



January 14, 2015

RE: ACLU Opposes Funding for Immigration Detention Bed Quota and Amendments No. 1, 2, and 3 to H.R. 240, Department of Homeland Security FY 15 Appropriations

Dear Representative,

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For nearly 100 years, the American Civil Liberties Union (ACLU) has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C., for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.

While we do not have a position on the underlying bill, the ACLU urges you to oppose certain immigration-related provisions in and amendments to H.R. 240, a bill "making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2015, and for other purposes." Specifically, we oppose the provision of funds in the underlying bill that would maintain the 34,000 immigration detention bed quota; Amendment No. 1 offered by Representatives Robert Aderholt, Mick Mulvaney, and Lou Barletta; Amendment No. 2 offered by Representative Marsha Blackburn; and Amendment No. 3 offered by Representative Ron DeSantis and Representative Martha Roby. A recorded vote on this legislation is anticipated on the House floor today.

Please don't hesitate to contact Joanne Lin (202/675-2317; jlin@aclu.org) with any questions.

Regards,

Laura W. Murphy
Director, Washington Legislative Office

Joanne Lin
Legislative Counsel

We urge your opposition to these amendments which attempt to defund and block implementation of the administration's executive actions taken on November 20, 2014 to help keep immigrant families together.

I. ACLU Opposes Amendment No. 1 sponsored by Representatives Aderholt, Mulvaney, and Barletta

- **The Aderholt Amendment seeks to bar the use of funds for the administration's 2014 executive actions on immigration, and would undermine numerous Homeland Security ("DHS") memoranda that outline enforcement priorities including the use of prosecutorial discretion.**
- **The Aderholt Amendment would place millions of immigrant families in peril of deportation and would perpetuate prolonged family separation.** The Aderholt Amendment would prevent any funds from being used for implementation of the expanded Deferred Action for Childhood Arrivals ("DACA") initiative and the new Deferred Action for Parent Accountability ("DAPA") initiative from the November 2014 "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who are the Parents of U.S. Citizens or Permanent Residents" memo (Nov. 20, 2014). DAPA will prevent the separation of several million mixed-status families by allowing parents of U.S. citizens or permanent residents to remain and work in the U.S. on a temporary basis. These families have lived under the constant peril of deportation and permanent separation for years. Although DAPA falls short of what is necessary to reform our immigration laws, it provides a critical step to stabilize American families, schools, workplaces, and faith communities.
- **The Aderholt Amendment would upend existing DHS enforcement priorities and prosecutorial discretion practices, and would force millions of undocumented people to return to living in the shadows.** The Aderholt Amendment seeks to undo existing programs and policies that fall within the discretion of DHS. The November 2014 DHS enforcement priorities impose new limitations that, if properly implemented, could mark a significant policy shift for the agency and would narrow the scope of immigrants who will be treated as removal priorities. Repealing the DHS enforcement priorities would amount to a mass deportation strategy that would require DHS to treat all 11 million undocumented people as equal priorities for removal without regard to individualized circumstances. DHS enforcement actions would take place in the community at large and would sweep in many individuals who are longstanding residents with stable jobs, homes, church membership, and community participation, and who pose no threat to national security or public safety.

II. ACLU Opposes Amendment No. 2 sponsored by Representative Blackburn

- **The Blackburn Amendment seeks to push 700,000 bright, hard-working young adults back into the shadows.** The amendment seeks to repeal DACA, as authorized by executive action on June 15, 2012 and as expanded on November 20, 2014, by denying DHS funds to adjudicate new DACA applications as well as DACA renewal applications. DREAMers offer a tremendous amount of talent, intelligence, and energy to our schools, workplaces, and economy. They should not be priorities for deportation.
- **The Blackburn Amendment would force 700,000 young adults into the underground cash economy and would relegate them to second-class status.** The amendment would deny work authorization to DREAMers, thereby forcing them to work underground and exposing them to employer exploitation and denial of workers' rights.

III. ACLU Opposes Amendment No. 3 sponsored by Representatives DeSantis and Roby

For the past 20 years Congress has worked in a bipartisan manner to protect undocumented victims of domestic violence, sexual assault, and other crimes. The November 2014 enforcement priorities memo allows DHS to exercise prosecutorial discretion when encountering immigrant victims of domestic violence, who may be convicted of violence themselves. The DeSantis Amendment, however, would take away this discretionary authority and bar the executive branch from protecting many of these immigrant victims, thereby jeopardizing them to future harm and exploitation.

- **It is not uncommon for immigrant victims of domestic violence to be arrested, charged, and even convicted of domestic violence.** When police respond to a 911 call and arrive on a domestic violence scene, they are walking into a very dangerous, sometimes lethal situation. Their top priority is to secure the safety of all involved, including the perpetrator, victim, children, and family members. When an undocumented family violence victim calls 911, she may not speak English, may not trust the police, and may not feel comfortable describing the abuse in detail. In an attempt to de-escalate the situation, the police sometimes arrest and charge both parties. Once arrested, some domestic violence victims may end up pleading to a domestic violence crime so they can get out of jail and be reunited with their children more quickly.
- **The DeSantis Amendment would prevent DHS from considering individualized circumstances in cases involving domestic violence convictions, and would force DHS to seek removal of all immigrants with a domestic violence conviction, even those who are victims.** The amendment would bar DHS funding to carry out any immigration enforcement policy that does not treat as the “highest civil enforcement priorities” people who are convicted of any offense involving domestic violence, child exploitation or molestation, or sexual abuse. Specifically the amendment would prevent DHS from implementing the DHS memorandum “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants” (Nov. 20, 2014) which allows for consideration of the needs of victims as a “mitigating factor.” Moreover, the DeSantis Amendment is duplicative and unnecessary, as the vast majority of sexual abuse, domestic violence, and child exploitation crimes already fall within the highest tier of immigration enforcement.

For these reasons, we ask that you oppose Amendments No. 1, No. 2, and No. 3 in H.R. 240.

IV. ACLU Opposes Funds Provided in Title II of H.R. 240 to Provide Continued Spending on Immigration Detention Beds

- **Title II of H.R. 240 would provide continued funding to maintain no less than 34,000 detention beds while providing over \$3 billion for “detention, enforcement, and removal operations, including transportation of unaccompanied minor aliens.”** The ACLU continues to object to this continued appropriation for 34,000 immigration detention beds. The 34,000 immigration detention bed quota is completely arbitrary and perpetuates fiscally wasteful and irresponsible spending. Instead of funding 34,000 immigration detention beds, Congress should appropriate money for community-based alternatives to detention with case management services, which have been proven to be effective and cost-efficient.

For more information, please contact ACLU legislative counsel Joanne Lin (202/675-2317; jlin@aclu.org).