

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

April 10, 2018

US PROGRAM

Nicole Autin-Hillery, *Executive Director*
Sara Darehshori, *Senior Counsel*
Dreisen Heath, *Senior Coordinator*
Rachel Kent, *Press Officer*
Clara Long, *Senior Researcher*
Grace Meng, *Senior Researcher*
Alison Leal Parker, *Managing Director*
Laura Pitter, *Senior National Security Counsel*
Thomas Rachko, *Associate*
John Raphling, *Senior Researcher*
Brian Root, *Quantitative Analyst*
W. Paul Smith, *Senior Coordinator*
Sarah St. Vincent, *Researcher*
Jasmine L. Tyler, *Advocacy Director*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*
Bruno Stagno Ugarte, *Deputy Executive Director, Advocacy*

Emma Daly, *Communications Director*
Peggy Hicks, *Global Advocacy Director*
Babatunde Oluwole, *Deputy Program Director*
Dinah Pokempner, *General Counsel*
Tom Porteous, *Deputy Program Director*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*

BOARD OF DIRECTORS

Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*
Wendy Keys, *Vice-Chair*
Susan Manilow, *Vice-Chair*
Jean-Louis Servan-Schreiber, *Vice-Chair*
Sid Sheinberg, *Vice-Chair*
John J. Studzinski, *Vice-Chair*
Michael G. Fisch, *Treasurer*
Bruce Rabb, *Secretary*
Karen Ackman
Jorge Castañeda
Tony Elliott
Michael E. Gellert
Hina Jilani
Betsy Karel
Robert Kissane
David Lakhdir
Kimberly Marteau Emerson
Oki Matsumoto
Barry Meyer
Joan R. Platt
Amy Rao
Neil Rimer
Victoria Riskin
Graham Robeson
Shelley Rubin
Kevin P. Ryan
Ambassador Robin Sanders
Javier Solana
Siri Stolt-Nielsen
Darlan W. Swig
Makoto Takano
John R. Taylor
Amy Towers
Peter Visser
Marie Warburg
Catherine Zennström

Chairman Rodney Frelinghuysen
2306 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member Nita Lowey
2365 Rayburn House Office Building
Washington, D.C. 20515

Chairman John Carter
2110 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member Lucille Roybal-Allard
2083 Rayburn House Office Building
Washington, D.C. 20515

Re: 4/11/18 Hearing of Department of Homeland Security's Fiscal Year 2019 Budget; 4/12/18 Hearing on Immigration and Customs Enforcement and Customs and Border Protection FY19 Budget

Dear Chairman Frelinghuysen, Ranking Member Lowey, Chairman Carter, and Ranking Member Roybal-Allard:

We write to you to raise our concerns over the Trump administration's proposed Fiscal Year 2019 Department of Homeland Security (DHS) budget, which calls for increased numbers of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) agents and immigration detention beds and significantly cuts key resources dedicated to accountability. Human Rights Watch has documented serious failures by the DHS to use existing resources under previous budgets in rights-respecting ways. As long as these problems remain unaddressed, any funding increase in these areas is likely to cause a proliferation of abuses. As a matter of responsible oversight, Congress should not increase funding in these areas without also addressing serious failings in border policy, immigration detention, and enforcement that lead to rights violations.

Human Rights Watch has documented: [failures by CBP](#) to follow US law when apprehending asylum seekers at the border;¹ the [separation and mistreatment](#) of families traveling together to the US to seek asylum;² [systemic failures](#) in detention medical care that has contributed to

¹ <https://www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk>

² <https://www.npr.org/2018/02/27/589079243/activists-outraged-that-u-s-border-agents-separate-immigrant-families>



HRW.org

preventable deaths;³ transfers of immigrant detainees between far-flung detention centers in ways that [interfere with their due process rights](#);⁴ the abuse of [transgender women](#) in detention;⁵ and [widespread summary deportations](#) of people who call the United States home—including mothers, fathers, and spouses of US citizens;⁶ tax-paying employees; and respected community members—without giving them a chance for consideration of their deep and longstanding ties to the United States before removing them from the country. In addition, the media and other organizations have documented DHS’ harmful treatment of immigrants, including [women](#)⁷— particularly those who are [pregnant](#)⁸— in detention, [DACA recipients](#),⁹ [domestic violence survivors](#),¹⁰ and [children](#).¹¹ Measures should be taken to rectify the structural causes of these abuses and the impunity that has generally attached to them, before any increase in appropriations towards enforcement activity is considered.

The abuses that we and others have documented require enhanced oversight and greater attention to due process. We recognize that these activities may, in fact, require appropriation of funds. For example, ensuring due process rights may require allocating funds to hire immigration judges and provide know-your-rights [services](#);¹² it may require ensuring counsel for noncitizens whose due process rights are threatened in immigration proceedings including vulnerable groups such as persons with [mental disabilities](#);¹³ it requires [transparency in data collection](#) and dissemination;¹⁴ and in effective accountability mechanisms within DHS and its component agencies. However, without a clear commitment by this administration and this Congress to appropriate first to these types of activities, there should at the very least not be any increase in appropriations for enforcement and detention.

This is why it is particularly worrying that the administration’s FY 2019 budget proposal would reduce DHS’s Office of the Inspector General (OIG) by 21 percent – about \$37 million less than the last enacted budget in FY 2017. Such a reduction would severely hinder mechanisms to promote increased transparency and accountability at DHS. Such a reduction

³ <https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention>

⁴ <https://www.hrw.org/report/2011/06/14/costly-move/far-and-frequent-transfers-impede-hearings-immigrant-detainees-united>

⁵ <https://www.hrw.org/news/2016/03/23/us-transgender-women-abused-immigration-detention>

⁶ <https://www.hrw.org/report/2017/12/05/deported/immigrants-uprooted-country-they-call-home#290612>

⁷ <https://thinkprogress.org/women-immigrant-detainees-ea8685836c66/>

⁸ <https://www.womensrefugeecommission.org/rights/resources/1524-joint-complaint-ice-detention-treatment-of-pregnant-women>

⁹ <https://www.usatoday.com/story/news/world/2017/04/18/first-protected-dreamer-deported-under-trump/100583274/>

¹⁰ <https://www.elpasotimes.com/story/news/immigration/2017/09/22/agent-wont-face-perjury-charge-controversial-el-paso-courthouse-arrest-group-says/695087001/>

¹¹ <https://www.nytimes.com/2017/10/27/us/immigrant-girl-surgery-detained.html>

¹² <https://www.hrw.org/report/2010/07/08/tough-fair-and-practical/human-rights-framework-immigration-reform-united-states#9cf36f>

¹³ <https://www.hrw.org/report/2010/07/25/deportation-default/mental-disability-unfair-hearings-and-indefinite-detention-us>

¹⁴ <https://www.hrw.org/news/2015/06/02/letter-house-oversight-committee-problems-foia>

would be especially troubling in light of recent reports from the OIG such as [a July 2017](#) report that found neither CBP nor ICE could demonstrate an operational purpose,¹⁵ deployment strategies, or even the administrative capacity for the hiring of 15,000 additional border patrol agents and immigration officers, as requested by President Trump and a December 2017 report that found based on unannounced visits that “treatment and care of ICE detainees at four facilities...[undermined] the protection of detainees’ rights, their humane treatment, and the provision of a [safe and healthy environment](#).”¹⁶ Congress should increase oversight of CBP and ICE agents, ensuring accountability for abuses and improving upon commitments to standards such as the [2011 ICE Performance-Based National Detention Standards](#) and adhering to recommendations made by the DHS Inspector General.¹⁷

We submit that increasing enforcement appropriations to CBP in particular is especially misguided. In addition to that agency’s failure to follow US law in its interactions with asylum [seekers](#),¹⁸ the agency has a troubling history of misconduct without accountability, including as the DHS OIG found in January of this year of violating federal court orders related to President Trump’s January 27, 2017 Executive Order restricting the travel of nationals from several [Muslim-majority nations](#).¹⁹

Additionally, despite regulations purporting to limit the use of deadly force, U.S. Border Patrol has a disturbingly [violent track record](#).²⁰ Unfortunately, these violent incidents often go uninvestigated and unpunished. One policy organization found that of 809 complaints of alleged abuse lodged against Border Patrol agents between January 2009 and January 2012, a full 97 percent resulted in a disposition of ["no action taken" by the agency](#).²¹ A June 2015 interim report of the CBP Integrity Advisory Panel similarly found that “CBP did not have sufficient IA [internal affairs] investigators to investigate these incidents, nor until recently did its IA investigators have authority to conduct investigations involving potential [criminal misconduct](#) in the exercise of use of force by CBP’s LEOs [Law Enforcement Officers.]”²² A 2011 study by the Homeland Security Studies and Analysis Institute on CBP workforce integrity found that the CBP disciplinary system fails to “foster timely [discipline or exoneration](#).”²³ Five years later, the Homeland Security Integrity Advisory Council’s 2016 Integrity Advisory Panel found that the agency’s disciplinary system remained “broken” and its “disciplinary process takes far too long to be an [effective deterrent](#).”²⁴ Appropriators

¹⁵ <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-98-SR-Jul17.pdf>

¹⁶ <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>

¹⁷ <https://www.ice.gov/detention-standards/2011>

¹⁸ <https://www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk>

¹⁹ <https://www.oig.dhs.gov/sites/default/files/assets/2018-01/OIG-18-37-Jan18.pdf>

²⁰ <http://bit.ly/1kFNxo8>

²¹ <https://www.americanimmigrationcouncil.org/research/no-action-taken-lack-cbp-accountability-responding-complaints-abuse>

²² <https://www.dhs.gov/sites/default/files/publications/DHS-HSAC-CBP-IAP-%20Interim-Report.pdf>

²³ <http://s3.documentcloud.org/documents/%201165309/workforce-integrity-study.pdf>

²⁴ https://www.dhs.gov/sites/default/files/publications/HSAC%20CBP%20IAP_Final%20Report%20FINAL%20%28accessible%29_o.pdf

should focus urgently on fixing these crucial oversight and accountability systems not allocating more enforcement money to an agency that is failing to police itself.

We call on you to reject any increase in appropriations that will exacerbate serious rights violations in the existing immigration enforcement system, and instead to put forward appropriations that will enhance transparency, due process, accountability, and fair treatment of all people subject to DHS jurisdiction.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole Austin-Hillery". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nicole Austin-Hillery
Executive Director, US Program
Human Rights Watch