

United States Senate

WASHINGTON, DC 20510

December 11, 2018

The Honorable James Mattis
Secretary
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Mattis:

We write to urge you to clarify that the Department of Defense (DOD) has not and will not provide funds, personnel, or other resources to lead or support the civil immigration detention of non-citizens, regardless of whether the Department is subsequently reimbursed. If plans are already underway, we urge you to halt any forward efforts until the questions below have been fully addressed.

As part of his November 1st speech on border enforcement, President Trump announced that his administration would be erecting “massive cities of tents” to detain asylum-seeking migrants on the southern border. He thanked the military and Army Corps of Engineers, suggesting that the tents were already built or under construction.ⁱ Reporting subsequent to the speech suggests that DOD and the Department of Homeland Security (DHS) are moving forward with plans to utilize Fort Bliss and the Goodfellow Air Force Base to construct massive new family detention facilities.ⁱⁱ Since the speech, neither DHS nor DOD has been forthcoming with the public or Congress regarding the status of this proposed project.

There is currently no justification for the use of military funds or resources for immigration detention. The *Immigration and Nationality Act* and *Homeland Security Act* provide the authority for the detention of non-citizens by DHS. Congress appropriated \$4.11 billion for Immigration and Customs Enforcement’s (ICE) detention and removal account for fiscal year (FY) 2018, which carried over into FY 2019 through a continuing resolution, with \$3.08 billion specifically allotted for custody operations. ICE is currently jailing upward of 44,000 people each day. These numbers constitute historic highs, even while border crossings are at historic lows. Furthermore, more than half of those apprehended by border patrol agents are parents traveling with children or children traveling alone.ⁱⁱⁱ

Retired military leadership is already speaking out against the use of the military for civil immigration enforcement purposes, including retired Army colonel and Iraq veteran Paul Yingling who said: “There is no legitimate reason to intern these families from a national security perspective. Instead, as with border operations, this internment is a political stunt. It fuels anti-immigrant hatred as part of the administration’s midterm electoral strategy.”^{iv}

Medical professionals and child welfare experts have repeatedly warned that the detention of families is harmful to children. The American Academy of Pediatrics recommended that DHS “discontinue the general use of family detention and instead use community-based alternatives to detention for children held in family units.”^v DHS’s own medical experts recently expressed publicly their finding via whistleblowers that family detention simply cannot coexist with basic child welfare norms.^{vi} Nonetheless, the administration has gone so far as to terminate previously operating alternative-to-detention programming that allowed families to live in the community during their asylum proceedings, providing massive cost savings and proven efficacy.^{vii} Should DHS elect to use its existing alternative-to-detention programs it has vast capacity and flexibility to do so, with 79,000 participants slots available each day operating with an annual budget of \$187 million.^{viii} DOD has no role in the already misguided practice of unnecessarily detaining asylum-seeking families.

We urge you to clarify that DOD has not and will not participate in immigration detention. If plans are already underway, we urge you to immediately halt any progress, and for you or a member of your senior leadership to provide written detailed response to the following questions:

1. What are the cost estimates for any new construction or expansion, in addition to ongoing per-bed costs for use of Fort Bliss, the Goodfellow Air Force Base, or any other military sites for the use of civil immigration detention?
2. What are the source accounts for the funds to be used, statutory authority for any inter- or intra-agency transfers that will be utilized, and expenditures that will be sacrificed in order to move this project forward?
3. What are the planned contracting mechanisms for this project, include a description of which services will be provided by governmental actors versus contractors, and the terms of any proposed or signed contracts?
4. What types of dwellings will be constructed on the proposed Fort Bliss and Goodfellow migrant detention centers, or any other site under consideration?
5. Where is the location in each military base of the migrant detention camp, including residential tents that are scheduled for construction? Please provide maps or plans that clearly indicate the location of the camp on the bases.
6. What is the expected or actual date of occupancy of the Fort Bliss and Goodfellow migrant detention centers, or any other site under consideration, the number of expected occupants (including numbers of adults and minors), and the number of single and family dwellings?
7. Is there a completed Environmental Assessment and Environmental Impact Assessment for the proposed construction of temporary housing for immigrant children and families at these facilities? If yes, please provide the documents.
8. Has DOD collected data regarding the testing of environmental media at and surrounding the proposed housing area? If yes, please provide results from all testing of soil, subsurface conditions, groundwater, surface water and air for hazardous substances, including, but not limited to radiation, gases, fuel, munitions debris, and munitions

constituents, which has been conducted in and around the area where the temporary tent housing will be constructed. The results of testing shall include environmental media on and below the footprint of the proposed housing area and the area within a quarter-mile radius from the construction footprint.

9. What reports or findings related to environmental hazards or concerns that pertain to the site of the proposed migrant detention centers at Fort Bliss and Goodfellow bases, or any other site under consideration, have been compiled? Please provide them.
10. What information related to testing that has been conducted for health and environmental hazards that uniquely impact women and children on the premises have been identified for the Fort Bliss and Goodfellow migrant detention centers, or any other site under consideration?
11. What is the last date that documents have been purged or destroyed as related to environmental reports or hazards on the Fort Bliss and Goodfellow bases, or any other site under consideration, the type of documents, a description of the documents and the individual(s) responsible for requesting the destruction or purge of said documents?
12. What is the number of workers who will be employed in the construction of the migrant detention camps at Fort Bliss and Goodfellow, or any other site under consideration, the type of workers, the length of time for which they will be employed, and any job descriptions related to their role/function to build the detention camp?
13. With regard to #1 - 12 above, please ensure that these materials are un-classified and produced in their entirety.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,



BRIAN SCHATZ
United States Senator



RICHARD BLUMENTHAL
United States Senator



PATRICK LEAHY
United States Senator



BERNARD SANDERS
United States Senator



TOM UDALL
United States Senator



CHRIS VAN HOLLEN
United States Senator



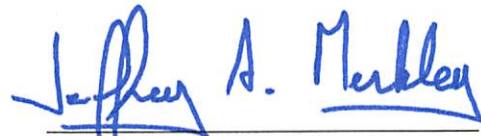
KIRSTEN GILLIBRAND
United States Senator



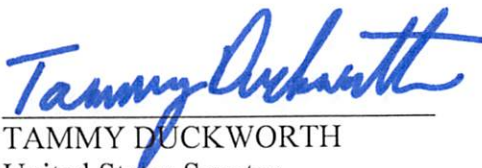
CORY A. BOOKER
United States Senator



MAZIE K. HIRONO
United States Senator



JEFFREY A. MERKLEY
United States Senator



TAMMY DUCKWORTH
United States Senator



MARTIN HEINRICH
United States Senator



KAMALA D. HARRIS
United States Senator

cc: The Honorable Kirstjen M. Nielsen
Secretary
U.S. Department of Homeland Security

ⁱ The Guardian, "U.S. military rejected White House request to build migrant detention facilities," Nov. 5, 2018, <https://www.theguardian.com/us-news/2018/nov/05/us-military-rejected-request-build-border-detention-facilities>.

ⁱⁱ Spencer Ackerman, The Daily Beast, "As Caravan Advances, Pentagon Prepares to Use Two Bases for Detention," Nov. 12, 2018, <https://www.thedailybeast.com/as-caravan-advances-pentagon-prepares-to-use-two-bases-for-migrant-detention>.

ⁱⁱⁱ Dara Lind, Vox, "Half the people caught by Border Patrol are now children or families," Oct. 23, 2018, <https://www.vox.com/policy-and-politics/2018/10/23/18014998/families-border-asylum-caravan>.

^{iv} Spencer Ackerman, The Daily Beast, "As Caravan Advances, Pentagon Prepares to Use Two Bases for Detention," Nov. 12, 2018, <https://www.thedailybeast.com/as-caravan-advances-pentagon-prepares-to-use-two-bases-for-migrant-detention>.

^v American Academy of Pediatrics, Policy Statement: Detention of Immigrant Children, May 2017, <http://pediatrics.aappublications.org/content/139/5/e20170483>.

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- ^{vii} Jane C. Timm, NBC News, “This Obama-era pilot program kept asylum-seeking migrant families together. Trump cancelled it,” June 24, 2018, <https://www.nbcnews.com/storyline/immigration-border-crisis/obama-era-pilot-program-kept-asylum-seeking-migrant-families-together-n885896>.
- ^{viii} Explanatory Statement submitted regarding to the House Amendment to Senate Amendment on H.R. 1625, Mar. 22, 2018, <https://www.congress.gov/crec/2018/03/22/CREC-2018-03-22-bk2.pdf> at H2552.