Clinic (California), and University of Miami School of Law Immigration Project (Florida).. Such a broad membership base makes us a clearinghouse of information for advocates, elected officials, affected community members and the public of detention-related material.

6. In my position at DWN, I am responsible for overseeing the advocacy campaigns and priorities established by our membership, and tailor our communications and media strategy with those goals in mind. For the past year, addressing the impact of the "Detention Bed Quota" (also known as the "immigration detention bed mandate", "bed mandate", "lock up quota" and "bed quota") has been identified by our membership as a current organizational priority due to its inextricable link to the mass incarceration of immigrants, racial profiling and raids in immigrant communities, and the rapid rate of deportations. I, along with our staff and our members meet with and educate elected officials and their staff members about the detention bed quota and the need for reforms to the immigration detention system, engage and support our local and regional policy reform efforts, and conduct outreach to media and community groups to alert the public of the effects of the detention bed quota.

7. DWN's expertise in researching and reporting to the public on immigration detention-related issues, specifically regarding human rights abuses and U.S. governmental policy, is a reflection of our membership, who work with, have constituents, or are themselves detained or members of communities directly affected by these agencies' immigration enforcement policies. The immediate release of the requested information concerning the "Detention Bed Quota" or "bed mandate" by Immigration and Customs Enforcement ("ICE")

and Department of Homeland Security (“DHS”) is central to educating both our members and the general public on the effects of the Quota on detention and immigration enforcement policies and practices.

The Detention Bed Quota

8. The Detention Bed Quota is a Congressional policy that currently conditions over \$5.39 billion in funding for ICE on the maintenance of 34,000 detention beds per day. These detention beds exist for the sole purpose of civil detention of immigrants pending the outcome of their immigration cases, not incarceration for individuals who are serving sentences for criminal convictions or awaiting trial on criminal charges.

9. The Detention Bed Quota was formally included in appropriations bills starting in Fiscal Year 2009 with a mandate of 33,400 beds, later increased to 34,000 in 2012. The Detention Bed Quota has been included by Congress in every appropriations bill since Fiscal Year 2009, including most recently in the omnibus spending bill for Fiscal Year 2014. There is currently a significant and growing debate among members of Congress and the Obama Administration regarding future quota levels and whether it should be eliminated completely. For example, Representative Jared Polis (D-CO), who supported the Detention Bed Quota in 2009, now opposes it, calling it “an outrage to our values as Americans, and frankly...an outrage to taxpayers.” *See* 159 Cong. Rec. 3144 (2013).

10. The Detention Bed Quota appears to have been interpreted by ICE to require that 34,000 detention beds be filled each day. This interpretation of the Congressional language mandates the incarceration of a specified number of immigrants – a practice that is unprecedented in the law enforcement context. DWN and its members believe that ICE’s

interpretation of the Congressional language as a quota that must be filled has led to an enormous increase in immigration arrests, detentions, and deportations.

11. The Obama Administration has deported a record-breaking number of immigrants since 2009, and is approaching 2 million. In addition, the number of immigrant detainees has more than doubled in little more than a decade. The total number of individuals who have spent time in immigration detention within a given year has increased from 204,459 in 2001 to 478,000 in 2012. It is also notable that the number of immigrants held in detention daily has more than quadrupled between 7,475 in Fiscal Year 1995 to 33,330 in Fiscal Year 2011 (a few years after the implementation of a detention bed quota).

12. The size and scope of the immigration detention system is particularly significant when compared with the Bureau of Prisons (BOP) custody for the federal prison system. In Fiscal Year 2001, 204,459 immigrants were detained – roughly three times the number of individuals held by BOP. By 2010, the total number of immigrants detained by ICE rose to 363,604 – more than five times the number of individuals in custody for federal criminal offenses.

DWN's Advocacy Campaigns to Reform Immigration Detention

13. DWN has been actively engaged in documenting and reporting to the public on the cruel and appalling conditions of immigration detention facilities nationwide. In November 2013, DWN issued the report *Expose and Close: One Year Later*, which examines the continuing lack of accountability for the ongoing human rights crisis caused by mandatory detention of immigrants in the U.S. The report is a follow-up to several DWN member-driven reports on detention facilities DWN published in 2012.

14. As the number of immigrants detained and deported has skyrocketed during President Obama's administration, DWN has called on Congress and the President for broad reforms to the immigration detention system. We have issued public statements and published educational materials and reports demanding greater transparency in ICE and DHS enforcement and detention practices and policies, including the Detention Bed Quota.

15. For example, DWN has highlighted the fact that over 30 percent of immigrant detainees are detained not because the law requires their incarceration, but because ICE has used its discretion to detain asylum-seekers, working people, and low-level, non-violent offenders.

16. In early 2013, DWN engaged our network to support advocates and several members of Congress as they pushed for greater public exposure of the Detention Bed Quota as well as demanding immediate reforms.

17. In February 2013 over 2,000 individuals were released from detention centers across the country citing sequestration cuts as the primary cause. Many questioned why individuals who were easily released due to budget cuts were subject to detention in the first place. During a House Judiciary Committee hearing weeks later, U.S. Rep. Spencer Bachus, R-Ala., pointedly questioned Immigration and Customs Enforcement Director John Morton about "an overuse of detention," asking, "Is it possible that you are detaining more people than you need to?" Immediately after initial reports of the releases, DWN moved quickly and proactively to call attention to the issue, resulting in a CNN.com opinion piece authored by former Executive Director, Andrea Black and coverage from National Public Radio.

18. In May 2013 during the House appropriations debate, DWN called attention to the increase of \$147 million in the detention budget. In the summer of 2013, DWN mobilized its members to support Congressional Representatives Theodore Deutch (D-FL) and Bill Foster (D-

IL) introduction of an amendment in the House that would have struck the Detention Bed Quota from the fiscal year 2014 appropriations bill, HR 2217. While the amendment lost by a vote of 232 to 190, it energized advocates nationwide and garnered significant media attention.

19. Since then, and over the course of the past seven months, the Detention Bed Quota and its impact has been covered by National Public Radio, the Wall Street Journal, the New York Times, Bloomberg, the New York Daily News, and a variety of other outlets. As a nationally-recognized resource on detention issues, DWN is frequently contacted by local and national media to comment on the Quota. For example, in October 2013, I was a featured guest on Melissa Harris-Perry's nationally syndicated television program on MSNBC, where I emphasized that even if Congress addresses immigration in the upcoming year, the Detention Bed Quota still stands as a significant obstacle to meaningful reforms of the immigration detention system.

20. Following the government shutdown in the Fall of 2013 over the Fiscal Year 2014 budget, DWN conducted meetings with our members and allied organizations to influence ongoing budget negotiations in Congress. Despite our efforts, the 2014 omnibus spending bill passed in January 2014 and renewed funding for 34,000 detention beds.

21. Without the information sought in our FOIA request, we are at a disadvantage in our efforts to report on the effects of the Detention Bed Quota and engage the public in advocacy. For example, it is still unclear to us when and why ICE decided to interpret the Detention Bed Quota as a requirement to *fill* 34,000 beds when the language appears to only indicate that Congress intends merely to *fund* 34,000. Indeed, then-Secretary of Homeland Security Janet Napolitano testified before the House Appropriations Committee that the detention bed mandate was "artificial" and "arbitrary," suggesting that there is disagreement

within the agency regarding whether the Quota is appropriate. Because information about agency interpretation of the Quota as well as internal disagreement is essential to our campaign, our Request sought “[a]ll Reports and Memoranda reporting on the Detention Bed Mandate and Detention-related Appropriations decisions to/from the Secretary of Homeland Security, the Assistant Secretary for ICE, Members of Congress, and/or the White House.” *See* Plaintiffs’ Request at C(f), attached as Schwarz Decl. Ex. A.

22. Similarly, the widely reported release of thousands of detainees in times of budget constraint – most recently in February 2013, as a result of budget sequestration – suggests that decisions about detention of immigrants are being driven by funding, not by the need or requirement to detain specific individuals. Legislators like Representative Spencer Bachus (R-AL) have noted that this sort of decision-making suggests the “overuse” of detention. *See Committee Hearings is Release of Criminal Detainees by U.S. Immigration and Customs Enforcement: Policy or Politics? Hearing Before the H. Comm. On the Judiciary, 113th Cong. 50 (2013) (statement of Rep. Spencer Bachus, Alabama).* As a result, we sought “Records, including communications, about releases from detention due to budget constraints or loss of funding,” naming three specific examples of the types of records sought. *See* Plaintiffs’ Request at C(g), attached as Schwarz Decl. Ex. A.

23. In addition, information about the flow of funding to private prison corporations is of high interest to our members, legislators and the public, and indeed has been mentioned as a serious problem in numerous news, opinion and advocacy pieces discussing the Detention Bed Quota. Because this information is likely to be of great relevance to public debate, we sought a number of documents related to “executed agreements with private prison corporations,” “[a]greements (both formal and informal) regarding detention bed space” and “financing of

detention beds” within specific jurisdictions, and “financial records of actual payments to private prison corporations. See Plaintiffs’ Request at C(a)(i), (c), and (d)(iii), attached as Schwarz Decl. Ex. A.

Imminent Congressional Appropriations Debate

24. The debate on the budget for Fiscal Year 2015 formally commences when the President submits his budget proposal to Congress. The Obama administration has announced that it will present its appropriations budget to Congress on March 4, 2014, at which time discussion and debate on the bill will officially begin. In the past, Congressional appropriations committee members have even started to consider the budget prior to the President’s submission. It is vital that DWN and its members receive information about the Quota before these debates ensue, so that we can analyze records and use the information to educate the public about this crucial issue.

25. With the debates around the FY2015 appropriations bill imminent, there is an immediate and urgent need for ICE and DHS to release the requested information. It is paramount that DWN gain access to ICE and DHS policies regarding the Detention Bed Quota so that we can disseminate this information and inform our members and the public and meaningfully engage in the upcoming political debates. It is critical that the public and their representatives in Congress understand the connections between decisions to increase immigration enforcement and a mandatory detention quota. Without the records requested, advocates and the public are deprived of an important tool to evaluate the Obama Administration’s policies and hold elected officials accountable for reforming them.

Executed on: February 10, 2014

A handwritten signature in black ink, appearing to read 'Silky Shah', is written on a light-colored rectangular background.

Silky Shah

EXHIBIT G

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
DETENTION WATCH NETWORK
and CENTER FOR CONSTITUTIONAL
RIGHTS,

Plaintiffs,

**DECLARATION OF
BOB LIBAL**

v.

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT AGENCY,
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendants.

-----X

I, BOB LIBAL, declare pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am the Executive Director of Grassroots Leadership, a thirty-four year-old organization based in the Southern United States focused on exposing injustice within detention and prison facilities and ending the privatization of public resources, especially within the context of the criminal justice and immigration systems. Grassroots Leadership is an organizational member of Detention Watch Network (“DWN”), one of the Plaintiffs in the above-captioned matter. I make this statement in support of Plaintiffs’ Motion for a Preliminary Injunction.

2. Grassroots Leadership works in both the criminal justice and immigration arenas and is involved in advocating for reduced reliance on immigration detention and increased

exposure of the private prison industry's role in detention and deportation policies. We primarily serve and advocate for individuals and communities at risk of detention, deportation and incarceration, and carry out our campaigns by utilizing a mixture of grassroots organizing and advocacy along with in-depth research and reporting. We visit people being held in detention centers as well as their family members and community leaders so that the voices of those directly impacted can shape our organizational priorities. Our goal is to hold the government accountable by exposing the unacceptable conditions within these privately-run prisons.

3. We have offices in both North Carolina and Texas, but advocate on behalf of communities across the country.

4. In my capacity as Executive Director, I oversee all aspects of our current advocacy campaigns, as well as assist in authoring reports and publicly advocate on behalf of Grassroots Leadership. Stopping the expansion of private immigration detention centers is a central focus of our organizational campaigns, reports and media strategy, as it is of critical importance to not only the communities we serve but the general public as well.

5. Grassroots Leadership has published or co-published several recent reports regarding the inadequate conditions and human rights violations in detention facilities operated by private prison corporations. These include "The Dirty Thirty: Nothing to Celebrate About 30 Years of Corrections Corporation of America" (June 2013), "The Top 10 Reasons the Polk Detention Center Should Still be Closed" (December 2013), and "Operation Streamline: Costs and Consequences" (September 2012). Our website blog is regularly updated with information and reports concerning our campaigns against private detention centers, and the connection with mandatory immigration policies such as the Detention Bed Quota.

6. The Detention Bed Quota is directly connected to these privately-contracted detention facilities, because having a mandated number of beds to fill helps these corporations stay in business and continue to earn profits at taxpayers' expense. Gaining more information about the connections between ICE, DHS and the private prison industry, how those contracts are crafted and why they continue is of vital importance to those we serve.

7. Grassroots Leadership is currently engaged in pushing forward a campaign to close the privately-run Polk County Detention Center in Texas. Gaining access to information sought in Plaintiffs' November 25, 2013 Freedom of Information Act (FOIA) request is critical to our ability to shed light on these continuing abusive policies and on human and civil rights violations affecting people being held at these prisons. For example, Plaintiffs' FOIA Request seeks information concerning the agreements between private prison corporations and ICE & DHS as well as records of communications regarding bidding proposals from these corporations to ICE See Exhibit A at (C)(a)(i), (C)(b)), and (C)(i)). Such information would illuminate the harms caused by the Detention Bed Quota and the lack of oversight of sub-standard detention facilities. It is therefore crucial to our efforts to inform and galvanize the public to take action in local jurisdictions where these facilities are located and to advocate for Congressional representatives to end the Detention Bed Quota.

8. For those people who continue to be detained, often indefinitely and in horrific conditions, as well as for their family members, the ability of Grassroots Leadership to access information on the Detention Bed Quota is of the utmost importance. It is incredibly difficult to advocate against the detention of people in sub-standard facilities such as the Polk County Detention Center when a government quota mandates that these facilities be filled at all times.

9. Because Congressional debates on the DHS appropriations budget for Fiscal Year 2015 are about to begin, decisions regarding where and how ICE spends its money on detention and contracting are imminent. The reasons behind ICE's decision to interpret Congressional funding as a government-quota of 34,000 filled detention beds remain unclear. Grassroots Leadership needs this background information now so that we can be better informed when meeting and advocating with local and national government officials.

10. In addition, communities directly affected by the Detention Bed Quota need the information sought in this FOIA request immediately so that Grassroots Leadership and others can fully understand private-prison contracting trends and in particular how ICE is making decisions regarding the opening and closing of these facilities. Immigrants detained by ICE were removed from the privately-run Jack Harwell Detention Center in Waco, Texas in 2011 after complaints from immigrant rights advocates and legal service providers about inadequate conditions, only to be considered for re-opening two years later without any transparency or justification. Situations such as these raise important questions as to whether the Detention Bed Quota is being used only to further the profit margins of corporations. This is not only a question of government expenditure but one of human rights. The communities served by Grassroots Leadership do not deserve to have family members placed in detention facilities simply to fill an artificial quota.

11. Therefore it is critical that the public and our political representatives, especially in states targeted as potential sites for new private prisons, be able to understand how the rising profits of these private-sector prison companies are directly connected to this government-mandated quota policy. This must happen immediately, as decisions concerning private prison re-openings and potential expansion in Texas are imminent. Without the immediate release of

this information Grassroots Leadership's ability to hold private prison companies along with ICE and DHS accountable for unjust mandatory detention policies is seriously impeded.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 10, 2014

A handwritten signature in black ink that reads "Bob Libal". The signature is written in a cursive, slightly slanted style.

Bob Libal, Grassroots Leadership

EXHIBIT H

The winners and losers of the new spending bill

By Ed O'Keefe, Updated: January 14 at 9:51 am

Updated and corrected 11:48 a.m.

Congressional negotiators released the details of [a massive \\$1.1 trillion spending bill](#) that would fund federal agencies through the rest of the fiscal year and end the lingering threat of another government shutdown.

So, what's in it? We quickly sifted through the legislation, consulted supporting documents from Democratic and Republican aides, and called out some of the more notable and controversial elements below. (If you want a detailed report on each of the 12 pieces of the broader spending bill, it's all [here](#).)

ABORTION

The bill once again bans the use of federal funding to perform most abortions; bans local and federal funding for abortions in the District of Columbia; and federal dollars for abortions for federal prisoners; and bans the use of U.S. foreign aid on abortions. But the agreement doesn't codify the so-called "Global Gag Rule" that bars nongovernmental organizations that receive federal funds from providing women information on certain health programs.

AFFORDABLE CARE ACT

The agreement doesn't provide any new funding to implement the health-care law and maintains current funding levels at the Centers for Medicare and Medicaid Services, the primary agency overseeing the law. But appropriators targeted a few controversial elements of the law.

First, there's a \$1 billion reduction in the Prevention and Public Health Fund, a move Republicans say will keep administration officials from using the money to pay for elements of the health law. The bill also slashes \$10 million for the Independent Payment Advisory Board, often referred to by Republicans as the "unelected bureaucrats" or "death panels" that are set to advise government officials on health-care issues.

AIRPORT SECURITY

The Department of Homeland Security will take a \$336 million cut in funding, with most of the reductions at the Transportation Security Administration. In a victory for Republicans who have sought for years to boost the use of private security contractors, the agreement increases funding for private security screeners and caps TSA's overall screening personnel at 46,000.

AFGHANISTAN

The measure includes \$85.2 billion for military operations in Afghanistan, a \$2 billion cut

from fiscal 2013 due in part to ongoing troop reductions. But the agreement also withholds money for the Afghan government "until certain conditions are met," including a decision to [sign a new bilateral security agreement](#).

BORDER SECURITY

The agreement includes \$10.6 billion for Customs and Border Protection, about \$220 million more than the previous fiscal year. In a victory for California lawmakers and border security advocates, \$128 million is allotted to expand the busy U.S.-Mexico border crossing station between San Diego and Tijuana, Mexico. But the sum is less than the \$226 million originally sought by the Obama administration.

CONGRESSIONAL SPOUSES:

The omnibus includes a \$174,000 bereavement payment to Beverly A. Young, the widow of the late congressman C.W. Bill Young (R-Fla.). This is a customary payment made to the spouse of a lawmaker who dies in office and equals one year's salary.

DISASTER FUNDING

Appropriators set aside about \$6.55 billion for the Disaster Relief Fund used by the Federal Emergency Management Agency to provide assistance to affected individuals and city and state governments.

DISTRICT OF COLUMBIA

There's \$673 million for the District, about \$2.2 million below last year. The sum includes \$232.8 million for D.C. courts, \$226.5 million for criminal offender supervision and \$48 million for school improvements.

But there are two big blows for the District. First, there's no language allowing D.C. budget autonomy. Secondly, there's only partial funding to continue building out the Department of Homeland Security's new campus in Anacostia, a project that District leaders consider critical to the revitalization of Southeast.

EMBASSIES

Despite concerns for embassy security following the Sept. 11-12, 2012, attacks on two U.S. outposts in Benghazi, Libya, the bill provides \$224 million less for embassy security, maintenance and construction costs than in fiscal 2013. The bill bans the construction of a new embassy in London and bars the State Department from closing the chancery at the U.S. Embassy in the Holy See and merging it with the one at the U.S. Embassy in Rome for security reasons, [a project first pushed by George W. Bush's administration](#).

EPA

Democrats successfully blocked attempts by Republicans to prevent the agency from regulating greenhouse gas emissions and to repeal new clean water regulations.

FLOOD INSURANCE

The legislation delays certain premium increases triggered by changes to the FEMA's flood insurance program. It's a big issue of concern for dozens of lawmakers in several areas, who strongly oppose changes that were made in a major flood insurance reform bill a few years ago. The language is an especially big victory for Rep. Bill Cassidy (R-La.) and Sen. Mary L. Landrieu (D-La.) as they continue to face each other in the hotly contested Louisiana Senate race.

GITMO

The legislation bans the Obama administration from transferring terrorism detainees from the U.S. detention facility at Guantanamo Bay, Cuba, to facilities in the United States. It also prohibits any money from being spent to "modify any facility in the U.S. to house detainees," a direct slap at attempts to build a terrorism detention site at a facility in Illinois.

GUNS AND AMMO

Several issues regarding gun control are in the bill. There's language prohibiting various import and export criteria related to firearms. The legislation restricts the Justice and Homeland Security departments from establishing programs similar to the "Operation Fast and Furious" gun-running program. In response to allegations that the administration has been stockpiling ammunition for use by federal agents, the measure also requires DHS to provide detailed reports on its purchase and use of ammunition.

Democrats also stopped Republicans from blocking gun sellers from reporting multiple sales of rifles or shotguns to the same person. Finally, the legislation provides more money for National Instant Criminal Background Checks program to meet "increased demand."

GOVERNMENT CONTRACTORS

The legislation prohibits any funding to require that contractors bidding for federal contracts disclose campaign contributions. The Obama administration has openly flirted with issuing executive orders that would require contractors to provide campaign disclosures.

HEAD START

In a big boost for education funding, there's \$8.6 billion allotted for the program, a \$1.025 billion increase. Within that funding is \$500 million for Early Head Start and \$250 million in grants to expand preschool programs.

IMMIGRATION

With the Obama administration still deporting thousands of illegal immigrants on a daily basis, there's \$2.8 billion for detention programs operated by Immigration and Customs Enforcement. That funding helps to pay for 34,000 beds for detainees, "the highest detention capacity in history," according to the House Appropriations Committee. There's also \$114 million to continue funding the E-Verify program used to help companies check the immigration status of job applicants. The bipartisan immigration reform proposal passed by the Senate last year would add additional funding to the program.

Democrats successfully blocked GOP attempts to prohibit the Justice Department from using federal funds to mount legal challenges to state immigration laws. And they blocked a GOP-backed rider that would have stopped ICE from prioritizing the deportation of dangerous criminals and instead forced the agency to target all groups, including the children of illegal immigrants.

THE IRS

The scandal-ridden tax-collecting agency comes in for special scrutiny this year. There's no funding "to target groups for regulatory scrutiny based on their ideological beliefs or to target citizens for exercising their First Amendment rights." And the agreement requires the agency to provide reports on its spending on training and bonuses. And, in response to those ["Star Trek" parody videos](#), there's no funding "for inappropriate videos."

JOE BIDEN

The legislation enacts a pay freeze for the vice president "and senior political appointees."

LIBYA

There's a ban on foreign aid for Libya until Secretary of State John F. Kerry "confirms Libyan cooperation" with ongoing investigations into the September 2012 attacks on the U.S. compounds in Benghazi. The measure also includes additional money to upgrade several temporary diplomatic missions around the world.

LIGHT BULBS

The measure bars funding to enforce new light bulb standards that would [ban the use of incandescent bulbs](#). The proposal was first introduced and set in motion by the bush administration, but the Obama White House seized on the issue and allowed the change to continue, despite the sustained consumer demand for older bulbs.

MILITARY PAY

The legislation authorized a 1 percent pay increase for U.S. military personnel. The agreement also authorizes 1,361,400 active-duty troops and 833,700 reservists.

MILITARY VETERANS

In a change to the bipartisan budget agreement, lawmakers agreed to restore a cut in the cost-of-living adjustments to the pensions of disabled working-age veterans. The fix is a victory for members of both parties who sought to quickly restore the funding, even as they try to reverse the pension cuts for all veterans, which is likely to occur next year.

NUCLEAR WASTE

Consistent with current policy, the agreement doesn't provide any funding to further develop the Yucca Mountain site in Nevada. Senate Majority Leader Harry M. Reid (D-Nev.) and other Silver State lawmakers have fought for years to keep the government from using the location for nuclear disposal.

OFFICIAL PORTRAITS

In a blow to one of the coolest perks of serving in the Cabinet, the legislation bars the use of federal money "for painting portraits."

U.S. POSTAL SERVICE

In a blow to those seeking to revamp the nation's mail service, the legislation bars postal officials from ending Saturday mail delivery — a move endorsed by a majority of Americans — or from closing far-flung rural post offices — a tricky issue fraught with political concerns. Postal officials for years have been seeking to end Saturday deliveries and to close smaller, less profitable locations.

SEXUAL ASSAULT IN THE MILITARY

In compliance with the defense authorization bill [passed last month](#), the agreement provides \$157 million for the Pentagon's sexual assault prevention programs and \$25 million to expand a victims' counsel program for troops involved in rape or sexual assault cases.

THE WEATHER

The bill includes \$5.3 billion for the National Oceanic and Atmospheric Administration, including money for the National Weather Service to keep running and building key weather

satellites.

FEDERAL WORKER PAY (AND PARTYING)

The measure authorizes a 1 percent pay increase for civilian federal workers and U.S. military personnel. But in response to several embarrassing examples of excess spending by federal agencies ([IRS!](#) [GSA!](#)), the bill also puts in place new bans and limitation on certain conferences, official travel and employee awards.

SCHOOL LUNCH

The agreement provides the Agriculture Department with enough money to provide an estimated 5.6 billion free or reduced-price school lunches and snacks for about 32.1 million eligible schoolchildren

TRAINS

The legislation places overtime limits on Amtrak employees. And it includes no federal funding for high-speed rail projects in California, the Northeast corridor and elsewhere. But in a win for rail advocates, the agreement doesn't include a policy rider that bans the government from ever providing federal dollars for such projects.

What did we miss? What notable changes did you spot? Share details in the comments section below.

This item has been updated and corrected: A previous version of this post incorrectly characterized funding for the Homeland Security campus in the District, plans to merge U.S. diplomatic facilities in Rome and Vatican City and for the proposed nuclear disposal site at Yucca Mountain in Nevada. The post has been updated.

© The Washington Post Company

EXHIBIT I

Bloomberg

Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit

By William Selway and Margaret Newkirk - Sep 24, 2013

Noemi Romero, who came to the U.S. illegally at age 3, was arrested in January working at a Phoenix grocery store, where she used someone else's name to get the job.

Romero, a 21-year-old who likes to draw and dance, spent the next four months behind bars, almost half of it in a cramped cell at a 1,596-bed detention center in Eloy, Arizona, run by [Corrections Corp. of America](#). The company, with [Geo Group Inc. \(GEO\)](#) and other for-profit prison operators, holds almost two-thirds of all immigrants detained each day in federally funded prisons as they face deportation, U.S. data show.

Under law, taxpayers must pay to keep 34,000 people like Romero in jail, at a cost of about \$120 each per day, even as the number of immigrants caught sneaking across the border has fallen by more than half since the past recession began.

Since 2009, when then-Senator [Robert Byrd](#), a West Virginia Democrat, inserted a change into the [Homeland Security](#) Department's annual spending bill, federal immigration officials have been placed in the unusual position of operating under a statutory quota on how many people to hold behind bars. Congressional Republicans have been defending it ever since.

"People are being kept in detention -- in many cases for weeks or months at a time -- without consideration for the individual circumstances," said Denise Gilman, co-director of the Immigration Clinic at the University of Texas law school in Austin. "This is being done at a tremendous financial cost to taxpayers and a tremendous human cost to families."

Detention Quota

Prisons are one of the few institutions that states and the federal government have moved to privatize, creating a booming business for [Corrections Corp. \(CXW\)](#) and Geo, the two publicly traded companies that dominate the market. Both actively lobby Congress. Serving as government jailer has been a hit on [Wall Street](#), as Corrections Corp. and Geo have each about doubled in value since mid-2010.

The results haven't always been good. Regulatory, court and state records show that privately run prisons have been troubled by staffing shortages, rapid employee turnover or cost-cutting that has led to dangerous conditions for inmates, and some academic studies have cast doubt on the industry's core claim

of saving taxpayers' money. This year, Ohio auditors faulted Corrections Corp. after assaults almost tripled following its takeover of a state prison, and a riot at its Natchez, Mississippi, immigrant facility left a guard dead and 20 people injured last year.

No Impediment

Such incidents have proven no obstacle to growth for Corrections Corp. and Geo. This month, California Governor [Jerry Brown](#) moved to commit more than \$1.14 billion over the next three years to lease thousands of prison cells, while Geo said it won a federal contract, valued at \$8.5 million a year, to hold as many as 400 immigrants in Alexandria, Louisiana.

While states and the federal government move to curb the nation's prison population, immigration detention has been protected by Congress. The "bed mandate," as it's called on Capitol Hill, forces President [Barack Obama](#)'s administration to fill a minimum of 34,000 prison slots a day.

Congress has pressed to ensure the beds are full, and lawmakers say it forces U.S. Immigration and Customs Enforcement to find and deport the millions who are in the country illegally.

Mandate Reminder

Texas Republican Michael McCaul, the Homeland Security Committee chairman in the [House of Representatives](#), told ICE officials in February that they were "in clear violation of statute" when the detainee population fell to 30,773 after 2,200 were released to save money.

While the number held varies daily, the average follows the level set by Congress. Through mid-April, around the midpoint of the federal budget year, ICE detainees averaged 33,811 a day, according to records obtained through a Freedom of Information Act request. Brian Hale, an ICE spokesman, declined to comment.

The Obama administration has questioned the need to hold so many. It has asked Congress to cut the bed quota so it can use less costly measures, such as ankle bracelets, to ensure that detainees show up in court. Lawmakers have rejected the move.

At an April hearing, then-Homeland Security Secretary [Janet Napolitano](#), whose department includes ICE, called the mandate "artificial" and said reducing the required number of detainees would let the agency free low-risk offenders who could be on supervised release.

Prioritize Detentions

"We ought to be detaining according to our priorities, according to public-safety threats, level of offense and the like," she said, "not an arbitrary bed number."

In June, Representative Ted Deutch, a Florida Democrat, proposed an amendment to remove the

requirement from next year's appropriations bill.

"No other [law-enforcement](#) agencies have a quota for the number of people that they must keep in jail," he said. "Mandating ICE detain 34,000 individuals a day does not secure our borders or make us safer."

The proposal lost 232 to 190, on a largely [party-line vote](#).

Lawmakers and immigration advocates say the quota forces ICE to squander taxpayer money to needlessly hold people like Romero.

"It's not just pressure," said North Carolina Representative [David Price](#), the top Democrat on the House Homeland Security appropriations subcommittee. He was the panel's chairman when Congress passed the mandate.

"It's a requirement that they choose one course rather than the other, when the alternatives to detention would be less expensive and equally effective," Price said. He said he tried, and failed, to stop the inclusion of the mandate language during negotiations between House and Senate lawmakers. In the end, he voted for the final bill in 2009.

Another Name

Romero's arrest was for using another person's name in order to obtain work. In an interview, she said she had planned to apply for [temporary legal status](#) that became available in 2012 for people like her, who had been brought illegally to the U.S. as children. She got a \$7.65-an-hour grocery cashier job in order to earn the \$465 application fee, using a legal resident's name, she said.

She was arrested in a workplace raid and pleaded guilty to criminal impersonation. She ended up in a khaki uniform reserved for low-level felons held at Eloy, where she says she was offered a chance to work legally on the prison's inmate staff for \$1 a day. She stayed in her cell drawing instead and lay awake and claustrophobic most nights in a space with two bunks and just a few feet of room to walk, she said.

Detention Cost

The U.S. immigration agency spends about \$2 billion annually on detention. While most are in for-profit prisons, ICE data show the rest are scattered among jails run by local governments paid to hold immigrants.

The greater use of detention is an outgrowth of get-tough immigration policies that started amid security concerns after the Sept. 11 terrorist attacks and expanded rapidly, as Presidents [George W. Bush](#) and Barack Obama pursued border crackdowns and increased arrests and deportations of people in the country illegally.

Since 2005, the number of beds to hold undocumented immigrants has surged 84 percent, according to

the [Congressional Research Service](#). That has helped boost revenue for commercial prison operators and cash-strapped governments alike, as companies and lawmakers with jails in their districts have pushed for a greater share of a growing pie.

Revenue Driver

Federal contracts accounted for about 43 percent, or \$752 million, of Corrections Corp.'s 2012 revenue -- up from about 23 percent in 2000 -- including \$206 million from ICE in the most recent year.

The flood of cash spurred construction, expansion and conversion of jail space to accommodate immigrants, by prison companies and government agencies, sometimes leading to clashes between states with rival facilities for detainees, such as a 2010-2011 spat between lawmakers from Alabama and Georgia.

Congress pressured both Bush and Obama to confine undocumented immigrants, saying it would prevent them from avoiding deportation proceedings.

The expansion of the detention system began in 2004, when the Intelligence Reform and Terrorism Prevention Act, a response to Sept. 11, directed Homeland Security to add 8,000 beds a year, provided Congress supplied the money.

The job fell to the House and Senate appropriations panels. The budget writers committed funds for 33,400 beds by 2009 from 18,500 in 2005, [Congressional Research Service](#) data show.

Company Lobbying

Both Corrections Corp. and Geo rely on Washington lobbyists to advance their interests.

Corrections Corp. has spent more than \$13 million on lobbyists since 2005, among them past appropriations-committee employees, according to Senate records. The company's representatives disclose lobbying on annual appropriations bills that set Homeland Security spending, including the one that created the bed mandate.

Geo has spent more than \$2.8 million lobbying over that time.

"Private detention facilities are heavily invested in Congress appropriating money for this phenomena," said Muzaffar Chishti, the Migration Policy Institute director at [New York](#) University's law school. "There is a huge private interest involved in all this."

Geo has never taken a position on incarceration or immigrant detention policies, and its involvement in politics is limited to discussing the benefits of privatization with officials, said Pablo Paez, a company spokesman.

Narrow Focus

Corrections Corp. and its lobbyists don't advocate for laws or policies that determine whether someone is jailed or the prison terms they face, said Steve Owen, a spokesman. He said the company does lobby on government spending decisions that affect its contracts.

"We do lobby on appropriations to ensure our partners -- and therefore our contracts -- are fully funded," Owen said in a statement. "Lobbying for full funding of our government partners in the appropriations process is something our company has done for many years."

In 2009, the year Congress set the bed quota, as many as 25 lobbyists represented Corrections Corp. on budget and appropriations issues, according to filings with Congress.

Since the 2008 elections, Corrections Corp., Geo and Management & Training Corp., the three biggest prison operators, have donated at least \$132,500 to the campaigns of members of Congressional subcommittees that appropriate money to ICE and determine how much is spent on incarceration, according to the data from the Center for Responsive Politics, a Washington-based nonprofit group that tracks campaign spending.

Supporting Lawmakers

Most of the contributions were made by Corrections Corp. and nearly half, 43 percent, went to Republican Representatives Hal Rogers of Kentucky, the appropriations committee chairman; [John Carter](#) of Texas, head of the panel's homeland security subcommittee; Robert Aderholt of Alabama, Carter's predecessor in that post; and John Culberson of Texas, a member of the subcommittee, which oversees ICE's budget.

"In terms of CCA's political giving, we support individuals who are open to solutions that partnership corrections can provide to serious national challenges, such as recidivism, pension liabilities and prison overcrowding," Owen said.

Congress proved a receptive audience. Adding beds for illegal immigrants became political shorthand for taking a strong stance on protecting U.S. borders, said Price, the former subcommittee leader when Byrd added the bed quota.

Powerful Backer

Byrd, an outspoken supporter of detention for illegal immigrants who died in June 2010, was chairman of the homeland security sub-panel of the Appropriations Committee when the detainee quota passed. The senator wanted to ensure that cost increases wouldn't lead ICE to fund fewer beds, said a former aide who asked not to be identified because he wasn't authorized to discuss committee deliberations.

Republicans have backed the bed mandate since then, saying it compels the administration to enforce immigration laws. ICE holds undocumented immigrants rounded up by fugitive-operations teams, which target those with criminal records and those picked up by local law enforcement and border-patrol agents.

“This bill holds the administration’s feet to the fire,” Alabama’s Aderholt said last year as the homeland security appropriations panel raised the bed quota to its current level.

Holding Line

“In response to the administration’s repeated attempts to water down enforcement, this bill directs ICE to maintain 34,000 detention beds,” Aderholt said.

Some lawmakers have a more parochial interest in supporting the mandate: money and jobs in their districts, both in private prisons and in those built by local governments to get a share of the immigrant-detention business.

The economic-development stake in jailing immigrants was on display at a March hearing, at which lawmakers grilled [John Morton](#), the ICE director who later resigned, for releasing detainees because of budget constraints.

During the hearing, Representative Tom Marino, a Pennsylvania Republican, complained to Morton about not getting enough inmates to fill detention beds in his district, including one where it costs \$82.50 a day for each detainee.

“Why not take advantage -- more advantage -- of facilities like this, and particularly in Pike County, who built a whole new facility just to house these individuals?” he asked Morton.

Local Jobs

Aderholt also got involved in a fight to keep immigrant detainees and ICE dollars in his state, along with Alabama Senator [Richard Shelby](#), the top Appropriations Committee Republican and a member of the sub-panel that handles ICE’s budget.

Both assisted an Alabama jail that held about 250 immigrants in Gadsden after ICE’s Atlanta office announced that it was moving inmates to a new private facility in Georgia run by Detention Management LLC, based in Atlanta.

Company disclosures to bondholders and ICE e-mails obtained through an open-records request indicate that Georgia’s congressional delegation had lobbied ICE to use the Georgia jail, putting the agency in a bind.

“Where those bodies come from is anybody’s guess,” said one 2010 e-mail received by ICE’s Atlanta director, Felicia Skinner, adding that the agency would have to either detain more immigrants, or move them from the Alabama jail or a Corrections Corp. facility in Georgia. The sender’s name was blacked out.

When ICE announced that it would fill the new Georgia beds with immigrants held in Alabama, in a move the agency said would save transportation costs, Aderholt and Shelby both intervened, with Shelby’s

appropriations-committee staff threatening to block some ICE requests if the agency didn't resolve the matter to the senator's satisfaction, according to the e-mails.

Satisfying Both

Both sides won in a 2012 decision. ICE kept 300 immigrant detention beds in the Alabama jail this year and 357 at the Georgia facility, which was forced into bankruptcy last year.

"Etowah County jail is a safe, secure facility to house detainees that operates with the high level of standards dictated by ICE, while providing a low cost-per-day rate," Aderholt said in a statement. Shelby spokesman Jonathan Graffeo didn't respond to requests for comment.

Republicans continued to defend the bed quota this year, rebuffing the Obama administration's request to spend \$120 million less on incarceration capacity.

Representatives Carter and Culberson, the Texas Republicans, and Jennifer Hing, a spokeswoman for Rogers, the Appropriations Committee chairman, and said keeping the quota compels ICE to do its job.

Enforcement Mandate

It "is an instrument to require ICE to actually enforce the law," Carter said in a statement. "The administration may want to reduce those levels by releasing dangerous illegal criminals into the streets of America, but I stand firm in my belief we must enforce the laws we have."

Culberson said jail company representatives have voiced support for the quota, and he says ICE's reliance on the providers helps save taxpayer money. He said his views weren't influenced by the contractors, and that ICE could detain even more people than it already does, were enforcement stepped up.

"They clearly have far more demand than they have current beds," he said.

A third to as many as half of the detainees on any given day are held at the discretion of ICE, which has focused on criminals, recent border crossers and those undocumented immigrants "who have seriously gamed the system," Morton told Congress in March. Others with certain criminal records must be held by law.

Petty Theft

Lisa Fernandez's husband, Orlando Fernandez Taveras, is one of the latter group. A legal resident who came to the U.S. as a baby in 1978, Taveras has been held since 2009, his wife said, because of two petty thefts.

"Why are we spending hundreds of thousands to keep him in jail, when he could be out working and supporting his family?" she said. "Why would you keep someone in jail if you didn't have to?"

Last year, U.S. District Court Judge Terry Hatter forced immigration judges to grant bond hearings for California inmates detained for more than six months. After 400 such hearings beginning in November, about two-thirds were released on bail, according to an April court filing.

Obama has deported record numbers of immigrants.

In e-mails between field-office workers and former ICE administrator David Venturella, and other documents obtained under an open-records request, employees were told to divert resources to increasing their arrests and deportations of those with criminal records because of concern in Washington that those numbers were too low.

Combing Records

Venturella, now a GEO executive, referred questions about the e-mails to the company's Paez, who declined to comment.

The exchange of messages included suggestions from one field office, in Atlanta, for increasing the number of immigrant arrests and deportations. They included combing through old probation lists to find foreigners who had once committed a crime, searching driver license databases for aliens, setting higher bail, and participating in roadblocks set up by local police, according to the documents.

Such a roadblock caught Eduardo Zuniga in suburban Atlanta in 2011, his wife, Deborah, said. Police set it up where a road dead-ended at the drive of an apartment complex with a growing Latino population, she said, and Zuniga was arrested because he didn't have a license.

A decade-old drug conviction, for which he got probation, made him a criminal alien and landed him in Corrections Corp.'s 1,752-bed Lumpkin, Georgia, detention center for months, said his wife, a U.S. citizen. Then he was deported.

Care Giver

A construction worker and church volunteer, Zuniga had put her through a two-year business school and helped her care for her four children, two of them disabled, his wife said.

"He would do anything for us, if it's go out and pick up garbage, to make sure my kids ate," she said.

This year, the Senate moved to recast the nation's immigration laws, an effort that has drawn resistance from some Republicans because it would provide a path to permanent residence to those who came to the U.S. illegally.

Under the Senate bill, one provision would give ICE and judges greater discretion to release detainees that aren't a risk to the community. Another part, tied to increased border enforcement, calls for spending \$1.6 billion over 10 years to prosecute immigrants who enter the U.S. illegally, according to Congressional

Budget Office [estimates](#).

Monitoring Revenue

Much of that would likely go to Corrections Corp. and Geo, which also contract with the [Federal Bureau](#) of Prisons to hold inmates, said Kevin Campbell, an industry analyst with Avondale Partners LLC in Nashville.

“It looks like there would be more enforcement and that would drive demand for more beds,” Campbell said. “That’s one of the long-term positives for the industry.”

Since Congress returned from its August recess, immigration issues have been pushed aside by questions over the use of force in Syria and a potential government shutdown next month if steps to fund operations aren’t taken.

For Romero, the former Phoenix cashier arrested at her job, any changes will come too late.

After a petition campaign by an activist group, Puente Arizona, Romero was released. Now she lives with her parents and takes community college courses.

Temporary legal status has been pushed out of her reach: Her arrest made her a criminal alien and ineligible for the program for those who entered the country illegally as children.

“I really have no option,” Romero said.

To contact the reporters on this story: [William Selway](#) in Washington at wselway@bloomberg.net; Margaret Newkirk in Atlanta at mnewkirk@bloomberg.net.

To contact the editors responsible for this story: Jeffrey Taylor in [San Francisco](#) at jtaylor48@bloomberg.net; Stephen Merelman at smerelman@bloomberg.net.

EXHIBIT J

Congress of the United States
Washington, DC 20515

September 25, 2013

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

We write to express our strong opposition to funding requests for the Department of Homeland Security (DHS) that include specific numbers of immigration detention beds. Any such requests provide the groundwork for a Congressional mandate that requires Immigration and Customs Enforcement (ICE) to maintain a mandatory minimum number of immigration detention beds per day and spend over \$2 billion annually on immigration detention. In FY13, Congress required ICE to fill at least 34,000 immigration detention beds on any given day.¹ The bed mandate compromises ICE's ability to satisfy its stated enforcement priorities and accomplish detention reform. Although we applaud the 6.5% reduction in your request for FY14, we believe requests for funding a predetermined number of detention beds should be eliminated altogether. An arbitrary number of detention beds needed by ICE leads to ineffective immigration enforcement, runs contrary to American values of due process, and is a wasteful use of taxpayer dollars.

A major symptom of our broken immigration system is the excessive spending on detaining hundreds of thousands of immigrants annually, particularly when effective and less expensive alternatives to detention can, and should, be used. We are unaware of any other law enforcement agency with a statutory requirement to detain a minimum number of individuals. The use of detention beds should be determined by ICE based on whether detention is required for particular individuals. Such a determination should be premised on an individualized assessment of flight risk and danger posed to the public. Mandating government spending on an arbitrary, predetermined number of detention beds is contrary to the best practices in law enforcement and the Department of Homeland Security's priorities to reform the detention system.²

Moreover, immigration detention is authorized solely to facilitate the appearance of individuals charged with removability at future court dates and compliance with orders of removal, a point recently emphasized by Julie Myers Wood, former Assistant Secretary of Homeland Security for ICE under former President George W. Bush.³ There is no punitive

¹ Comm. on Appropriations Report, 201, *available at* <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt492/pdf/CRPT-112hrpt492.pdf>.

² ICE Fact Sheets on Detention Reform, *available at* <http://www.ice.gov/news/library/factsheets/#reform>; ICE Detention Reform Accomplishments, *available at* <http://www.ice.gov/detention-reform/>.

³ Julie Myers Wood & Steve J. Martin. "Smart alternatives to immigrant detention," *The Washington Times* (March 28, 2013), *available at* <http://www.washingtontimes.com/news/2013/mar/28/smart-alternatives-to-immigrant-detention/>.

authority to detain individuals charged with violating our civil immigration laws. Ms. Wood has pointed out that alternatives to detention are not only fiscally responsible, but also extremely effective; individuals in alternatives to detention programs have a 96% appearance rate in immigration court.⁴

In an environment of fiscal restraint, mandating that a federal agency adhere to a spending minimum on detention beds severely limits the ability of ICE to wisely use its detention authority and reduce costs for unnecessary detention. Currently, ICE spends \$159 per detainee – amounting to \$5.05 million per day and over \$2 billion annually spent on immigration detention – when alternatives to detention are available that cost as little as 70 cents to \$17 a day.⁵

We respectfully recommend that future budgetary requests reject a detention bed mandate. As outlined above, the mandate severely limits the flexibility of ICE to respond to current enforcement needs or changing conditions. Given ongoing financial pressures, it is critical to reexamine why ICE is tethered to an inflexible quota of detention beds. We therefore urge you to not request a preset level of detention bed funding as you draft the FY15 Presidential budget.

We appreciate your prompt attention to this matter and look forward to a response. We also look forward to continuing to work with you in the future.

Sincerely,



Bill Foster
Member of Congress



Theodore E. Deutch
Member of Congress



cc: Cecilia Muñoz, Director, Domestic Policy Council

⁴ *Id.*

⁵ *Id.*

Keith Elisen

Emil Shum

Ernest Moore

Hank Johnson

Jim Moman

Barbara Lee

Al Smith

Lair Cooper

Adam B. Schiff

Kaul Tonko

Carolyn B. Maloney

John Lomax

Joe E. Amato

Luella Foybal Allard

Julio Luis

Alan L. Martin

Jan Schak

Dain Bellet

Pat Walker

M. V. ...

Louise M. Slaughter

Gene Shan

Bobby J. Rush

Rick Larsen

Beto O'Rourke.

[Signature]

Juan Vargas

Raul M. Hernandez

Susan P. Davis

[Signature]

Monica A. Cortez

Chu Pe

Nick Orsoly

Julia Branley

Tommy Cardenas

Russ Holt

Michael M. Hondo

[Signature]

Grace F. Neplita

Mark Thomas

Jeck [Signature]

Joe [Signature]

Zoe [Signature]

[Signature]

Lou Frankel

Sam Farr

Ron Kind

Loretta Sanchez

Shirley Jackson Lee

Harold Dorsett

Kathy Castor

Suzanne Dalton

Michelle Lujan Grisham

Kare Bass

Jane Hahn

Jim McInerney

Ann Swallow

Alan Lowenthal

Eddie Bernice Johnson

List of Signers

Rep. Bill Foster
Rep. Theodore E. Deutch
Rep. Luis Gutierrez
Rep. John Conyers
Rep. Zoe Lofgren
Rep. Lloyd Doggett
Rep. Kathy Castor
Rep. Michelle Lujan Grisham
Rep. Anna Eshoo
Rep. Suzan DelBene
Rep. Dina Titus
Rep. Janice Hahn
Rep. Karen Bass
Rep. Alan Grayson
Rep. James McGovern
Rep. Eric Swalwell
Rep. Alan Lowenthal
Rep. Julia Brownley
Rep. Lois Frankel
Rep. Loretta Sanchez
Rep. Mike Quigley
Rep. Sam Farr
Rep. Rush Holt
Rep. Joe Kennedy
Rep. Chellie Pingree
Rep. Matt Cartwright
Rep. Derek Kilmer
Rep. Jared Polis
Rep. Joe Garcia
Rep. Ron Kind
Rep. Mark Takano
Rep. Tony Cardenas
Rep. Raul Grijalva
Rep. Susan Davis
Rep. Juan Vargas
Rep. Grace Napolitano
Rep. John Delaney
Rep. Mike Honda
Rep. Betty McCollum

Rep. Beto O'Rourke
Rep. Rick Larsen
Rep. Sheila Jackson Lee
Rep. Jose Serrano
Rep. Lois Capps
Rep. Hank Johnson
Rep. Brad Sherman
Rep. Keith Ellison
Rep. Gwen Moore
Rep. Jim Moran
Rep. Adam Smith
Rep. Barbara Lee
Rep. Bobby Rush
Rep. Peter Welch
Rep. Albio Sires
Rep. Carolyn Maloney
Rep. Lucille Roybal-Allard
Rep. Alcee Hastings
Rep. Jan Schakowsky
Rep. Diana DeGette
Rep. Adam Schiff
Rep. Paul Tonko
Rep. Eddie Bernice Johnson
Rep. Louise Slaughter
Rep. Gene Green
Rep. Ed Pastor

EXHIBIT K

February 10, 2014

HUFF
POST POLITICS

Undocumented Immigrant Releases Acknowledged By John Morton Of Homeland Security Department

Posted: 03/14/2013 11:19 am EDT | Updated: 03/14/2013 4:55 pm EDT

By ALICIA A. CALDWELL, THE ASSOCIATED PRESS

WASHINGTON — The Obama administration contradicted itself Thursday, acknowledging to Congress that it had, in fact, released more than 2,000 undocumented immigrants from immigration jails due to budget constraints during three weeks in February. Four deemed especially dangerous have been placed back in jail.

The administration had claimed only a "few hundred immigrants" were released for budgetary reasons, challenging as inaccurate an Associated Press report that 2,000 immigrants had been released and that 3,000 more would be released this month.

However, the director of U.S. Immigration and Customs Enforcement, John Morton, testified Thursday that his agency released 2,228 undocumented immigrants for what he called "solely budgetary reasons."

Morton and other agency officials spoke during a hearing by a House appropriations subcommittee. He told lawmakers that the decision to release the immigrants was not discussed in advance with political appointees, including those in the White House and Homeland Security Secretary Janet Napolitano. He said the pending automatic cuts known as sequestration was "driving in the background."

"We were trying to live within the budget that Congress had provided us," Morton told lawmakers. "This was not a White House call. I take full responsibility."

The subcommittee chairman, Rep. John Carter, R-Texas, pressed Morton about the agency's claims that immigrants were routinely released, and Morton acknowledged that the release of more than 2,000 immigrants was not routine.

"At the time this release started, the president of the United States was going around the country telling people what the pain was going to be from sequester," Carter said. "That's a fact. That was the atmosphere. It was Chicken Little, the sky is falling almost."

Morton told Carter that more immigrants were released in Texas than in any other state but did not name other states where they were released.

The AP, citing internal budget documents, reported exclusively on March 1 that the administration had released more than 2,000 undocumented immigrants since Feb. 15 and planned to release 3,000 more in March due to looming budget cuts, but Napolitano said days later that the AP's report was "not really accurate" and that the story had developed "its own mythology."

"Several hundred are related to sequester, but it wasn't thousands," Napolitano said March 4 at a Politico-sponsored event.

On March 5, the House Judiciary Committee publicly released an internal ICE document that it said described the agency's plans to release thousands of undocumented immigrants before March 31. The document was among those reviewed independently by the AP for its story days earlier.

The immigrants who were released still eventually face deportation and are required to appear for upcoming court hearings. But they are no longer confined in immigration jails, where advocacy experts say they cost about \$164 per day per person. Immigrants who are granted supervised release — with conditions that can include mandatory check-ins, home visits and GPS devices — cost the government from 30 cents to \$14 a day, according to the National Immigration Forum, a group that advocates on behalf of immigrants.

Morton said Thursday that among the immigrants released were 10 people considered the highest level of offender. Morton said that although that category of offender can include people convicted of aggravated felonies, many of the people released were facing financial crimes. Four of the most serious offenders have been put back in detention. Other people released include immigrants who had faced multiple drunken driving offenses, misdemeanor crimes and traffic offenses, Morton said.

After the administration challenged the AP's reporting, ICE said it didn't know how many people had been released for budget reasons but would review its records.

Follow Alicia A. Caldwell on Twitter at <http://www.twitter.com/acaldwellap>

EXHIBIT L

RELEASE OF CRIMINAL DETAINEES BY U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT: POLICY OR POLITICS?

HEARING

BEFORE THE

**COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

—————
MARCH 19, 2013
—————

Serial No. 113-5

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://judiciary.house.gov>

—————
U.S. GOVERNMENT PRINTING OFFICE

80-066 PDF

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

Mr. MORTON. But what you are getting at is—if your question is do I have enough people, do I have enough resources to detain and remove 11 million people, the answer is no.

Mr. BACHUS. No, no. My question is perhaps are you overusing detention.

Mr. MORTON. At the beginning of the year, we were maintaining a higher level of detention than we were appropriated for over an annual—

Mr. BACHUS. No, no. Let's not talk about dollars and cents. Let's talk about individuals who are being detained. Surely instead of doing a cost analysis, why do you not do a risk assessment on that population, those being detained? How many of them could be released to family members? How many of them periodically would check in, even some maybe GPS? Although I would think that there are ties with the United States. You know, we have got some that have been adopted as children. I do not think they are going to run away. Are some of those mandatory detentions that you could recommend to Congress they not be?

I am just saying it looks to me like maybe there is an overuse of detention by this Administration. Now, I know that totally—would you agree? Okay. If these people are not public safety risks, if they are not violent, if they do not have a criminal history, if they are not repeat offenders, if they are going to show up for proceedings, why are they detained at all? I mean, surely out of this 26,000, you could have found 3,000 or 4,000 that—are there not 3,000 or 4,000 that would not—

Mr. MORTON. I think your basic sentiment, which is detention should be made based on risk of flight and—

Mr. BACHUS. Well, public policy, and that ought to be risk of flight, you know, violent offenders. I consider DUI's—I would say DUI.

But what I am saying—this almost to me is that you are saying we have got too many people in detention.

Mr. GOODLATTE. Would the gentleman yield?

Mr. BACHUS. Yes.

Mr. GOODLATTE. In the report prepared by the Committee staff, there is a statistic in there that shows that 770,000 people who were released did not return for their deportation—

Mr. BACHUS. I understand that, but I would say this. You could look at most of those people and there are predictors of whether you—

Mr. GOODLATTE. We are trying to deport them. If you release them and they never show up for their deportation proceeding, they are probably not getting deported.

Mr. BACHUS. Well, what I am saying—and I am not arguing, but if I accept—and I think most of these people are probably not going to go back. If they do go back, they are coming back legal or illegal.

What the Chairman is saying is that 40 percent of those people that are not detained in the first place do not reappear for their removal hearing. And you know, include someone that does not show up—you know, maybe detain them. But if they were never released or if they were released and showed back up and they are not a flight risk and they are not a threat to public safety—and I

EXHIBIT M

DAILY NEWS

OPINION

Immigrants jailed just to hit a number

A cruel Homeland Security quotaBY [ROBERT M. MORGENTHAU](#) / NEW YORK DAILY NEWS

SUNDAY, JANUARY 19, 2014, 4:30 AM



JUSTIN SULLIVAN/GETTY IMAGES

People, not numbers.

Nobody likes quotas. When there's even a whiff of a parking-ticket quota, the public is outraged. When France imposed a quota on imported American movies, it provoked international controversy.

But there is one quota — and a pernicious one — that no one denies. While the Congress is to be congratulated for passing an appropriations bill with bipartisan support, there are troublesome riders attached to it. One is the rider establishing a quota of a minimum of 34,000 immigrants in detention on a daily basis while they resolve their immigration status.

The detention quota is unprecedented and unique to the immigration context. As Florida Rep. Ted Deutch, a Democrat, explained to Bloomberg News in June 2013: "No other law enforcement agencies have a quota for the number of people that they must keep in jail."

But hard-liners in Congress fight tirelessly to keep it in place. Last year, when the prisoner population dipped to 30,773, U.S. House Homeland Security Committee Chairman Michael McCaul wrote a pointed public letter to Immigration and Customs Enforcement (ICE) Director John Morton, informing him that he was "in clear violation of the statute" and its 34,000 prisoner requirement.

Notice that's not the number of immigrants Congress wants to deport; it's the number Congress insists on incarcerating while they await their fate.

The quota can be found in a few lines of the 1,582-page government funding bill. The section requires ICE to continue to maintain that set number of people in immigration lock-ups — what the bill euphemistically calls "beds."

If that sounds like a lot of detainees, it is. As recently as 2005, when we had about the same number of undocumented immigrants in the United States as today, the average number of immigrants in detention was far lower — below 20,000.

In 2007, Congress for the first time passed a law with the 34,000 number; it has remained in place ever since. Last year, then-Homeland Security Secretary Janet Napolitano objected, telling Congress, "we ought to be detaining according to our priorities, according to public-safety threats, level of offense, and the like, not an arbitrary bed number." Her plea fell on deaf ears.

Such a rigid number cannot help but have a corrupting influence on the entire process. Imagine trying to get a fair trial in criminal court if your state legislature mandated that judges had to fill a certain number of prison cells each day. It would be impossible.

How can lawyers representing the federal Immigration and Customs Enforcement do their job dispassionately — seeking incarceration only of those who truly represent a danger to society or a risk of flight — if they know their funding is dependent upon hitting a number?

Next time ICE lawyers seek to incarcerate an immigrant, the immigrant's lawyer should ask the ICE lawyer whether their request is on the merits — or to fill a quota.

The problem is, even taking my advice won't help most of those in the docks of our immigration courts: Fully 60% of the men and women detained by immigration judges in New York are not represented by counsel. Forced to defend themselves, their cases drag on endlessly. According to the most recent data from a think tank at Syracuse University, the average immigration case in immigration court has now been pending for 570 days without resolution.

For a free immigrant, long delays can work to their advantage. But for a detained immigrant, they can be brutal. While some immigration facilities are humane, a recent lawsuit by the ACLU alleges that many detainees face "deplorable conditions of confinement even worse than those faced by convicted prisoners."

It is a serious problem, and a shameful injustice, but one with straightforward solution. Congress should repeal the quota. And until then, ICE lawyers and immigration judges should ignore it. Justice demands no less.

Morgenthau, former Manhattan district attorney, is of counsel to Wachtell, Lipton, Rosen & Katz

EXHIBIT N

<http://nyti.ms/1f1ogJS>

THE OPINION PAGES | EDITORIAL

Detention Must Be Paid

By THE EDITORIAL BOARD JAN. 20, 2014

Millions of Americans can't find work and have lost their unemployment benefits because Congressional Republicans insist the government can't afford to help them. But there is no shortage of money when it comes to hunting down unauthorized immigrants.

The House on Wednesday passed a trillion-dollar appropriations bill that includes \$39 billion for the Department of Homeland Security, \$16 billion of which is for immigration enforcement, a sum that House Republicans boast "will allow for the highest operational force levels in history" for Customs and Border Protection, among other things. The bill adds 2,000 agents at border ports and mandates that Immigration and Customs Enforcement "maintain a level of not less than 34,000 detention beds through September 30, 2014." This represents, at a cost of \$2.8 billion, "the highest detention capacity in history."

It is mindless to keep throwing billions at border enforcement and detention at a time when illegal immigration is at historic lows, when other, more pressing government functions are being starved and when none of the money spent actually goes toward solving the problem.

Take the irrational obligation to fill all those detention beds, at a cost of about \$122 a day. Why make the people who run a vast and expensive law-enforcement apparatus responsible for keeping prison beds warm rather than communities safe — especially when there are low-cost alternatives to detention that don't involve fattening the bottom lines of for-profit prison corporations?

Congress's arbitrary detention mandates and the Obama administration's aggressive use of its enforcement powers have pushed deportations to record levels of 400,000 a year. This has had no discernible effect on the overall problem,

but it has caused abundant anguish in immigrant families and their communities.

What's most disheartening about the spending splurge is that it attacks only the symptoms of the ailing immigration system. It reflects a government cynically resigned to chipping away at the presence of millions of unauthorized immigrants, most of them noncriminals, instead of one willing to create a way for millions to come forward and get right with the law, freeing up taxpayer dollars to go after real threats.

Meet The New York Times's Editorial Board »

A version of this editorial appears in print on January 21, 2014, on page A18 of the New York edition with the headline: Detention Must Be Paid.

© 2014 The New York Times Company

EXHIBIT O

January 24, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Re: Immigration detention bed mandate in FY 2015 DHS Appropriations

Dear President Obama:

We, the 131 undersigned non-governmental civil rights, civil liberties, human rights, legal services, and faith-based organizations, urge the Administration to request flexibility to transfer funds between the accounts for detention and alternatives to detention and reject the principle of a mandated daily detention level in its FY 2015 budget request to Congress.

U.S. Immigration and Customs Enforcement (ICE), the interior enforcement agency of DHS, detains approximately 34,000 individuals across the country each day – about 400,000 annually – in a network of county jails, privately run contract facilities, and federal facilities that costs taxpayers \$2 billion each year. Congressional appropriations language covering ICE’s detention budget – most recently referenced in the Consolidated Appropriations Act of 2014 – states “[t]hat funding made available under this heading shall maintain a level of not less than 34,000 detention beds.” Because ICE and some members of Congress interpret the language to require ICE to maintain and fill 34,000 beds daily, it has become known as the detention bed “mandate.” The number itself is completely arbitrary, and the concept of a legislatively mandated detention quota is an aberration among law enforcement agencies.¹

ICE’s daily detention level should be determined only by actual need, based on individualized case-by-case assessments of whether detention is warranted. As former DHS Secretary Janet Napolitano acknowledged before Congress, the Department “ought to be managing the actual detention population to risk, not to an arbitrary number.”²

Immigration detention is civil detention, as opposed to punitive incarceration, and is meant to ensure compliance with immigration court hearings and final orders of removal. For many men and women, detention is not necessary to meet this limited purpose. Alternatives to detention (ATDs) – widely used in criminal justice systems across the country, and to a limited degree by ICE already – are effective and far less costly than detention. Alternatives to detention are recommended as cost-savers by the American Jail

¹ For more information, *see* <http://immigrantjustice.org/sites/immigrantjustice.org/files/Bed%20Mandate%20101%20Backgrounder%20FINAL.pdf>.

² House Committee on Appropriations, Subcommittee on Homeland Security, “House Appropriations Subcommittee on Homeland Security Hearing on President Obama’s Fiscal 2014 Budget Proposal for the Homeland Security Department,” 113th Congress, April 11, 2013, *available at* http://www.micevhill.com/attachments/immigration_documents/hosted_documents/113th_congress/TranscriptOfHouseAppropriationsSubcommitteeHearingOnFY14DHSAppropriations.pdf.

Association, American Probation and Parole Association, American Bar Association, Association of Prosecuting Attorneys, Heritage Foundation, International Association of Chiefs of Police, National Conference of Chief Justices, National Sheriffs' Association, Pretrial Justice Institute, Texas Public Policy Foundation (home to Right on Crime), and the Council on Foreign Relations' Independent Task Force on U.S. Immigration Policy.³ A shift from detention to ATDs, including bond and release on recognizance when appropriate, could save taxpayers an estimated \$1.44 billion annually – a 79 percent reduction in immigration detention costs.⁴

In recent months, news outlets including the Washington Post, the Houston Chronicle, Univision, Bloomberg, Reuters, National Public Radio, The Hill, and Reason.com have covered this issue.⁵ In June 2013, Representatives Ted Deutch (D-FL) and Bill Foster (D-IL) introduced an amendment to strike the bed mandate from the House's FY 2014 DHS Appropriations bill. It did not pass, but 190 representatives, including eight Republicans, voted for the amendment.

Broad consensus is beginning to align with common-sense fiscal responsibility, best practices in law enforcement, and basic due process principles. The mandate should be eliminated. We urge you to make it clear to Congress that the mandate hinders the

³ See American Jail Association, Resolution on Pretrial Justice (Oct. 24, 2010), available at <http://www.pretrial.org/download/policy-statements/AJA%20Resolution%20on%20Pretrial%20Justice%202011.pdf>; American Probation and Parole Association, APPA Supports Pretrial Supervision Services (June 15, 2010), available at http://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IE_NewsRelease&wps_key=4ce5b0cc-e5d6-4407-bcab-096640386f02; American Bar Association, ABA Criminal Justice Standards on Pretrial Release – Third Edition (Oct. 28, 2002), available at <http://www.pretrial.org/wpfb-file/aba-standards-on-pretrial-release-2002-pdf/>; Association of Prosecuting Attorneys, Policy Statement on Pretrial Justice, available at <http://www.pretrial.org/wp-content/uploads/2013/02/APA-Pretrial-Policy-Statement.pdf>; Matt Mayer, The Heritage Foundation, Heritage Web Memo 3455: Administrative Reforms Insufficient to Address Flawed White House Immigration and Border Security Policies (Jan. 10, 2012), available at <http://www.heritage.org/research/reports/2012/01/administrative-reforms-in-immigration-and-border-security-policies>; International Association of Chiefs of Police, "Law Enforcement's Leadership Role in the Pretrial Release and Detention Process (Feb. 2011), available at <http://www.pretrial.org/wp-content/uploads/2013/02/IACP-LE-Leadership-Role-in-Pretrial-20111.pdf>; National Conference of Chief Justices, Resolution 3, Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release (Jan. 13, 2013), available at <http://www.pretrial.org/wp-content/uploads/2013/02/CCJ-Resolution-on-Pretrial-1.pdf>; National Sheriffs' Association, National Sheriffs' Association Supports and Recognizes the Contribution of Pretrial Services Agencies to Enhance Public Safety (June 18, 2012), available at <http://www.pretrial.org/wp-content/uploads/filebase/policy-statements/NSA%20Pretrial%20Resolution.pdf>; Pretrial Justice Institute, The Solution, available at <http://www.pretrial.org/solutions/>; Marc Levin, Texas Public Policy Foundation, "Public Safety and Cost Control Solutions for Texas County Jails (Mar. 6, 2012), available at <http://www.texaspolicy.com/center/effective-justice/reports/public-safety-and-cost-control-solutions-texas-county-jails>; and Council on Foreign Relations' Independent Task Force, Task Force Report: U.S. Immigration Policy (July 2009), available at <http://www.cfr.org/immigration/us-immigration-policy/p20030>.

⁴ National Immigration Forum, "The Math of Immigration Detention," August 2013, p. 11, available at <http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf>.

⁵ For links to recent media coverage, see http://immigrantjustice.org/sites/immigrantjustice.org/files/MediaCoverage_DetentionBedMandate_2013%2011%2004.pdf.

Administration's efforts to run a cost-efficient, effective, and just immigration enforcement system.

For more information, please contact Lutheran Immigration and Refugee Service's Brittney Nystrom (bnystrom@lirs.org or 202-626-7943) or Human Rights First's Katharina Obser (obserk@humanrightsfirst.org or 202-888-7596).

Sincerely,

National/International Organizations

The Advocates for Human Rights
America's Voice Educational Fund
American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
American Friends Service Committee
American Immigration Lawyers Association (AILA)
Amnesty International USA
Arab American Institute
Asian Americans Advancing Justice | Asian Law Caucus
Asian Americans Advancing Justice-AAJC
Association of Asian Pacific Community Health Organizations
Black Alliance for Just Immigration (BAJI)
Blacks in Law Enforcement of America
Campaign for Community Change
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for Constitutional Rights
Columban Center for Advocacy and Outreach
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)
Conference of Major Superiors of Men
Defending Dissent Foundation
Detention Watch Network
Disciples Home Missions
The Episcopal Church
Fair Immigration Reform Movement
Farmworker Justice
Friends Committee on National Legislation
Grassroots Leadership
Hispanic Federation
Human Rights Defense Center

Human Rights First
Human Rights Watch
Immigrant Defense Project
Immigrant Legal Resource Center
Immigration Equality Action Fund
In The Public Interest
Jesuit Refugee Service/USA
Justice Strategies
Lambda Legal
Leadership Conference of Women Religious
The Leadership Conference on Civil and Human Rights
Lutheran Immigration and Refugee Service
Mennonite Central Committee U.S. Washington Office
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
The National Alliance of Latin American and Caribbean Communities (NALACC)
National Asian Pacific American Women's Forum
National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Jewish Women
National Council of La Raza (NCLR)
National Day Laborer Organizing Network
National Gay and Lesbian Task Force Action Fund
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Immigration Project of the NLG
National Latina Institute for Reproductive Health
NETWORK, A National Catholic Social Justice Lobby
Physicians for Human Rights
PICO National Network
Presbyterian Church (U.S.A.)
Private Corrections Institute
Queer Undocumented Immigrant Project
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center

Transgender Law Center
Unitarian Universalist Service Committee
United Food and Commercial Workers International Union
United We Dream
We Belong Together
Women's Refugee Commission

Regional/State/Local Organizations

Action Langley Park
New Jersey

Advocates for Basic Legal Equality
Ohio

African Services Committee
New York

Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center
Florida

Asian Americans Advancing Justice-Chicago
Illinois

Asian Americans Advancing Justice-Los Angeles
California

ASPIRE-Los Angeles
California

Border Action Network
Arizona

California Immigrant Youth Justice Alliance
California

Capital Area Immigrants' Rights Coalition
Washington, D.C.

Casa de Esperanza
New Jersey

Coalition for Humane Immigrant Rights of Los Angeles
California

Colorado Progressive Coalition
Colorado

Comite de Derechos Humanos de Forks
Washington

Community of Christ in the Desert
Arizona

Community to Community Development
Washington

Dream Team Los Angeles
California

DRUM - Desis Rising Up & Moving
New York

El Centro de la Raza
Washington

Esperanza de Libertad
Texas

Families For Freedom
New York

First Friends of NJ & NY Corp.
New Jersey and New York

Florida Immigrant Coalition
Florida

Friends of Broward Detainees
Florida

Georgia Detention Watch
Georgia

Georgia Latino Alliance for Human Rights
Georgia

Greater Cleveland Immigrant Support Network
Ohio

Gulf Coast Center for Law & Policy
Louisiana

Illinois Coalition for Immigrant and Refugee Rights
Illinois

Immigrant Law Center of Minnesota
Minnesota

Immigrant Rights Clinic of Washington Square Legal Services, Inc.
New York

Immigration Clinic, University of Miami School of Law
Florida

Inland Empire Immigrant Youth Coalition
California

Interfaith Coalition on Immigration (ICOM, MN)

Minnesota

ISIAAH Core Team Mayflower United Church of Christ

Minnesota

Jesuit Social Research Institute

Louisiana

Latino Advocacy

Washington

Lutheran Sevices of Georgia

Georgia

Massachusetts Immigrant and Refugee Advocacy Coalition

Massachusetts

Mississippi NOW

Mississippi

Neighborhood Defender Service of Harlem

New York

New York Immigration Coalition

New York

North Carolina Justice Center

North Carolina

Northern Manhattan Coalition for Immigrant Rights

New York

Northwest Immigrant Rights Project

Washington

OneAmerica

Washington

Pax Christi New Jersey

New Jersey

Racial Justice Action Center

Georgia

Reformed Church of Highland Park

New Jersey

Services, Immigrant Rights, and Education Network (SIREN)

California

Sisters of Mercy West Midwest Community

Nebraska

Southeast Immigrant Rights Network

Southeast

Southern Poverty Law Center
South

Stop The Checkpoints
Washington

Tacoma Community House
Washington

Washington DREAM Act Coalition
Washington

WeCount!
Florida

Wind of the Spirit, Immigrant Resource Center
New Jersey

cc: Cecilia Munoz, Assistant to the President and Director, Domestic Policy Council,
Executive Office of the President

Felicia Escobar, Senior Policy Director for Immigration, Domestic Policy
Council, Executive Office of the President

Sylvia Mathews Burwell, Director, Office of Management and Budget

Jeh Johnson, Secretary, Department of Homeland Security

Alejandro Mayorkas, Deputy Secretary, Department of Homeland Security

John Sandweg, Acting Director, Immigration and Customs Enforcement,
Department of Homeland Security

January 24, 2014

Senator Barbara Mikulski
Chair, Senate Appropriations Committee
503 Hart Senate Office Building
Washington, DC 20510

Representative Harold Rogers
Chair, House Appropriations Committee
2406 Rayburn House Office Building
Washington, DC 20515

Senator Richard C. Shelby
Ranking Member, Senate Appropriations
Committee
304 Russell Senate Office Building
Washington, DC 20510

Representative Nita M. Lowey
Ranking Member, House Appropriations
Committee
2365 Rayburn House Office Building
Washington, DC 20515

Senator Mary Landrieu
Chair, Senate Appropriations
Committee, Homeland Security
Subcommittee
703 Hart Senate Office Building
Washington, DC 20510

Representative John Carter
Chair, House Appropriations
Committee, Homeland Security
Subcommittee
409 Cannon House Office Building
Washington, DC 20515

Senator Dan Coats
Ranking Member, Senate Appropriations
Committee, Homeland Security
Subcommittee
493 Russell Senate Office Building
Washington, DC 20510

Representative David Price
Ranking Member, House Appropriations
Committee, Homeland Security
Subcommittee
2162 Rayburn House Office Building
Washington, DC 20515

Re: Immigration detention bed mandate in FY 2015 DHS Appropriations

Dear Chair Mikulski, Ranking Member Shelby, Chair Landrieu, Ranking Member Coats, Chair Rogers, Ranking Member Lowey, Chair Carter, and Ranking Member Price:

We, the 131 undersigned non-governmental civil rights, civil liberties, human rights, legal services, and faith-based organizations, urge you not to include immigration detention bed mandate language in the appropriations bill that funds the U.S. Department of Homeland Security (DHS) for FY 2015.

U.S. Immigration and Customs Enforcement (ICE), the interior enforcement agency of DHS, detains approximately 34,000 individuals across the country each day – about 400,000 annually – in a network of county jails, privately run contract facilities, and federal facilities that costs taxpayers \$2 billion each year. Congressional appropriations language covering ICE’s detention budget – most recently referenced in the Consolidated Appropriations Act of 2014 – states “[t]hat funding made available under this heading shall maintain a level of not less than 34,000 detention beds.” Because ICE and some members of Congress interpret the language to require ICE to maintain and fill 34,000 beds daily, it has become known as the detention bed “mandate.” The number itself is

arbitrary, and the concept of a legislatively mandated detention quota is an aberration among law enforcement agencies.¹

ICE's daily detention level should be determined only by actual need, based on individualized case-by-case assessments of whether detention is warranted. As former DHS Secretary Janet Napolitano acknowledged before Congress, the Department "ought to be managing the actual detention population to risk, not to an arbitrary number."²

Immigration detention is civil detention, as opposed to punitive incarceration, and is meant to ensure compliance with immigration court hearings and final orders of removal. For many men and women, detention is not necessary to meet this limited purpose. Alternatives to detention (ATDs) – widely used in criminal justice systems across the country, and to a limited degree by ICE already – are effective and far less costly than detention. Alternatives to detention are recommended as cost-savers by the American Jail Association, American Probation and Parole Association, American Bar Association, Association of Prosecuting Attorneys, Heritage Foundation, International Association of Chiefs of Police, National Conference of Chief Justices, National Sheriffs' Association, Pretrial Justice Institute, Texas Public Policy Foundation (home to Right on Crime), and the Council on Foreign Relations' Independent Task Force on U.S. Immigration Policy.³ A shift from detention to ATDs, including bond and release on

¹ For more information, *see*

<http://immigrantjustice.org/sites/immigrantjustice.org/files/Bed%20Mandate%20101%20Backgrounder%20FINAL.pdf>.

² House Committee on Appropriations, Subcommittee on Homeland Security, "House Appropriations Subcommittee on Homeland Security Hearing on President Obama's Fiscal 2014 Budget Proposal for the Homeland Security Department," 113th Congress, April 11, 2013, *available at* http://www.micevhill.com/attachments/immigration_documents/hosted_documents/113th_congress/TranscriptOfHouseAppropriationsSubcommitteeHearingOnFY14DHSAppropriations.pdf.

³ *See* American Jail Association, Resolution on Pretrial Justice (Oct. 24, 2010), *available at* <http://www.pretrial.org/download/policy-statements/AJA%20Resolution%20on%20Pretrial%20Justice%202011.pdf>; American Probation and Parole Association, APPA Supports Pretrial Supervision Services (June 15, 2010), *available at* http://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IE_NewsRelease&wps_key=4ce5b0cc-e5d6-4407-bcab-096640386f02; American Bar Association, ABA Criminal Justice Standards on Pretrial Release – Third Edition (Oct. 28, 2002), *available at* <http://www.pretrial.org/wpfb-file/aba-standards-on-pretrial-release-2002-pdf/>; Association of Prosecuting Attorneys, Policy Statement on Pretrial Justice, *available at* <http://www.pretrial.org/wp-content/uploads/2013/02/APA-Pretrial-Policy-Statement.pdf>; Matt Mayer, The Heritage Foundation, Heritage Web Memo 3455: Administrative Reforms Insufficient to Address Flawed White House Immigration and Border Security Policies (Jan. 10, 2012), *available at* <http://www.heritage.org/research/reports/2012/01/administrative-reforms-in-immigration-and-border-security-policies>; International Association of Chiefs of Police, "Law Enforcement's Leadership Role in the Pretrial Release and Detention Process (Feb. 2011), *available at* <http://www.pretrial.org/wp-content/uploads/2013/02/IACP-LE-Leadership-Role-in-Pretrial-20111.pdf>; National Conference of Chief Justices, Resolution 3, Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release (Jan. 13, 2013), *available at* <http://www.pretrial.org/wp-content/uploads/2013/02/CCJ-Resolution-on-Pretrial-1.pdf>; National Sheriffs' Association, National Sheriffs' Association Supports and Recognizes the Contribution of Pretrial Services Agencies to Enhance Public Safety (June 18, 2012), *available at* <http://www.pretrial.org/wp-content/uploads/filebase/policy-statements/NSA%20Pretrial%20Resolution.pdf>; Pretrial Justice Institute, The Solution, *available at* <http://www.pretrial.org/solutions/>; Marc Levin, Texas Public Policy Foundation, "Public Safety and Cost Control Solutions for Texas County Jails (Mar. 6, 2012),

recognizance when appropriate, could save taxpayers an estimated \$1.44 billion annually – a 79 percent reduction in immigration detention costs.⁴

In recent months, news outlets including the Washington Post, the Houston Chronicle, Univision, Bloomberg, Reuters, National Public Radio, The Hill, and Reason.com have covered this issue.⁵ In June 2013, Representatives Ted Deutch (D-FL) and Bill Foster (D-IL) introduced an amendment to strike the bed mandate from the House's FY 2014 DHS Appropriations bill. It did not pass, but 190 representatives, including eight Republicans, voted for the amendment.

Broad consensus is beginning to align with common-sense fiscal responsibility, best practices in law enforcement, and basic due process principles. The mandate should be eliminated. We urge you to lead the way during the FY 2015 appropriations process.

For more information, please contact Lutheran Immigration and Refugee Service's Brittney Nystrom (bnystrom@lirs.org or 202-626-7943) or Human Rights First's Katharina Obser (obserk@humanrightsfirst.org or 202-888-7596).

Sincerely,

National/International Organizations

The Advocates for Human Rights
America's Voice Educational Fund
American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
American Friends Service Committee
American Immigration Lawyers Association (AILA)
Amnesty International USA
Arab American Institute
Asian Americans Advancing Justice | Asian Law Caucus
Asian Americans Advancing Justice-AAJC
Association of Asian Pacific Community Health Organizations
Black Alliance for Just Immigration (BAJI)
Blacks in Law Enforcement of America
Campaign for Community Change

available at <http://www.texaspolicy.com/center/effective-justice/reports/public-safety-and-cost-control-solutions-texas-county-jails>; and Council on Foreign Relations' Independent Task Force, Task Force Report: U.S. Immigration Policy (July 2009), available at <http://www.cfr.org/immigration/us-immigration-policy/p20030>.

⁴ National Immigration Forum, "The Math of Immigration Detention," August 2013, p. 11, available at <http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf>.

⁵ For links to recent media coverage, see http://immigrantjustice.org/sites/immigrantjustice.org/files/MediaCoverage_DetentionBedMandate_2013%2011%2004.pdf.

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for Constitutional Rights
Columban Center for Advocacy and Outreach
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)
Conference of Major Superiors of Men
Defending Dissent Foundation
Detention Watch Network
Disciples Home Missions
The Episcopal Church
Fair Immigration Reform Movement
Farmworker Justice
Friends Committee on National Legislation
Grassroots Leadership
Hispanic Federation
Human Rights Defense Center
Human Rights First
Human Rights Watch
Immigrant Defense Project
Immigrant Legal Resource Center
Immigration Equality Action Fund
In The Public Interest
Jesuit Refugee Service/USA
Justice Strategies
Lambda Legal
Leadership Conference of Women Religious
The Leadership Conference on Civil and Human Rights
Lutheran Immigration and Refugee Service
Mennonite Central Committee U.S. Washington Office
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
The National Alliance of Latin American and Caribbean Communities (NALACC)
National Asian Pacific American Women's Forum
National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Jewish Women
National Council of La Raza (NCLR)
National Day Laborer Organizing Network
National Gay and Lesbian Task Force Action Fund

National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Immigration Project of the NLG
National Latina Institute for Reproductive Health
NETWORK, A National Catholic Social Justice Lobby
Physicians for Human Rights
PICO National Network
Presbyterian Church (U.S.A.)
Private Corrections Institute
Queer Undocumented Immigrant Project
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center
Transgender Law Center
Unitarian Universalist Service Committee
United Food and Commercial Workers International Union
United We Dream
We Belong Together
Women's Refugee Commission

Regional/State/Local Organizations

Action Langley Park
New Jersey

Advocates for Basic Legal Equality
Ohio

African Services Committee
New York

Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center
Florida

Asian Americans Advancing Justice-Chicago
Illinois

Asian Americans Advancing Justice-Los Angeles
California

ASPIRE-Los Angeles
California

Border Action Network

Arizona

California Immigrant Youth Justice Alliance

California

Capital Area Immigrants' Rights Coalition

Washington, D.C.

Casa de Esperanza

New Jersey

Coalition for Humane Immigrant Rights of Los Angeles

California

Colorado Progressive Coalition

Colorado

Comite de Derechos Humanos de Forks

Washington

Community of Christ in the Desert

Arizona

Community to Community Development

Washington

Dream Team Los Angeles

California

DRUM - Desis Rising Up & Moving

New York

El Centro de la Raza

Washington

Esperanza de Libertad

Texas

Families For Freedom

New York

First Friends of NJ & NY Corp.

New Jersey and New York

Florida Immigrant Coalition

Florida

Friends of Broward Detainees

Florida

Georgia Detention Watch

Georgia

Georgia Latino Alliance for Human Rights

Georgia

Greater Cleveland Immigrant Support Network
Ohio

Gulf Coast Center for Law & Policy
Louisiana

Illinois Coalition for Immigrant and Refugee Rights
Illinois

Immigrant Law Center of Minnesota
Minnesota

Immigrant Rights Clinic of Washington Square Legal Services, Inc.
New York

Immigration Clinic, University of Miami School of Law
Florida

Inland Empire Immigrant Youth Coalition
California

Interfaith Coalition on Immigration (ICOM, MN)
Minnesota

ISAI AH Core Team Mayflower United Church of Christ
Minnesota

Jesuit Social Research Institute
Louisiana

Latino Advocacy
Washington

Lutheran Sevices of Georgia
Georgia

Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts

Mississippi NOW
Mississippi

Neighborhood Defender Service of Harlem
New York

New York Immigration Coalition
New York

North Carolina Justice Center
North Carolina

Northern Manhattan Coalition for Immigrant Rights
New York

Northwest Immigrant Rights Project
Washington

OneAmerica
Washington

Pax Christi New Jersey
New Jersey

Racial Justice Action Center
Georgia

Reformed Church of Highland Park
New Jersey

Services, Immigrant Rights, and Education Network (SIREN)
California

Sisters of Mercy West Midwest Community
Nebraska

Southeast Immigrant Rights Network
Southeast

Southern Poverty Law Center
South

Stop The Checkpoints
Washington

Tacoma Community House
Washington

Washington DREAM Act Coalition
Washington

WeCount!
Florida

Wind of the Spirit, Immigrant Resource Center
New Jersey

cc: Members of the Senate Appropriations Committee
Members of the House Appropriations Committee