

September 22, 2011

The Honorable Patty Murray
Co-Chair
Joint Select Committee on Deficit Reduction
448 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeb Hensarling
Co-Chair
Joint Select Committee on Deficit Reduction
129 Cannon House Office Building
Washington, DC 20515

Re: **Cut costly immigration detention spending**

Dear Joint Select Committee Members:

We, the undersigned organizations, urge the Joint Select Committee on Deficit Reduction to rein in the Department of Homeland Security's (DHS's) out-of-control immigration detention spending. Over the last decade the immigration detention system has become completely unmoored from cost-benefit analysis and rational budgeting. Because of DHS's longstanding failure to act in a fiscally responsible manner on this issue and Congress's ready willingness to abdicate its fiscal oversight role by increasing detention spending, private prison companies have profited tremendously, at huge taxpayer expense. The Joint Select Committee must curb immigration detention spending because detaining immigrants who pose no threat to public safety is an unacceptably wasteful government practice which our country cannot afford.

I. Over the last decade the number of immigration detention beds and detainees has increased at a rapid rate without any commensurate justification.

In 2002, the Immigration and Naturalization Service (INS) detained 202,000 individuals.¹ By 2010, that number had increased to 363,000—**80 percent more**.² Whereas detention beds in FY 2003 numbered 18,000,³ the current level of 33,400 is an **86 percent increase**.⁴ 1994, in comparison, saw an average daily detention population of 6,785.⁵

The administration's FY 2012 budget requests **more than \$2 billion**, a record-high request representing a 6.3 percent increase over FY 2011. This \$2 billion budget request is to maintain 33,400 immigration detention beds daily, an arbitrary number.⁶ Between FY 2002-10 DHS Immigration and Customs Enforcement's overall budget more than doubled, increasing to \$5.74 billion in FY 2010 from the \$2.4 billion spent on comparable functions in FY 2002.⁷

The dramatic increase in immigration detention beds is out of step with the sharp decline in illegal immigration rates to the U.S. and corresponding decrease in the undocumented population. According to 2010 estimates by the Pew Hispanic Center, the annual inflow of unauthorized immigrants was nearly two thirds smaller in the 2007-09 period than in the 2000-05 period. This sharp decline has contributed to an overall reduction of 8 percent in the number of undocumented population, from 12 million in 2007 to 11.1 million in 2009, according to the estimates.⁸

Immigrants with no criminal records, as well as those who pose no flight risk or public safety concern, are routinely detained by DHS without apparent regard for the price tag borne by U.S. taxpayers.⁹ According to DHS data, **the majority of immigration detainees locked up by DHS from 2005 through 2009 had no criminal convictions whatsoever.**¹⁰ DHS's own analysis concluded that "[t]he majority of the population is characterized as low custody, or having a low propensity for violence."¹¹

II. Alternatives to detention (ATD) have proven track records of costing less and producing good outcomes.

There are other means – with proven track records of being much less costly yet highly effective – to accomplish DHS's goals of immigration detention. When DHS announced in 2009 that it would reform its immigration detention system, DHS emphasized that alternatives to detention cost "substantially less per day than detention: the most expensive form of ATD costs only \$14 per day compared to the cost of detention, which varies per facility but can exceed \$100 per day."¹² In its FY 2012 budget justification DHS adds that "*ATD is a cost-effective alternative to secure detention of aliens in removal proceedings. ATD is integral to ICE's detention and removal strategies as a cost-effective alternative for aliens who do not pose a risk to public safety, a flight risk, or are otherwise not suitable for detention at a secure facility.*"¹³ DHS added that its pilot programs for ATDs achieved **an appearance rate of 94 percent**, far in excess of the targeted 58 percent.¹⁴

In this context, it is baffling that DHS continues to maintain record-high 33,400 detention beds per day.¹⁵ How can DHS justify the continued detention of non-violent people in jails given that **detention costs range from \$122 to \$166 per detainee per day while alternatives to detention cost from 30 cents to \$14 per person per day?**¹⁶ U.S. taxpayers can no longer foot the costs of DHS's excessive and expensive detention system.

III. Private prison companies profit from DHS's profligacy.

The pots of taxpayer funds directed by DHS to immigration detention have attracted eager corporate attention. In 2009, **half of the immigration detainee population was housed in private contract facilities** including 6,199 in Corrections Corporations of America ("CCA") facilities; 4,948 in GEO Group, Inc., facilities; and 2,244 in Management and Training Corporation ("MTC") facilities.¹⁷ The GEO Group's contracts with Immigration and Customs Enforcement ("ICE") increased from \$33.6 million in 2005 to \$163.8 million by the end of 2010.¹⁸ These companies aggressively lobby Congress and DHS; CCA and GEO spent more than \$20 million on lobbying from 1999-2009.¹⁹ Congress must stop wasting precious U.S. taxpayers' money in order to line the coffers of for-profit prison companies, with financial interests in increasing the number of immigration detainees.

Our country can no longer afford to continue paying for an expanding and expensive immigration detention system. We urge the Joint Select Committee to make drastic and long-overdue cuts to DHS's immigration detention budget. Should you have any questions, please do not hesitate to contact Brittney Nystrom, Director of Policy and Legal Affairs, National

Immigration Forum at 202-383-5991 or bnystrom@immigrationforum.org or Laura Vazquez, Immigration Legislative Analyst, National Council of La Raza at 202-775-1563 or lvazquez@nclr.org.

Sincerely,

National Organizations

American Civil Liberties Union
American Immigration Lawyers Association
American Friends Service Committee
Asian American Justice Center, member of Asian American Center for Advancing Justice
Detention Watch Network
Hebrew Immigrant Aid Society
Immigration Equality Action Fund
Irish Apostolate USA
Just Detention International
Lutheran Immigration and Refugee Service
Mennonite Central Committee U.S.
National Advocacy Center of the Sisters of the Good Shepherd
National Center for Transgender Equality
National Council of La Raza
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Korean American Service & Education Consortium
National Latina Institute of Reproductive Health
Physicians for Human Rights
Rights Working Group
Sisters of Mercy Institute Justice Team
Sojourners
South Asian Americans Leading Together
The Advocates for Human Rights
The Transgender Law Center
United Methodist Church, General Board of Church and Society

Local and Regional Organizations

African Services Committee (New York, NY)
Border Action Network (Tucson, AZ)
Boston University Civil Litigation Program (Boston, MA)
Casa Esperanza (Plainfield and Bound Brook, NJ)
Florida Immigrant Coalition (Miami, FL)
Forks Human Rights Group (Forks, WA)

Immigrant and Refugee Rights Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs (Washington, DC)
Korean American Resource and Cultural Center (Chicago, IL)
Korean Resource Center (Los Angeles, CA)
Massachusetts Immigrant and Refugee Advocacy Coalition (Boston, MA)
No More Deaths (Tucson, AZ)
Northwest Immigrant Rights Project (Seattle, WA)
Southern Border Communities Coalition
University of Miami School of Law Immigration Clinic (Miami, FL)

¹ Donald Kerwin and Serena Yi-Ying Lin, *Immigrant Detention: Can ICE Meet Its Legal Imperatives and Case Management Responsibilities?* (Migration Policy Institute, Sept. 2009), 7, available at <http://www.migrationpolicy.org/pubs/detentionreportSept1009.pdf>

² DHS Office of Immigration Statistics, *Immigration Enforcement Actions: 2010*. (June 2011), 4, available at <http://www.dhs.gov/xlibrary/assets/statistics/publications/enforcement-ar-2010.pdf>

³ DHS, Office of Inspector General, *Detention and Removal of Illegal Aliens*. (Apr. 2006), 5.

⁴ Chad C. Haddal and Alison Siskin, *Immigration-Related Detention: Current Legislative Issues*. (Congressional Research Service, Jan. 27, 2010), 11.

⁵ Kerwin and Lin, *supra*, 6.

⁶ DHS FY 2012 Budget Justification, 938, available at <http://www.dhs.gov/xlibrary/assets/dhs-congressional-budget-justification-fy2012.pdf>. By adding 600 beds, the House Homeland Security appropriations bill would lead to an additional expenditure of \$27 to \$36 million.

⁷ Migration Policy Institute, "Through the Prism of National Security: Major Immigration Policy and Program Changes in the Decade Since 9/11" (Aug. 2011), http://www.migrationpolicy.org/pubs/FS23_Post-9-11policy.pdf

⁸ Pew Hispanic Center, "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade," (Sept. 1, 2010), <http://pewhispanic.org/reports/report.php?ReportID=126>

⁹ Since 2009 DHS has not come close to meeting its projection last year that in FY 2011 "80 percent of the ICE-detained population will be comprised of criminal aliens encountered through ICE's criminal and fugitive alien efforts." DHS FY 2011 Budget Justification, ICE Salaries and Expenses, 48, available at http://www.ice.gov/doclib/foia/secure_communities/fy2011overviewcongressionaljustification.pdf

¹⁰ Transactional Records Access Clearinghouse (Syracuse University), *Detention of Criminal Aliens: What Has Congress Bought?* (Feb. 11, 2010), available at <http://trac.syr.edu/immigration/reports/224/index.html>

¹¹ Dr. Dora Schriro, *Immigration Detention Overview and Recommendations*. (Oct. 2009), 2, available at <http://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>

¹² DHS, *ICE Detention Reform: Principles and Next Steps*. (Oct. 6, 2009), 2, available at http://www.dhs.gov/xlibrary/assets/press_ice_detention_reform_fact_sheet.pdf.

¹³ DHS FY 2012 Budget Justification, *supra*, 940 (emphasis added).

¹⁴ *Id.* at 925.

¹⁵ *Id.*

¹⁶ National Immigration Forum, *The Math of Immigration Detention*. (Aug. 2011), 1, available at <http://www.immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf>

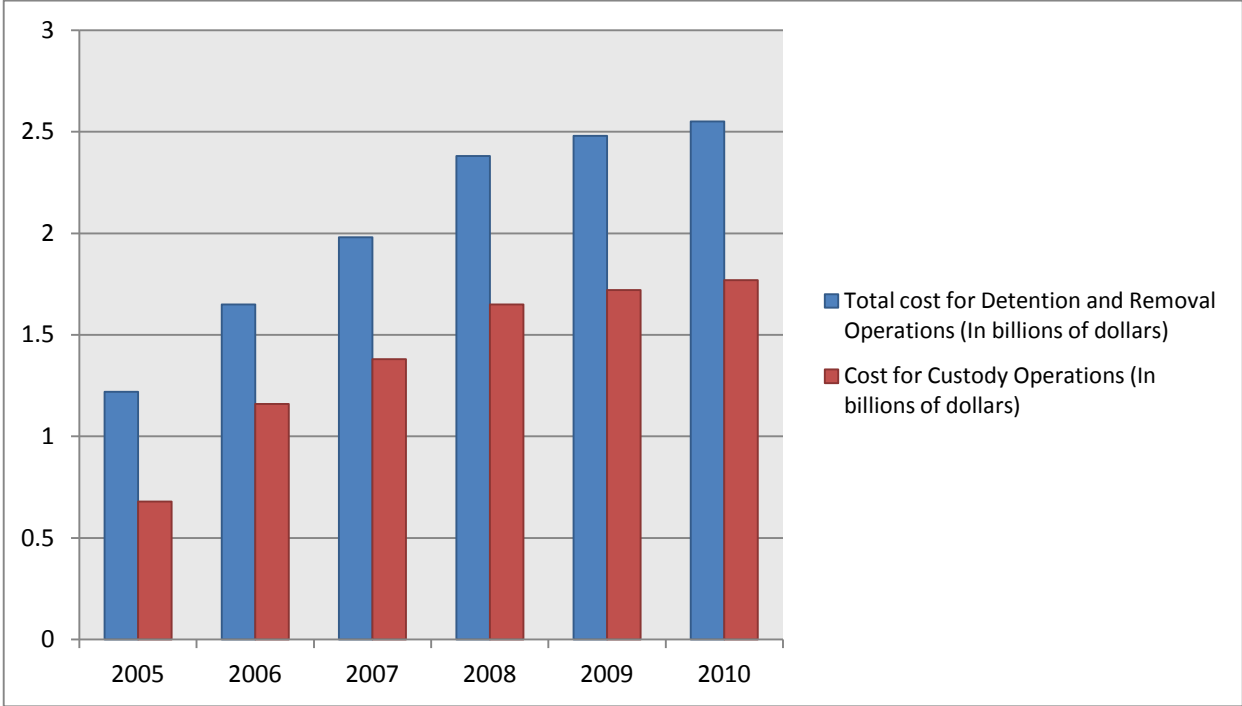
¹⁷ Detention Watch Network, *The Influence of the Private Prison Industry in the Immigration Detention Business*. (May 2011), 1, available at <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/PrivatePrisonPDF-FINAL%205-11-11.pdf>

¹⁸ Chris Kirkham, “After 9/11, A New Era In The Business Of Detaining Immigrants.” Huffington Post (Sept. 9, 2011), available at http://www.huffingtonpost.com/2011/09/09/911-immigrant-detention-business-for-profit-prison_n_951639.html

¹⁹ *Influence of the Private Prison Industry, supra*, 3.

Annual ICE Budgets for Detention and Removal Operations, FY 2005- 2010

* \$ in billions



Source: ICE Budget Fact Sheets, available at: <http://www.ice.gov/news/library/factsheets/#Chief> Financial Officer - Management and Budget. (Providing yearly breakdown of enacted budget funds)