

**Washington, D.C.** - Congressman David Price (D-NC) today applauded Secretary Janet Napolitano's efforts to overhaul the nation's immigration detention system. The Secretary of Homeland Security announced a series of changes to existing immigration detention practices today, following a review of the immigration detention system spearheaded by Dora Schriro, the former advisor to the Secretary on immigration enforcement policy. Many of the proposed improvements, such as expanding the Alternatives to Detention program and strengthening the oversight and management of detainee health care, are measures Price and fellow Homeland Security appropriations subcommittee members had been seeking for years.

"I have been concerned about detention conditions and health services for detainees since taking over as Chairman of the subcommittee, and we have held multiple hearings into the topic," said Rep. Price. "It is important to realize that the population brought under the custody of ICE includes families, women, children, and asylum seekers – in addition to serious criminals and felons. It only makes sense that immigration authorities should handle each individual in a way that is consistent with the flight risk they pose or threatening behavior they have shown in the past. I am pleased the Department has decided to address this issue, and look forward to receiving more information about how the improvements announced today will be implemented."

Earlier this year, Price held a hearing on the health services for individuals in immigration custody, where he highlighted the deficiencies in the current system and called for the administration to address the problems in the system. His opening statement for that hearing can be found [here](#).

Price also worked with fellow subcommittee member Rep. Lucille Roybal-Allard (D-CA) to include strong language on the handling of detention operations and the treatment of special populations detained in the Homeland Security Appropriations bill for fiscal year 2010 (H.R. 2892), which passed the House in June. Excerpts from the bill's report language can be found [below](#).

"I join Chairman Price in commending the administration's determination to reform America's broken detention system," Congresswoman Lucille Roybal-Allard (CA-34) said. "For too long our unjust detention policies have permitted ongoing abuse and neglect of detainees across this sprawling network of facilities. By strengthening standards and expanding alternatives to incarceration for immigrants who don't pose a threat to their communities, as Chairman Price and I have proposed, Secretary Napolitano is adopting a more humane framework to guide the

treatment of the detainees in our custody. I welcome her thoughtful approach to this complex issue and I look forward to the Department's continuing efforts to reshape our detention system to better reflect America's commitment to due process and equal justice under the law for everyone."

From the House Report Accompanying H.R. 2892,

The Homeland Security Appropriations Act for Fiscal Year 2010

## ICE CUSTODY OPERATIONS

The Committee provides \$1,771,168,000 for ICE custody operations, as requested, which is \$49,900,000 over the 2009 appropriations level. This increase will allow ICE to maintain an aggregate annual detention capacity for 33,400 individuals, and funds the full-year salaries and benefits for staff added to Detention and Removals Operations over the past several years. At this point, ICE detention capacity is at the highest level in the agency's history, having grown more than 67 percent since 2002. While there will always be need for ICE to detain individuals who are apprehended while in the country illegally, the Committee believes that further expansion of ICE detention must be based on a rigorous analysis illustrating what compelling need will be met by placing yet more individuals in Federal custody. Furthermore, given that ICE has been unable to implement a nation-wide Alternatives to Detention program despite strong interest and increased funding from the Congress, the Committee questions whether ICE is adequately and equitably evaluating the need to detain every individual the agency apprehends, particularly those without criminal histories and who do not pose a flight risk. At a minimum, until ICE can prove that its low-risk detainees have nation-wide access to supervision programs or bonded parole, the Committee will remain skeptical of expanding detention capacity further.

## MEDICAL CARE FOR ICE DETAINEES

A recent GAO report (GAO 09-308R) highlighted differences in the structure and quality of care provided across ICE detention facilities. In particular, the GAO analysis revealed varying degrees of ICE oversight of contract agreements with non-Federal detention providers, and highlighted the potential for inadequate or inconsistent medical care across the ICE detention system. Further, GAO noted the absence of almost any performance data about ICE detainees'

medical conditions or treatments. The Committee believes that if ICE must detain individuals in government custody, it should do so in a manner that provides all detainees equal access to necessary medical care, regardless of the location at which they are held. In addition, ICE detention staff should maintain detailed medical information about the health of their detained populations, not only to better inform management and investment decisions by ICE executives, but also to guard against the outbreak of epidemics and to identify emerging medical needs. The Committee directs ICE to report within 30 days of the end of each quarter of the fiscal year on actions it has taken to address inadequacies in its medical services to detainees.

The Committee is especially concerned about cases of detainee death where it appears detainees did not receive appropriate emergency medical treatment or continuing medical care. The Committee directs the Department to review its medical care standards for all detention facilities, specifically evaluating the enforceability of current standards. Additionally, the Department should revise any standards that do not ensure appropriate medical treatment, the ability to access counsel and family, effective medical grievance procedures, or any other standards necessary for humane treatment of detainees. The Committee also directs the Department to notify the Congress and the DHS IG within 48 hours of any death that occurs in ICE custody.

#### DETENTION STANDARDS OVERSIGHT AND COMPLIANCE

The Committee supports ICE's proposal to expand the Office of Professional Responsibility (OPR) and Detention Facilities Inspection Group (DFIG), and provides an additional \$12,400,000 for these programs in 2010, as requested. These funds will support deployment of DFIG personnel to ICE field offices throughout the country, growth of the OPR Management Investigations Unit, and associated mission support costs. As a means improve compliance with ICE performance standards, the Committee continues a provision prohibiting ICE expenditure of funds for any contracted detention facilities that receive two consecutive evaluations of less than 'acceptable' or the equivalent median score of any subsequent evaluation system, a requirement established by the fiscal year 2009 Homeland Security Appropriations Act.

The Committee understands that ICE is considering restructuring and possibly renaming the DFIG and other detention oversight programs. The Committee directs ICE to work with the Department's Chief Financial Officer to ensure this restructuring complies with all applicable provisions in the fiscal year 2009 Homeland Security Appropriations Act.

## DEPORTATION OF PARENTS OF U.S.-BORN CHILDREN

In February 2009, the DHS IG estimated that more than 100,000 parents of U.S.-born children were deported from the country between 1998 and 2007. The IG also reported that ICE does not consistently track information about the U.S.-born children of those it deports. As a result, the Committee directs ICE to begin collecting data to track: the number of instances in which both parents of a particular child were removed; the length of time a parent lived in the United States before removal; and whether the U.S. citizen children remained in the United States after the parents' removal. ICE should provide this data annually to the Office of Immigration Statistics, as well as to Congress with the annual budget submission.

## ALTERNATIVES TO DETENTION

The Committee provides \$73,913,000 for ICE Alternatives to Detention programs, which is \$10,000,000 more than requested. The Committee continues to recognize the value of Alternatives to Detention programs which have yielded a 98-percent appearance rate at immigration proceedings. When properly implemented and managed, Alternatives to Detention programs augment ICE's regular detention capacity and provide a cost effective means of accounting for individuals accused of being in the country illegally but who do not require administrative custody during their immigration proceedings. The Committee is very concerned that ICE has not complied with the 2009 Appropriations Act, which required the agency to submit a plan for nation-wide deployment of the Alternatives to Detention program by January 5, 2009. The Committee directs ICE to submit this plan immediately.

As a matter of principle, DHS should use the least restrictive and least costly means required to supervise individuals in removal proceedings. Whenever practical and appropriate, individuals who cannot be paroled without supervision or on bond should be enrolled in Alternatives to Detention programs, particularly those that are community-based and which emphasize the personal responsibility of the individual. These programs, which cost less per day than detention, are a more humane method for monitoring individuals who may have legitimate immigration claims but for whom detention is unreasonably burdensome, such as asylum seekers, families, and the elderly.

The Committee has heard significant concerns from immigrant advocates about how ICE is using electronic monitoring programs for individuals who would otherwise be eligible for release on parole or bond, or would be eligible to enroll in intensive supervision programs that are not

based on technology. The Committee directs ICE to develop a benefit-cost analysis of its various Alternatives to Detention approaches, and include this information in the 2011 budget submission for the program.

## CHILD AND FAMILY DETENTION

The Committee believes that detention is not generally appropriate for families and is concerned that the Department does not routinely make Alternatives to Detention available to families it takes into custody. In addition, while the Committee is pleased that ICE developed and implemented detention standards for families held in its custody, it remains concerned that ICE family detention standards are based on adult prison standards. The Committee directs the Department to prioritize the use of Alternatives to Detention program for families who do not need to be held in immigration detention. The Committee further directs the Office of Professional Responsibility to conduct a review of families detained in ICE custody since 2007 and determine whether ICE complied with its own internal guidance for when to hold families in custody and when to release them to Alternatives to Detention programs. The Committee directs ICE to report on the results of this review no later than the submission of the 2011 budget.

In addition, the Committee has heard reports of ICE prosecutors inappropriately using personal information about children when presenting cases in immigration court, such as medical records and psychological reviews. The Committee directs ICE to respect the privacy and confidentiality of detained children's case information, including privileged medical, psychological and social worker reports, and only to request access to those files when relevant to the case.

## INAPPROPRIATE TREATMENT OF CHILDREN IN ICE CUSTODY

In last year's appropriation report, the Committee directed ICE to report quarterly on any incidents involving strip searches of children, placement of children in restraints, or use of disciplinary weapons against children. ICE has not provided the Committee any report on these techniques, indicating that they have not been used to date in fiscal year 2009. As a result, the Committee directs ICE to review the necessity of retaining these practices within its child detention standards, and update the Committee on any changes to the policies by November 2, 2009. In addition, ICE is directed to continue to provide reports 30 days after the end of each quarter of the fiscal year on any incidents involving strip searches of children, placement of children in restraints, or use of disciplinary weapons against children.

As in past years, the Committee provides no funding for ICE bone and dental forensic examinations to determine the age of children in ICE custody. This questionable methodology is not based on credible scientific principles, and puts children at risk of erroneous classification as adults and transfer to adult detention centers. The Committee directs the IG to continue to review ICE practices for determining the age of those in its custody, and to report to the Committees on Appropriations on any cases where ICE uses bone or dental forensic examinations.

#### TRANSPORTATION OF UNACCOMPANIED ALIEN CHILDREN

In the 2009 Appropriations Act, the Committee directed ICE, the Office of Management and Budget, and the Department of Health and Human Services (HHS) to determine the appropriate agency for managing child transportation between DHS and HHS custody. To date, the Committee has not received this report, which has apparently been under review at the Department of Health and Human Services for several months. As a result, the Committee expects ICE will continue to pay for the cost of child transportation between DHS and HHS custody until the agencies determine the appropriate method for funding this activity.

#### HUMANITARIAN REVIEW OF IMMIGRATION ARRESTS

The Committee continues to support ICE's policies that allow for humanitarian review of those arrested in worksite enforcement actions affecting 150 or more individuals. Many who have been arrested in past worksite enforcement actions were primary care givers to infant children or elderly parents, meaning their detention would have harmed those unable to care for themselves. The Committee continues to believe ICE should expand this policy to cover all worksite enforcement activities. If ICE is unable to expand this policy, it must brief the Committee no later than November 2, 2009, about the impediments to doing so.

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