

On August 10, 2023, the White House transmitted a [request for supplemental funding](#) to Congress. The National Immigrant Justice Center (NIJC) encourages Congress to reject the vast amount of funds sought for Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), which include few meaningful guardrails and will further fuel detention and enforcement oriented programs at the border while leaving processing and humanitarian programs starved for funds.

This document provides analysis and recommendations with regard to the following key provisions of the White House's request, which NIJC urges Congress to reject: 1) requested funds for "community based residential facilities" which, as written, will essentially reinstate the harmful practice of family detention; 2) nearly \$1 billion in requested unrestricted funds for CBP and ICE enforcement, detention, and surveillance; 3) more than \$100 million requested for harmful surveillance and data sharing programs; 4) requested funds to reimburse the Department of Defense for military deployments to the border; and 5) requested authority to utilize funds to facilitate "voluntary returns," which in practice involve coerced returns of people seeking asylum at the border. NIJC encourages Congress to support (with enhanced oversight) 6) additional requested funds for the Shelter and Services Program.

The document ends with a list of all components of the supplemental request that relate to domestic immigration policy.

1. NIJC urges Congress to reject requested authority to create community based residential facilities which – as envisioned – will essentially reinstate family detention.

The White House has requested flexibility for ICE to use existing and supplemental funds to create "community-based residential centers" that would be operated by non-governmental organizations through grant funding. The proposal describes facilities with co-located government services that would not allow freedom of movement except for certain hours decided upon by the Department of Homeland Security (DHS). Axios [reports](#) that the facilities are largely envisioned to hold migrant families.

NIJC and partner organizations have long [encouraged](#) the government to develop a new approach to border processing infrastructure including reception centers run by civil society. However, we have cautioned that such facilities should never be operated or controlled by an enforcement agency such as ICE or CBP, and that freedom of movement should never be restricted for people residing in the facility. It is concerning to see the administration turning to a promising model but subverting it by abandoning key best practices. The administration's proposal appears to be a back-door way to

reinstate the use of [family detention](#) without the oversight mechanisms guaranteed by [the Flores settlement](#), which provides minimal standards of treatment for detained immigrant children.

Using jail-like facilities to shelter arriving families and individuals seeking safety or a better life in the United States criminalizes the very act of migration and [puts lives at risk](#). Many [European nations](#) have implemented different types of non-custodial reception models, and we encourage the administration to heed the important lessons learned by these efforts. In addition to ensuring that people have freedom of movement, reception centers should be time-limited for the purpose of processing, with the goal of people moving on toward their final destinations within a few days and receiving individualized referrals for continuing services as needed. These principles are critical to ensuring that arriving migrants are willing and able to trust that the services provided within the center are toward a goal of fair case adjudication and integration, not enforcement.

We urge Congress to reject this proposal and work with the administration to support the development of a new approach to border processing that follows the principles outlined above.

2. NIJC urges Congress to reject the requested \$917 million in unrestricted funding for CBP and ICE Operations and Support, including immigration detention.

The White House is requesting \$203 million for CBP and \$714 for ICE for unrestricted, vaguely defined “response[s] to migration surges” at the southwest border.

Given the administration’s disproportionate focus on border militarization and long-standing histories of abusive and corrupt behavior by [ICE](#) and [CBP](#), Congress should oppose funding for these agencies that is not accompanied by stringent guardrails and programmatic justifications. Increasing global migration and the humanitarian crisis at the southern border demand robust investments in asylum [processing and adjudication](#), [social services and legal services](#), and [coordinated logistics support](#). However, without oversight mechanisms in place, we fear the administration will leave the government agencies and non-governmental organizations that carry out adjudication and humanitarian services starved for funds and instead continue to supercharge detention, enforcement, and surveillance.

We are particularly concerned to see the administration continue to request funding to use carceral settings to detain immigrants during their asylum and immigration court cases. Mere months ago, the White House’s own FY 2024 [budget request](#) for DHS requested *reduced funds* for immigration detention. Continuing to grow the immigration detention system is simply reckless in light of persistent [documented abuses](#) and [evidence](#) showing people voluntarily appear for their hearings at rates of nearly 100% when provided social services and legal support.

Congress should oppose increased funds for ICE and CBP, especially when they are not accompanied by specific programmatic guidelines and guardrails to ensure they are not used to increase detention, enforcement, or surveillance.

3. NIJC urges Congress to reject the request for \$121 million in funding for technology and surveillance systems.

The White House is requesting \$61 million for the DHS Office of Biometric Identity Management, and \$51 million for the Homeland Advanced Recognition Technology System (HART) and the Automated Biometric Identification System (IDENT).

HART is a biometrics storage database set to replace the IDENT system that DHS uses for wide-ranging enforcement and surveillance purposes, with very little transparency. Civil rights, immigrant rights and privacy advocates have [documented](#) how the HART database is turning out to be a windfall for military contractors and big tech at the expense of privacy and [fundamental rights](#).

The funding request would circumvent congressional intent, wasting millions in public funds for harmful and problematic data systems. Congress explicitly rejected additional funding for the HART system in the FY 2023 spending bill “due to ongoing cost, schedule, and performance challenges,” and demanded an independent review of HART and a number of reporting requirements on the program’s scope and associated risks.

NIJC and other organizations have documented how foreign data sharing agreements and indiscriminate DHS data collection is used in harmful ways. The Government Accountability Office [reported](#) last year that HART was in breach of cost and schedule goals due to “ongoing risks associated with technical development, program requirements and test efforts.”

Congress should oppose the White House request to waste millions more on harmful biometrics data sharing data systems and programs.

4. NIJC urges Congress to oppose any reimbursement to the Department of Defense for border related operations.

The White House has asked Congress to provide \$606 million in reimbursements to the Department of Defense for the deployment of personnel and resources for so-called “border security support.” The Biden administration’s [deployment](#) of active duty soldiers to the United States-Mexico border repeats actions taken during the Trump administration, and adds to the existing presence of National Guard personnel who have been deployed to the border since 2018.

Deploying military personnel and resources to the border for civil enforcement purposes is harmful for migrants, border communities, and U.S. democracy. Joseph Nunn, a national security expert at the Brennan Center for Justice, [writes for Just Security](#): “The use of federal military forces for law enforcement — including the enforcement of immigration laws — violates a tradition in American law and political thought that rejects military interference in civilian affairs.... Using the military to patrol the border [also] suggests to the American public that migrants are security threats at best, enemy combatants at worst, instead of human beings fleeing chaos and persecution in the hope of finding

safety and a better life.” Nunn posits that the deployment of troops to the border has given Texas Governor Greg Abbott “a degree of cover for his militaristic approach and his bellicose rhetoric” in the implementation of Operation Lone Star, which continues to cause death and chaos at the border.

Congress should reject additional funds for reimbursement of the misguided and harmful use of military resources for civilian operations at the border.

5. NIJC urges Congress to reject the request for broad authority to use ICE and CBP funds to enact its coercive voluntary returns program at the border.

The Biden administration’s post-Title 42 border policy includes an alarming practice wherein DHS officials pressure people to abandon their claim to asylum and agree to return to Mexico or their home country in order to avoid the consequences that would follow if their claim is denied. The White House’s request includes proposed language that would authorize ICE and CBP to use funds appropriated by Congress to continue this practice, which they refer to as “voluntary returns.”

Reports from [NIJC clients](#) and others who have made the decision to accept a so-called “voluntary return” suggest that government officials are regularly pressuring people to agree to return prior to even presenting their fear of return, and often under coercive conditions. Further, the vast majority (and likely nearly 100%) of those making the “voluntary return” decision are doing so without any opportunity to consult with counsel to understand the viability of their asylum claim or the legal consequences of the return.

We strongly urge Congress to reject this proposal or any proposal that endorses the administration’s “voluntary return” program at the border and/or in CBP custody.

6. NIJC supports the White House’s request for additional funds for the Shelter and Services Program but continues to encourage Congress to move this program out of CBP’s purview.

The White House is requesting \$600 million in funds to be transferred from CBP to FEMA for the Shelter and Services Program (SSP), a grant-based program that funds local governments and non-governmental organizations providing respite and services to people recently arrived at the southwest border.

Robust funding for civil society and local government to address the needs of people arriving at the border to seek safety is a central component of a humane approach to orderly border policy. Localities and non-governmental organizations alike continue to provide a dignified welcome to people seeking safety in our communities, without adequate funds or support from the federal government.

We encourage Congress to increase funding for SSP, while continuing to express concerns that the funds are currently routed through CBP given that agency's track [record](#) of misusing humanitarian funds. We further encourage Congress to provide rigorous oversight of SSP to ensure that [problems](#) with the distribution and coordination of funds are immediately addressed.

Summary of all domestic immigration-related requests in the supplemental funding request

- \$100 million for the Office of Refugee Resettlement for services for people paroled in through the [Uniting for Ukraine program](#), and extended authorization to provide benefits eligibility to Uniting for Ukraine parolees through FY2024;
- \$61 million for DHS management directorate for [biometric technology systems](#) and \$51 million for Homeland Advanced Recognition Technology System and the Automated Biometric Identification System;
- \$203 million for [CBP in unrestricted funds](#) for southwest border activities, to include soft-sided facilities, transportation and medical care;
- \$606 million for CBP to [reimburse the Department of Defense](#) for “provision of border security support;”
- \$600 million for CBP to be transferred to FEMA for the [Shelter and Services Program](#);
- \$27 million for CBP to for efforts to counter fentanyl;
- \$714 for ICE in unrestricted funds “to respond to migration surges;”
- \$36 million for the Department of Justice’s Executive Office for Immigration Review for [Immigration Judge teams](#);
- \$50 million for the Department of Labor’s Wage and Hour Division for efforts to [protect children entering the United States](#) through the southern border from exploitation and \$50 million to the Department’s Solicitor’s Office to [enforce child labor laws and prosecute companies](#) alleged to be exploiting child workers;
- Authority to use funds provided to [ICE and CBP to fund returns for people](#) who withdraw their asylum claims at the border (see above for more details); and
- Reprogramming authority to use funds made available for ICE for “community based residential facilities” operated through [newly sought ICE grant-making authority](#) to non-governmental organizations (see above for more details).

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