

September 10, 2012

The Honorable Barbara Mikulski
Chair, Subcommittee on Commerce, Justice,
Science, and Related Agencies
Senate Committee on Appropriations
142 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Kay Bailey Hutchison
Ranking Member, Subcommittee on Commerce,
Justice, Science, and Related Agencies
Senate Committee on Appropriations
125 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Frank Wolf
Chair, Subcommittee on Commerce, Justice
Science, and Related Agencies
House Committee on Appropriations
Room H-309, The Capitol Building
Washington, D.C. 20515

The Honorable Chaka Fattah
Ranking Member, Subcommittee on Commerce,
Justice, Science, and Related Agencies
House Committee on Appropriations
1016 Longworth House Office Building
Washington, D.C. 20515

Re: Request to Remove 1,000 new private prison contract beds
from the Bureau of Prisons Budget

Dear Chairmen Mikulski and Wolf and Ranking Members Hutchison and Fattah:

We, the undersigned organizations working to ensure civil liberties and human rights in our communities, urge you to reject the appropriation of \$25,865,000 for 1,000 new low security contract confinement beds, proposed in the 2013 Commerce, Justice, Science Appropriations bill.¹ The Bureau of Prisons (BOP) intends to designate these funds for the creation of new Criminal Alien Requirement (CAR) prison beds.

CAR prisons use taxpayer funds to incarcerate non-violent federal immigrant prisoners, primarily prosecuted for immigration violations through the highly controversial and abuse-ridden program, "Operation Streamline." These facilities are substandard, privately-owned, privately-operated segregated immigrant prisons. For the reasons set forth below, we call upon you to redirect funding from the wasteful prosecution and incarceration of low-level immigration violations and focus resources instead on correctional programs that will better prepare federal prisoners for constructive lives when they are released from confinement.

Operation Streamline has clogged federal court dockets, diverted prosecutorial and judicial resources, gravely compromised due process and funneled an unprecedented number of Latinos into federal prison during the last seven years

The BOP's request for additional funding to incarcerate immigrants is the direct result of a prosecution program known as Operation Streamline. Prior to Operation Streamline, which launched in 2005, the majority of immigrants apprehended after entering the United States without documentation were deported through immigration procedures. Under Operation Streamline, immigrants apprehended crossing the border without permission are instead referred for federal criminal prosecution. Instead of facing civil deportation, these migrants are charged with one of two federal crimes – 1) unlawful entry to the U.S. (8 U.S.C. § 1325), usually prosecuted as a misdemeanor with defendants facing a sentence of up to 180 days; or 2) unlawful re-entry after deportation (8 U.S.C. § 1326), a felony charge carrying a federal prison sentence of up to 20 years. United States Attorney's Offices that do not participate in Operation Streamline also pursue prosecutions for unlawful entry and unlawful re-entry violations, albeit in a less general manner.

Immigrants routed to prosecution under Operation Streamline are often arraigned, convicted and sentenced to federal prison within the span of a few hours. This is unheard of in any other area of the justice system and raises serious constitutional concerns. The program has resulted in mass court hearings and mass sentencing of as many as 70 unlawful entry defendants at once. Operation Streamline has overwhelmed federal court districts all along the border with Mexico. Just five of the nation's 94 federal court districts now handle 41 percent of all federal cases. Prosecutors overwhelmed with immigration cases cannot focus resources on prosecuting violent crimes. When federal court dockets become clogged with immigration cases like unlawful entry and unlawful re-entry, judges cannot move other civil and criminal cases, resulting in delayed justice for other litigants.

The most severe consequence of Operation Streamline and related prosecutions is the drastic increase in the number and proportion of immigrants in the federal criminal justice system. The vast majority of those prosecuted under Operation Streamline are Latino. In the first nine months of 2011, Latinos made up 50 percent of all those who were sentenced to federal prisons, though they constitute just 16 percent of the total U.S. population.² Sentences for felony immigration crimes account for about 87 percent of the increase in the number of Latinos sent to prison over the past decade. Immigrants convicted of unlawful re-entry under § 1326 are sentenced to an average of 13 months in prison before being deported. Prosecutions for immigration violations under § 1325 and § 1326, especially those mandated by Operation Streamline, and the corresponding massive expansion of immigrant prisons have had a devastating impact on Latino and immigrant families nationwide.

Immigrants are incarcerated in private, for-profit CAR prisons operated by companies that charge the federal government exorbitant rates³ to provide unsafe conditions, endangering both guards and prisoners.

Once sentenced under Operation Streamline or otherwise for § 1325 or § 1326 violations, immigrants are segregated from other federal prisoners and sent to CAR facilities, dedicated private prisons for non-citizen immigrants in BOP custody, to serve their time. Unlike federal prisons operated directly by the BOP, CAR prisons are operated under contract with multi-billion dollar for-profit prison companies, including Corrections Corporation of America (CCA) and the GEO Group. Also unlike BOP facilities, CAR facilities are governed by policies that are maintained as "trade secrets" instead of open and transparent to the public. CAR facilities are often located in remote parts of the country, where prisoners are far from lawyers, courts, advocates and family members. Finally, unlike the BOP, the corporations that operate CAR prisons have an incentive to ensure the immigrant prisoner population continues to increase, because every prison bed with a body in it means higher profits.

Not surprisingly, the CAR facilities have become infamous for maintaining some of the worst conditions in this country's prison system – physical and sexual abuse, substandard medical care, poor nutrition and race-based discrimination are just some of the violations that immigrants regularly report to the few advocates and legal service providers working on behalf of this invisible population. In 2009, at the Reeves County Detention Center, a GEO Group-operated CAR prison located in remote Pecos, West Texas, immigrant prisoners organized an uprising after an immigrant prisoner with epilepsy died from a seizure.⁴ He had been locked down alone in a solitary cell for complaining about inadequate medicine. More recently, prisoners at another CAR facility, the CCA-operated Adams County Correctional Center in Natchez, Mississippi, caused a disturbance to call attention to substandard prison conditions and inadequate medical care.⁵

Both Operation Streamline and CAR prisons are enormously expensive to maintain at a time when budgets are tight and federal dollars are sparse. The federal government has spent an estimated \$5.5 billion

incarcerating border-crossers in the federal prison system since 2005, and the primary beneficiary of this massive cash flow is the private prison industry. Even as the American economy has faltered and businesses across the country have been forced into bankruptcy, the private prison industry is booming. Three companies – GEO Group, CCA, and the Management Training Corporation (MTC) – monopolize federal prison contracting. CAR contracts are very lucrative – the most recent CAR contract, issued to house up to 3,000 prisoners at the infamous Willacy County Processing Center, the “Tent City” located in Raymondville, Texas, was valued at \$532,318,723 over 10 years.⁶ MTC won the contract.

The proposed CJS FY 2013 appropriations bill stipulates explicitly that the 1,000 additional beds be run by private contractors. The number of undocumented immigrants entering the United States without inspection has been steadily declining for the last several years. Yet private prison corporations, motivated by their record profit margins, continue to benefit directly from the laws and policies that pull more and more immigrants into the federal prison system, and from federal contracts to build more prisons. Increasing funding for the unprecedented imprisonment of non-violent immigrants implicitly sanctions wasteful and abusive prosecution programs like Operation Streamline that are driving the increase in the federal prison population in the first place. It is up to policy makers like you to put a stop to the widespread suffering of immigrant families and wasteful spending which benefits no one except the private prison operators.

For all of the above reasons, we ask that you deny funding for additional CAR beds in FY2013.

Thank you for your attention to this urgent matter. If you have any questions, please contact Emily Tucker, Policy Director of Detention Watch Network at etucker@detentionwatchnetwork.org or Alexis Mazón, Research Associate with Justice Strategies at alexismazon@justicestrategies.net.

Sincerely,

Advocates for Human Rights
African Services Committee
American Civil Liberties Union of Texas
American Federation of Government Employees, AFL-CIO
American Friends Service Committee (AFSC)
American Muslim Voice
Arizona Prison Watch
Asian Law Alliance
Austin Immigrant Rights Coalition
Bill of Rights Defense Committee (BORDC)
Black Alliance for Just Immigration (BAJI)
Capital Area Immigrants’ Rights Coalition
Casa Esperanza
Clinton Franciscan Center for Active Nonviolence and Peacemaking
CLUE Santa Barbara
Coalición de Derechos Humanos
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Community to Community Development
Corazón de Tucson
CURE-Women Incarcerated (National)
Detention Watch Network

DRUM - Desis Rising Up & Moving
Enlace
Families for Freedom
Franciscan Action Network
Franciscan Sisters Justice, Peace & Integrity of Creation Commission, Little Falls, MN
Franciscan Sisters of the Atonement JPIC
Franciscan Sisters of the Poor JPIC Committee, Garrison, NY
Friends Committee on National Legislation
Friends of Orange County Detainees
Fuerza! Coalition Tucson
Georgia Detention Watch
Georgia Latino Alliance for Human Rights
Grassroots Leadership
Human Rights Defense Center
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Legal Resource Center
Immigration Equality
Immigration Task Force of Mission Presbytery, Presbyterian Church (USA)
Interfaith Coalition on Immigration (ICOM, MN)
Justice Policy Institute
Justice Strategies
Las Americas Immigrant Advocacy Center of El Paso, TX
Lawrence Action Network for Diversity LAND
Leadership Team of the Felician Sisters of North America
Legal Services for Prisoners with Children
Mennonite Central Committee U.S. Washington Office
Muslim Legal Fund of America
NAACP
National Center for Transgender Equality
National Day Laborer Organizing Network (NDLON)
National Immigration Law Center
National Immigration Project of the National Lawyers Guild
National Network for Immigrant and Refugee Rights
New Sanctuary Coalition of NYC
New York State Defenders Association, Criminal Defense Immigration Project
OneAmerica
Pax Christi NJ
Physicians for Human Rights
Private Corrections Institute
Private Corrections Working Group
Reformed Church of Highland Park, NJ
Rights Working Group
Seminario Permanente de Estudios Chicanos y de Fronteras (México)
Sisters of St. Francis of Oldenburg, IN Justice, Peace and Integrity of Creation Office
Sisters of Mercy Institute Justice Team

Sisters of St. Francis of Philadelphia Advocacy for Justice and Peace Committee
Sojourners
Southeast Asia Resource Action Center (SEARAC)
Southside Worker Center - Centro de Trabajadores, Tucson
St. Louis Inter-Faith Committee on Latin America
Texas Civil Rights Project
Texas Criminal Justice Coalition
The Real Cost of Prisons Project
The Restoration Project at Casa Mariposa
The Sentencing Project
The United Church of Christ, Justice and Witness Ministries
UC Davis School of Law Immigration Law Clinic
Unitarian Universalist Association of Congregations
Unitarian Universalist Service Committee
United Methodist Church, General Board of Church and Society
United Methodist Women Immigrant & Civil Rights Initiative
Ursulines of Tildonk for Justice and Peace
Washington Defender Association Immigration Project (WDAIP)
Washington Square Legal Services Immigrant Rights Clinic
Watts Labor Community Action Committee
WeCount!
Wheaton Franciscan Sisters, Wheaton, IL
Who Is My Neighbor? Inc.
WIN - Welcoming Immigrants Network
Women's Refugee Commission

Rev. John Guttermann, United Church of Christ, New Brighton, MN
Dr. Johnny B. Hill, Martin Luther King Scholar, Building the World House
Dr. Ouida F. Lee, Lead Pastor, United Methodist Church of the Disciple
Rev. Les Schmidt, Bishops' Liaison, Catholic Committee of the South
Preston W. Weaver, Senior Pastor, Kirkwood United Methodist Church, Irving, TX

Corso, Kennedy & Campbell LLP
Spriggs Law Firm

¹ House Report 112-463. COMMERCE, JUSTICE, SCIENCE AND RELATED AGENCIES APPROPRIATIONS BILL, 2013, May 2, 2012, *available at*

<http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt463/html/CRPT-112hrpt463.htm>

² U.S. Sentencing Commission, 2011 ANNUAL REPORT, Chapter 5, *available at*

http://www.uscc.gov/Data_and_Statistics/Annual_Reports_and_Sourcebooks/2011/2011_Annual_Report_Chap5.pdf

³ "CCA Awarded a New Federal Bureau of Prisons Contract for the Continued Management of McRae Correctional Facility," CCA NEWS RELEASE, October 28, 2011, *available at*

<http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-newsArticle&ID=1623218&highlight=>

⁴ Forrest Wilder, "The Lawsuit West of the Pecos," THE TEXAS OBSERVER, December 8, 2010, *available at* <http://www.texasobserver.org/forrestforthetrees/the-lawsuit-west-of-the-pecos>

⁵ Aviva Shen, "FBI Agent: Deadly Riot in Corporate-Run Prison Due to Complaints of Inadequate Food and Health Care," THINK PROGRESS, August 14, 2012, *available at* <http://thinkprogress.org/justice/2012/08/14/686361/fbi-agent-deadly-riot-in-corporate-run-prison-due-to-complaints-of-inadequate-food-and-health-care/?mobile=nc>

⁶ Jasen Asay, "Private Prison Company Lands Federal Contract," STANDARD EXAMINER, June 8, 2011, *available at* <http://www.standard.net/topics/economy/2011/06/07/private-prison-company-lands-federal-contract>