



THE TRUMP ADMINISTRATION FISCAL YEAR 2018 BUDGET: “Funding for a Massive Deportation Machine”

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INTRODUCTION

The Trump Administration’s fiscal year 2018 budget request would dramatically increase immigration enforcement and border security funding. Most troubling, the budget would increase immigration detention by 66 percent; daily detention levels would be expanded to hold more than 51,000 people.¹ The Administration also requests \$300 million above current spending levels to hire an additional 500 new Border Patrol officers and 1,000 new Immigration and Customs Enforcement (ICE) agents.² The request includes \$1.6 billion that would fund portions of a wasteful and operationally ineffective southern border wall.³ It also follows through on the Administration’s misguided commitment to divert Department of Justice (DOJ) law enforcement funding to be used instead to criminally prosecute individuals apprehended while crossing the border, many of whom come here seeking asylum and pose no danger to public safety.

The Administration has not provided adequate justification for these budget increases based on actual border security or public safety needs. In fact, since October of 2016, apprehensions on the Southwest border have dropped by 75 percent, part of a long-term trend of decreased illegal migration.⁴ The lack of demonstrated need for these proposed increases is especially extraordinary considering that the President would fund them by cutting domestic programs vital to poor and working-class Americans.

The Administration’s funding increase will enable it to deport thousands of families and people who have strong ties to the United States and pose no threat to public safety. Already, in the first 100 days of the new Administration, immigration arrests by ICE Enforcement and Removal Operations have shown an increase of 157 percent in the arrests of individuals with no criminal convictions.⁵ In other words, the Trump Administration is increasing apprehensions of undocumented people whom the vast majority—9 out of 10—Americans believe should be granted permanent legal status.⁶ Funding a mass deportation machine is not what Americans want and is not going to strengthen our nation.

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I. Overall Department of Homeland Security (DHS) Budget

The Trump Administration budget allocates \$44.1 billion for the Department of Homeland Security (DHS), an increase of \$1.7 billion over the funds appropriated for FY 2017.⁷ The total increases to the CBP and ICE budgets are even higher, as they are set off by cuts to other DHS programs, such as pre-disaster mitigation grants to state and local governments. The budget seeks \$7.57 billion for ICE, an increase of 18 percent over FY 2017 appropriations, and \$13.93 billion for CBP, an increase of 17 percent over FY 2017 appropriations.

II. Immigration and Customs Enforcement (ICE) Budget

High Levels of Funding for Detention Beds

The Trump Administration budget requests an increase of \$900 million dollars over FY17 appropriations to maintain an average daily detained population of 51,379.⁸ This constitutes an increase of 66 percent over prior Congressional appropriations for 34,000 detention beds, an unprecedented expansion in the nation's immigration detention system.⁹

There is currently no need for additional detention capacity. Southwest border apprehensions are down by 75 percent since October of 2016, which means that DHS does not need the extra detention space for individuals who have recently crossed the border and are not applying for asylum.¹⁰ Instead, the Administration will most likely use these beds to further ramp up its interior enforcement efforts, which have already begun. According to the *Washington Post*, ICE arrests were 32.6 percent higher in the first 100 days of the new Administration, compared to the same period in 2016.¹¹ ICE data has also shown an increase of 157 percent in the arrests of individuals with no criminal convictions.¹²

To detain 51,379 people each day, the Administration will increase its targeting of long-time residents, families, and other contributing members of the community.¹³ This kind of indiscriminate enforcement rips apart families and damages communities without making our country any safer.

Gutting Detention Conditions Standards

DHS disclosed in the Administration's budget that ICE will no longer expect the overwhelming majority of its detention facilities to comply with ICE detention standards.¹⁴ Of the approximately 200 adult detention facilities utilized by ICE, the only facilities that will still be required to comply with current ICE detention standards are the approximately 25 facilities that exclusively house ICE detainees (known as "dedicated facilities"). At the other facilities, which include both county jails and contractor-operated facilities, ICE will employ a rudimentary inspection checklist.¹⁵

To justify eliminating the standards, the Department acknowledged it has been difficult for some field offices to find new detention facilities as so many "are unable or unwilling to meet ICE's detention standards."¹⁶ This rationale should only create further alarm. Placing ever greater numbers of undocumented immigrants, including families, asylum seekers, and other vulnerable individuals, in hastily acquired county jails and former prisons will inevitably result in increased abuse, neglect, and deprivation of rights.

Increase in the Number of ICE Agents

The Administration also requests funds to hire an additional 1,000 ICE agents, an unnecessary increase given the massive build up in ICE personnel that has occurred over the past 13 years. In fact, the number of ICE agents devoted to Enforcement and Removal Operations increased from 2,710 in FY 2003 to 7,995 in FY 2016.¹⁷ Based on the substantial declines in border apprehension rates, it is likely that newly

hired officers would be used to ramp up deportations of long-time residents who pose no threat to public safety.¹⁸

Attempts to Force Compliance with Immigration Detainers

Through the budget process, the Administration is attempting to rewrite federal law to compel state and local law enforcement agencies to honor constitutionally-suspect ICE detainer requests.¹⁹ Currently federal law prohibits local and state governments from enacting laws or policies that limit communication with the Department of Homeland Security (DHS) about information regarding the "immigration or citizenship status" of individuals and prohibits restrictions on maintaining such information.²⁰ Nothing in the statute requires localities to comply with ICE detainer requests; however, in its budget request, the Administration asks Congress to prohibit localities from limiting compliance with detainers. Any jurisdiction failing to comply would face the loss of federal funds.

Many police chiefs and sheriffs have resisted detainers and other forms of immigration enforcement out of concern that immigrant communities will no longer trust local law enforcement and will not report crimes. States and localities would also likely challenge this provision as a violation of the 10th Amendment, which prevents the federal government from commandeering the resources of local governments in order to implement federal laws.

III. Customs and Border Protection (CBP) Budget

Massive Amounts of Money for Ineffective, Costly Border Wall

The Administration's budget seeks \$2.6 billion to deploy infrastructure and border security technology, including \$1.6 billion to plan, design and construct a physical wall along portions of the southern border.²¹ This huge sum would only pay for construction of 32 miles of new border wall in the Rio Grande Valley Sector, 28 miles of new levee wall in the Rio Grande Valley Sector, and 14 miles of replacement of secondary barrier in the San Diego Sector, as well as planning activities for further border wall construction.²²

In the Omnibus Appropriations bill enacted on May 5, 2017, Congress rejected the Administration's request for a down payment on President Trump's border wall. However, President Trump continues to seek billions of dollars its construction, without having demonstrated that it provides any operational advantages. The immense budgets allocated to CBP under the prior two Administrations have already funded the deployment of extensive border security resources, incorporating a layered system of physical barriers and border security technologies supplemented by a huge force of Border Patrol and other CBP personnel. This is an excessive proposal to spend huge sums for a small portion of border wall that will yield little or no public safety or national security benefit.

Increase in the Number of Border Patrol Officers

The Administration proposes hiring an additional 500 Border Patrol officers without providing justification for the increase.²³ Already, the number of Border Patrol officers doubled from 10,045 in FY 2002 to 19,828 in FY 2016. Moreover, overall border apprehension numbers are down significantly.²⁴

Additionally, CBP has had a hard time attempting to fill its currently-funded positions. Many applicants struggle to pass the polygraph – nearly two thirds of applicants have failed the test.²⁵ Congress should not permit CBP to lower hiring standards for Border Patrol officers. Former Assistant Commissioner of CBP for Internal Affairs James Tomsheck recently wrote that attempts to undermine the polygraph requirement "would exacerbate corruption and abusive misconduct by adding unsuitable personnel who conceal criminal pasts - and/or have future intent to compromise CBP's mission - so as to threaten our national security."²⁶ Rushed Border Patrol hiring would result in inadequate screening, training, and oversight, and

would exacerbate the corrupt practices, misconduct, and excessive use of force that CBP has struggled to overcome within its ranks.²⁷

IV. Department of Justice (DOJ) Budget

Hiring US Attorneys for Immigration Prosecutions

The Administration seeks to hire 70 new U.S. Attorneys at the Department of Justice to prosecute people for immigration-related offenses, primarily illegal entry and reentry.²⁸ Immigration prosecutions already comprise 52 percent of all federal prosecutions—more than for drugs, weapons, fraud and other federal crimes combined.²⁹ This is a disproportionate allocation of criminal justice resources in comparison to the far more serious federal felonies for which the Department of Justice is responsible. Expending federal taxpayer dollars to prosecute individuals who are typically entering the country to reunite with their families or escape violence takes resources away from prosecuting violent offenders and gun and drug smugglers who pose a threat to public safety and national security.

Hiring Additional DOJ Office of Immigration Litigation Staff

DOJ also requested \$1.9 million for 20 new positions in the DOJ Office of Immigration Litigation (OIL), including 15 additional attorneys.³⁰ OIL is charged with defending challenges to immigration laws, regulations, and policies. That includes individual immigration cases that are appealed to federal courts from the Board of Immigration Appeals, and also more systemic challenges to potentially unlawful actions taken as a part of Trump's mass deportation agenda.

V. United States Citizenship and Immigration Services (USCIS) Budget

Expands Funding to and Mandate of E-Verify

The Administration's budget requests almost \$132 million for the E-Verify program and states that the increase will be used to work towards mandatory, nationwide use of the program.³¹ AILA recognizes the value of an effective employment verification system, but such a system needs to be implemented in a way that ensures smooth operation for businesses and adequate protections for workers. The proposal does not include protections to ensure authorized workers are not mistakenly identified as being unauthorized. These errors have long been recognized within the E-Verify pilot system and have wrongfully hindered many U.S. workers in their efforts to seek employment.

E-Verify should not be made a mandatory without first addressing other urgently needed immigration reforms. Until Congress establishes a plan to legalize the status of the millions of unauthorized workers, any attempt to mandate employment authorization will disrupt major sectors of our economy, such as the agricultural industry. E-Verify will also impose significant costs on business operations. A 2011 Bloomberg report estimated that the cost of mandatory E-Verify on small businesses would be in the range of \$2.6 billion.

VI. Funding for Refugee and Humanitarian Assistance

The proposed budget would slash funding for international refugee and humanitarian assistance. The request includes a 31 percent cut to refugee resettlement programs and the complete elimination of the Emergency Refugee and Migration Assistance (ERMA) account, which is critical for the U.S. government's capacity to respond to urgent crises.³² This plan will reduce the number of refugees resettled in the United States to 50,000 in 2018, far short of what is needed.

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- ¹ [Department of Homeland Security FY 18 Budget in Brief](#), page 36
- ² [The President's Fiscal Year 2018 Budget: Overview](#), page 3
- ³ [Department of Homeland Security FY 18 Budget in Brief](#), page 28
- ⁴ Data from CBP website: [Southwest Border Migration](#).
- ⁵ [ICE Arrests of Suspected Undocumented Immigrants Up Nearly 40% Compared to Last Year](#), Time Magazine, May 17, 2017.
- ⁶ [CNN/ORC poll](#) March 1-4, 2017.
- ⁷ This summary compares the [Administration's FY 18 DHS budget](#) request to the amounts allocated by the [FY 17 Consolidated Appropriations Act](#), H.R. 244, PL 115-31, Division F. The OMB and DHS budget materials, however, were prepared prior to the enactment of the appropriations legislation, and therefore relied on FY 17 spending estimates based on annualized calculations of the FY 17 continuing resolution (CR) that was in effect during the first seven months of the fiscal year. This summary also references net discretionary funding requested in the FY 18 budget and enacted in the FY 17 appropriations legislation, and not gross budget authority, which include funds collected from user fees and other non-discretionary sources.
- ⁸ [Department of Homeland Security FY 18 Budget in Brief](#), at page 36
- ⁹ For many years prior to FY17, appropriations for ICE included an explicit 34,000 bed mandate. FY17 appropriations legislation did not mandate a detention bed number; however, it did increase appropriations for detention by \$390 million over FY16 funding. According to a [summary](#) released by House Appropriations Committee Chairman Rodney Frelinghuysen, the FY17 allocation was expected to fund an average daily population of 39,324. However, a substantial portion of that funding was needed to reimburse ICE for the record high detention populations in the first months of the fiscal year, and assumed a lower average daily population between May and October of 2017. The Administration's FY 18 budget request for ICE detention constitutes a 33% increase over FY17 appropriated funds.
- ¹⁰ Data from CBP website, [Southwest Border Migration](#).
- ¹¹ [ICE immigration arrests of noncriminals double under Trump](#), Washington Post, April 16, 2017.
- ¹² [ICE Arrests of Suspected Undocumented Immigrants Up Nearly 40% Compared to Last Year](#), Time Magazine, May 17, 2017.
- ¹³ [ICE Arrests of Suspected Undocumented Immigrants Up Nearly 40% Compared to Last Year](#), Time Magazine, May 17, 2017.
- ¹⁴ [DHS Congressional Budget Justification, FY 2018, Volume II](#), at pp. 170-172 of pdf.
- ¹⁵ Id. at pp. 170-171 of pdf; [Trump Plan Would Curtail Protections for Detained Immigrants](#), N.Y. Times, April 13, 2017 (includes [link to the USMS inspection checklist](#)).
- ¹⁶ Id., at p. 170 of pdf. DHS admits in its budget documents that “[t]his adjustment will enable ICE to obtain the increased detention space needed to meet the requirements of [President Trump’s Executive Order].” Id.
- ¹⁷ American Immigration Council, [The Cost of Immigration Enforcement and Border Security](#) (January 25, 2017). See also [Congressional Budget Justification FY2017](#), page 319-320.
- ¹⁸ ICE immigration arrests of noncriminals double under Trump, Washington Post, April 16, 2017.
- ¹⁹ [Administration's FY 18 DHS budget](#), at page 62.
- ²⁰ See 8 USC 1373.
- ²¹ [Department of Homeland Security FY 18 Budget in Brief](#), at pages 28-29.
- ²² [Department of Homeland Security FY 18 Budget in Brief](#), at pages 28.
- ²³ [Department of Homeland Security FY 18 Budget in Brief](#), at page 30.
- ²⁴ [Border Patrol staffing data](#) posted on the CBP website; “[Southwest Border Migration](#)” data on CBP website.
- ²⁵ James Tomscheck, [Why Is Congress proposing to increase Customs and Border Protection corruption?](#), May 16, 2017.
- ²⁶ James Tomscheck, [Why Is Congress proposing to increase Customs and Border Protection corruption?](#), May 16, 2017.
- ²⁷ [Interim Report of the CBP Integrity Advisory Panel](#); GAO, [Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct](#) (December 2012); James Tomscheck, [Why Is Congress proposing to increase Customs and Border Protection corruption?](#), May 16, 2017.
- ²⁸ [US Department of Justice FY 2018 Budget Summary](#), at page 2.
- ²⁹ <http://trac.syr.edu/tracreports/crim/446/>.
- ³⁰ <https://www.justice.gov/file/968201/download>, at page 2.
- ³¹ [Department of Homeland Security FY 18 Budget in Brief](#), at page 70.
- ³² HHS FY2018 Budget, at page 45.