

# Congress of the United States

Washington, DC 20510

April 28, 2022

The Honorable Lucille Roybal-Allard  
Chairwoman  
House Subcommittee on Homeland  
Security Appropriations  
HT-2, The Capitol  
Washington, DC 20515

The Honorable Chuck Fleischmann  
Ranking Member  
House Subcommittee on Homeland  
Security Appropriations  
1036 Longworth House Office  
Building  
Washington, DC 20515

Dear Chairwoman Roybal-Allard and Ranking Member Fleischmann:

As the Subcommittee considers the Department of Homeland Security's FY2023 Appropriations Bill, we write to support the inclusion of a provision similar to section 219 of the FY2022 Full Committee Draft Bill, requiring individualized custody determinations for all people in the custody of Immigration and Customs Enforcement (ICE) within 20 days of coming into custody, notwithstanding section 236(c) of the Immigration and Nationality Act.

There is no other area of American law where the government has the authority to use taxpayer dollars to detain people for prolonged periods without any individualized determination of the necessity of such detention. Under current practice, the majority of the thousands of people in ICE detention do not have access to a bond hearing or custody-level release consideration. This practice is costly to the taxpayer: in FY2022, nearly \$3 billion appropriated dollars were used to detain tens of thousands of asylum seekers and long-term residents of American communities. Social science research has overwhelmingly shown our nation's reliance on immigration detention to be wasteful and unnecessary: more than 80% of immigrants appear voluntarily for their immigration court proceedings, a statistic that approaches 100% when the person is represented by counsel.

We respectfully encourage you, therefore, to include the following language in the FY23 bill, which is similar to language included in section 219 of the [House draft FY2022 DHS appropriations bill](#):

The Secretary shall ensure that all persons held in custody of U.S. Immigration and Customs Enforcement utilizing funds appropriated for "Custody Operations" are afforded an individualized assessment of the necessity of continued detention within 20 days of coming into custody. For the purpose of such assessment, adjudicating officers shall consider a continuum of alternatives to detention, including release on recognizance, release on supervision or other alternative to detention programs; and select the least restrictive setting that will mitigate any well-founded concern that an individual poses a specific, real, and present threat to an identifiable person or poses a risk of willful flight. Also for the purpose of such assessment, the term "custody" as provided at 236(c) of the Immigration and Nationality Act (8 U.S.C. 1226(c)) will be deemed satisfied by legal custody or physical custody, including a continuum of release options with accompanying supervision or other conditions of release.

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Sincerely,



Bill Foster  
Member of Congress



Theodore E. Deutch  
Member of Congress



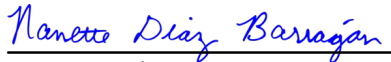
Pramila Jayapal  
Member of Congress



Alma S. Adams, Ph.D.  
Member of Congress



Jake Auchincloss  
Member of Congress



Nanette Diaz Barragán  
Member of Congress



Karen Bass  
Member of Congress



Earl Blumenauer  
Member of Congress



Jamaal Bowman, Ed.D.  
Member of Congress



Anthony G. Brown  
Member of Congress



Tony Cárdenas  
Member of Congress

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*André Carson*

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André Carson  
Member of Congress

*Sean Casten*

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Sean Casten  
Member of Congress

*Joaquin Castro*

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Joaquin Castro  
Member of Congress

*Judy Chu*

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Judy Chu  
Member of Congress

*Yvette D. Clarke*

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Yvette D. Clarke  
Member of Congress

*Gerald E. Connolly*

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Gerald E. Connolly  
Member of Congress

*J. Luis Correa*

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J. Luis Correa  
Member of Congress

*Jason Crow*

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Jason Crow  
Member of Congress

*Danny K. Davis*

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Danny K. Davis  
Member of Congress

*Diana DeGette*

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Diana DeGette  
Member of Congress

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Mark DeSaulnier  
Member of Congress



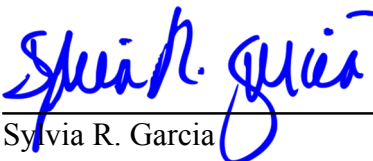
Lloyd Doggett  
Member of Congress



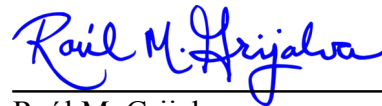
Veronica Escobar  
Member of Congress



Jesús G. "Chuy" García  
Member of Congress



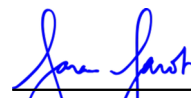
Sylvia R. García  
Member of Congress



Raúl M. Grijalva  
Member of Congress



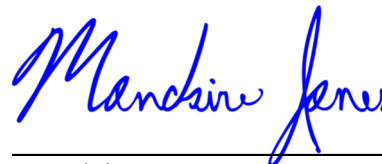
Sheila Jackson Lee  
Member of Congress



Sara Jacobs  
Member of Congress



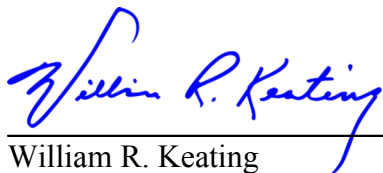
Henry C. "Hank" Johnson, Jr.  
Member of Congress



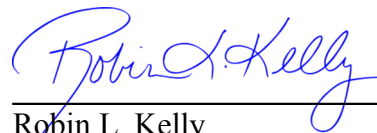
Mondaire Jones  
Member of Congress

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William R. Keating  
Member of Congress



Robin L. Kelly  
Member of Congress



Ro Khanna  
Member of Congress



Raja Krishnamoorthi  
Member of Congress



Barbara Lee  
Member of Congress



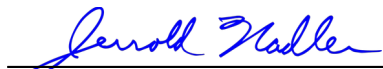
Zoe Lofgren  
Member of Congress



Alan Lowenthal  
Member of Congress



James P. McGovern  
Member of Congress



Jerrold Nadler  
Member of Congress



Grace F. Napolitano  
Member of Congress

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Marie Newman  
Member of Congress



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Eleanor Holmes Norton  
Member of Congress



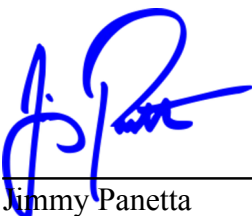
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Alexandria Ocasio-Cortez  
Member of Congress



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Ilhan Omar  
Member of Congress



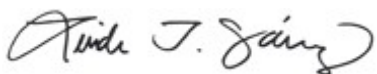
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Jimmy Panetta  
Member of Congress



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Ayanna Pressley  
Member of Congress



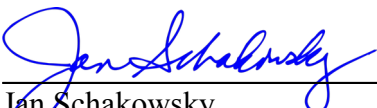
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Linda T. Sánchez  
Member of Congress



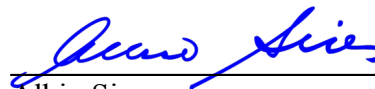
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Mary Gay Scanlon  
Member of Congress



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Jan Schakowsky  
Member of Congress



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Albio Sires  
Member of Congress

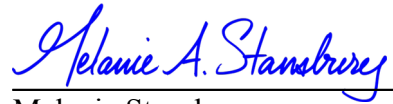
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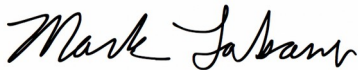
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Adam Smith  
Member of Congress



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Melanie Stansbury  
Member of Congress



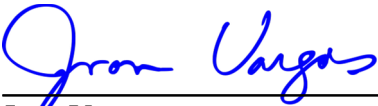
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MARK TAKANO  
Member of Congress



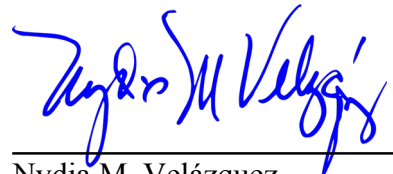
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Rashida Tlaib  
Member of Congress



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Juan Vargas  
Member of Congress



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Nydia M. Velázquez  
Member of Congress



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Nikema Williams  
Member of Congress



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Frederica S. Wilson  
Member of Congress