

FY 2019 Budget Request: U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) is the agency within the U.S. Department of Homeland Security (DHS) that is generally responsible for targeting, arresting, detaining, and deporting undocumented individuals in the interior of the United States. When Latino and immigrant rights advocates raise concerns about fueling the “**deportation machine**” they mean providing ICE with unprecedented levels of funding to arrest, detain, and deport long-time members of our communities, including those with protections they have recently terminated for over 1 million *documented* individuals under the Deferred Action for Childhood Arrivals (DACA) policy and Temporary Protected Status (TPS) program.

President Trump’s FY 2019 budget would do just that by providing ICE with record levels of funding for more deportation officers and detention capacity. ICE’s budget would increase by over \$1.72 billion over its Fiscal Year (FY) 2018 appropriated level giving, the agency its richest budget in its history at \$8.8 billion. The Administration claims it needs this money – a total of \$5.1 billion to detain and deport immigrants and over \$590 million in new spending to recruit and hire over 3,300 new ICE officers – to remove droves of “criminal aliens” from the country, when, in fact, ICE’s very own data from 2018 confirms an astounding 171 percent increase in the number of individuals arrested with no criminal histories.

Topline Messages

- ***Congress must deny ICE the “boots and beds” it needs to deport DREAMers, TPS holders, and other long-time residents.*** The Trump Administration has unleashed an unprecedented attack against the nation’s immigrants. It started by going after the undocumented population—not focusing on the “bad hombres” the administration often cites to demonize all immigrants, but on otherwise law-abiding people with long-standing roots in the country. Then, for the first time in our country’s history, our government is going to dizzying lengths to **grow the undocumented population** by revoking the lawful status of more than a million documented immigrants with DACA and TPS. Alarming, some U.S. citizens and Lawful Permanent Residents have been caught in the dragnet as well **fanning concerns about racial profiling** among Latino communities across the country.
- ***Congress should not reward policies that make us less safe.*** The Trump Administration has implemented a scorched-earth approach to immigration enforcement, doing away with the prioritization of national security and public safety, and Congress should not reward its reckless and dangerous behavior with unprecedented levels of funding for ICE. Arrests of individuals with **no criminal histories** were up 171 percent during the first year President Trump took office.

What’s in the President’s FY 2019 Budget?

- ***2,000 New ICE Deportation Officers.*** The President’s FY 2019 budget provides over **\$570 million** to significantly increase the number of ICE deportation officers working to arrest, detain, and deport individuals within the interior of the country. It calls for 3,312 new positions, 2,000 of which are intended to help meet the 10,000 deportation officers the President ordered his first month in office.

To contextualize the size and scale of the Administration’s aggressive interior enforcement agenda, ICE’s Enforcement and Removal Operations – home to the existing stable of deportation officers – currently has about 5,800 *total* employees. The President’s request would swell the ranks, a proposition that the DHS Inspector General has **questioned a need and readiness** for several times this past year (see **here**, **here**, and **here**). In their wisdom, and consistent with the DHS Inspector General’s assessment, Congressional appropriators declined to provide additional funding for ICE deportation officers as part of the enacted FY 2018 appropriation for DHS.

- ICE is Arresting Fewer Criminals Overall. In 2017, between the time Trump took office and the end of fiscal year 2017, ICE arrests spiked 42 percent over the same period the year before. ICE recorded an astounding **171 percent increase** in the number of individuals arrested without criminal convictions during that same time. What’s more, ICE has shown its **willingness to lie** about its enforcement actions to make perpetrate a false narrative about immigrants.
- ICE has Instilled a Culture of Targeting Low-hanging Fruit under Trump. ICE spokespeople have stated that “while [ICE] target[s] criminal aliens, they are not going to exempt an entire class[es] of (non)citizens.” Under the Trump Administration this has meant ICE is targeting for deportation the proverbial “**low hanging fruit**” – that is people on ICE’s non-detained court docket, especially those who are checking in regularly, who are easy to locate, and can be immediately deported without much legal recourse.
- Trump-era ICE’s Enforcement Incentives Undermine Public Safety. The critical work of identifying and locating actual criminals and gang members takes more investigative work and is generally more labor intensive than focusing on “low hanging fruit.” Unfortunately, this is anathema to the public perception the Trump Administration is desperate to cultivate leading to **perverse enforcement incentives**. Because convicted criminals, gang members, and other public safety threats comprise a very tiny fraction of the overall undocumented population, doing this vital public safety work tends to yield fewer overall arrest and deportation numbers in DHS and ICE year-end reports.
- U.S. citizen and LPRs in the ICE Crosshairs? A growing number of accounts have surfaced of U.S. citizens and Lawful Permanent Residents getting snagged by ICE’s aggressive enforcement practices, raising alarms about **racial profiling** in Latino and immigrant communities across the country. Unprecedented funding for more deportation officers could lead to more of these incidents.
- In FY 2018, ICE received funding to hire non-deportation officer personnel. While the FY 2018 DHS appropriation did not fund new deportation agents, it did provide millions to hire an additional 65 Homeland Security Investigations personnel and 60 ICE attorneys whose responsibilities may relate to immigration enforcement **such as worksite enforcement**.
- **Setting a 52,000 Detention Bed Level.** The President’s budget calls for total funding of **\$2.7 billion for 52,000** (split 49,500 single adults and 2,500 family) detention beds, amounting to a nearly 25 percent increase over current levels. The FY 2018 DHS appropriation provides ICE funds for an average of 40,354 detentions beds per day for the balance of FY 2018. In addition, the President’s budget would include an additional **\$35 million for facility expansion** at existing ICE detention centers, like Port Isabel Detention Center in Texas. ICE estimates such expansion will be needed at about 19 percent of those locations expected to get more deportation officers.
- Less Border Apprehensions Equates to More Detentions in the Interior. Historically, the **majority of ICE deportations** are of individuals that are initially apprehended by U.S. Border Patrol attempting to illegally enter the U.S. on the southern border, and then turned over to ICE for removal. Not surprisingly, ICE’s detention bed use in the interior of the country is tied to the number of border apprehensions in a given year. In FY 17, U.S. Border Patrol apprehended the fewest number of individuals attempting to illegally enter the country in over 50 years (310,531) leading to a 25 percent drop of individuals in ICE custody originally arrested by U.S. Border Patrol. With **detention resources to spare**, individuals arrested by ICE from the interior increased by 29 percent during that period. U.S. Border Patrol apprehension levels are trending to be even lower in FY 2018.

- Painful Lessons from FY 17 Supplemental. When Congress passed the FY 2017 DHS Supplemental deal, it **locked in more money** for ICE detention capacity (despite appearing to “hold the line” on bed levels). For the second half of FY 2017, and well into FY 2018 when the government was running on Continuing Resolutions, ICE was funded to use an average of about **39,000 detention beds per day** (up from 34,000). Unfortunately, the FY 2018 appropriation perpetuates this increase by maintaining this level through September 2018, providing the Trump Administration with a powerful immigration enforcement tool to carry out an aggressive enforcement agenda.

- Did ICE Report to Congress as Directed? In the FY 2018 DHS appropriation, Congress found that “[b]etween October 1, 2017, and [March 23, 2018], when the Department was operating under the terms of a continuing resolution (CR), **ICE exceeded its annualized rate of funding** for Custody Operations.” Accordingly, Congress then directed ICE to “manage its resources in a way that ensures it will not exceed the annualized rate of funding for [the rest of FY 2018]” and “**update the Committees** [of jurisdiction] weekly on its rate of operations for Custody Operations to demonstrate how the agency is living within its means.” Future appropriations decision must consider ICE’s compliance with this direction and its ability to ultimately curb the wasteful spending that concerned Congressional appropriators.

- The USCIS Fee Transfer (see USCIS factsheet). It appears that to pay for some of the increases in bed levels, ICE is proposing to use mandatory fees derived from USCIS. ICE’s budget line for these fees increased by nearly \$200 million in FY 2019, which is consistent with the amount the President’s budget is proposing to transfer to ICE **from USCIS’s customer** application fees.

ICE-Related DHS Inspector General Reports (Since January 2017)

- ***Special Report: Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers (07-27-17)***. In this report the DHS Inspector General found that CBP and ICE have not demonstrated what operational purpose the hiring surge will address. According to the DHS Inspector General, neither CBP nor ICE could provide complete data to support the operational need or deployment strategies for the additional 15,000 agents and officers they were directed to hire by the Trump Administration.
- ***ICE's Training Model Needs Further Evaluation (01-25-18)***. As part of an ongoing audit to determine whether DHS has training strategies and capabilities in place to train the 15,000 new agents and officers (10,000 at ICE alone) DHS plans to hire to meet the President's hiring surge, the DHS Inspector General found that more thorough analysis is needed on ICE's efforts to decentralize the training of its agents. It notes that ICE's efforts to disrupt current training practices may prove counterproductive.
- ***[Concerns with] ICE Deportation Operations (04-13-17)***. Casting further doubt on ICE's readiness to absorb an unprecedented hiring influx, the DHS Inspector General found that ICE does not effectively manage its non-detained docket, and has failed to, among other things: (i) clearly and widely communicate deportation priorities to deportation officers; (ii) issue up-to-date, comprehensive, and accessible procedures; (iii) provide sufficient training, and (iv) collect and analyze data about employee workloads to allocate staff judiciously and determine achievable caseloads.
- ***Unclear Rules Regarding "Executive Protection Details" Raise Concerns (09-14-17)***. Because of whistleblower complaints, the DHS Inspector General examined the use of personal transportation details by DHS component leadership, and determined that ICE and CBP, specifically, have created their own internal authorizations for these transportation details, and staffed and funded them without clear legal authority. The DHS Inspector General notes that these services give the appearance to some observers of being more related to executive convenience and status than protection, and raise questions of impropriety.
- ***Concerns about ICE Detainee Treatment and Care at Detention Facilities (12-11-17)***. The DHS Inspector General conducted a review of ICE detention facilities, and found several concerns warranting remedial action by ICE. The DHS Inspector General's review uncovered, among other things, that: (i) detainees were housed incorrectly based on their criminal history; (ii) in violation of standards, all detainees entering one facility were strip searched; (iii) available language services were not always used to facilitate communication with detainees; and (iv) in some facility staff reportedly deterred detainees from filing grievances and did not thoroughly document resolution of grievances.
- ***[ICE] Did Not Follow Federal Procurement Guidelines When Contracting for Detention Services (02-18-18)***. The DHS Inspector General found that ICE improperly modified an existing Intergovernmental Service Agreement with the City of Eloy in Arizona to establish the 2,400-bed South Texas Family Residential Center in Dilley, Texas, more than 900 miles away. This accounting trick not only netted the City of Eloy, in its role as middleman, about \$438,000 in annual fees, but it also may have meant ICE overpaid for the detention facility services in Dilley, Texas.