Statements from members of the Interfaith Immigration Coalition for the House Committee on Appropriations, Homeland Security Subcommittee Hearing, “Oversight Hearing- Immigration Enforcement”

March 14, 2013

Statements submitted from:

1. American Friends Service Committee
2. Friends Committee on National Legislation
3. Lutheran Immigration and Refugee Service

American Friends Service Committee statement for the Congressional Record pertaining to the House of Representatives Appropriations Committee – Subcommittee on Homeland Security Hearing
Thursday, March 14, 2013

The American Friends Service Committee (AFSC) is an almost 100-year old faith-based organization grounded in Quaker belief in the dignity and worth of every person. AFSC provides direct legal services, engages in organizing with immigrants and allies including advocacy and movement building throughout the U.S. We directly support immigrants and refugee workers and their communities to organize themselves to raise their issues as a way to affirm their aspirations and needs, and to continue to make contributions to this nation.

Our immigration policy recommendations are grounded in AFSC's history and values as a faith-based organization and in the voices of the communities with whom we are deeply connected. The basis of U.S. immigration policy should be the protection of human rights and equal opportunity. Efforts designed to ensure compliance with immigration laws must also be rooted in these principles of fairness, equality, and protecting the human dignity of all. AFSC calls for an end to the detention and deportation system that has torn apart families, and instead encourages that the human rights of liberty and due process are enforced.

The increasingly militarized U.S. borders continue to undermine the well-being of border communities. Communities with whom we work along the U.S.-Mexico border report a distressing range of ongoing civil and human rights abuses which include racial profiling and harassment by federal law enforcement officials. Since the establishment of border control policies in 1993, at least 7,000 migrants have lost their lives. From 2009-2012, 19 Border Patrol-related killings of border residents and migrants have been reported. Lack of accountability and inadequate oversight of the Border Patrol invites further human rights abuses.

AFSC offers the following policy recommendations:

- Demilitarize the U.S.-Mexico border and cease all enforcement policies and practices that criminalize and punish immigrants. (i.e., Programs such as Operation Streamline threaten basic due process protections and Operation Stonegarden operates with little oversight, greatly increasing misuse of funds and undermines law enforcement relationships with members of border communities);
- Prevent the extension of militarized border operations to the U.S.-Canada border and the interior of the U.S. (Increased Border Patrol enforcement operations have raised serious concerns about how Border Patrol operates, especially when engaged in civil law enforcement practices, such as responding to 9-1-1 calls and setting up unwarranted checkpoints);
- Reduce the excessive numbers of Border Patrol agents while increasing investment in oversight mechanisms for the Office of the Inspector General and other independent investigative bodies;
- Require border enforcement agencies and their agents to comply with local, national, and international laws and civil and human rights along the border region and in the interior of the country.

AFSC urges the Committee to exert visionary leadership and to support new immigration policies that respect the human rights and equal economic opportunity of all in our communities. Thank you for this opportunity to submit testimony.

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Friends Committee on National Legislation
. . . a Quaker lobby in the public interest

March 12, 2013

Friends Committee on National Legislation statement for the Congressional Record
House Appropriations Subcommittee on Homeland Security Hearing
Thursday, March 14, 2013

The Friends Committee on National Legislation, founded in 1943, is guided by the spiritual values of the Religious Society of Friends (Quakers). Our work on immigration is led by the call for right relationships among people and between individuals and God. We believe that respect for human and civil rights is essential to safeguarding the integrity of our society and the inherent dignity of all human beings. We recognize that governments have an indispensable role in upholding these rights and citizens have the responsibility to make governments more responsive, open, and accountable.

Therefore, we call for humane comprehensive immigration reform. We have seen the degeneration of the U.S. immigration system over the last three decades. Overly punitive laws, in tandem with increased enforcement and an inefficient bureaucracy, have led to systemic violations of rights: indiscriminate raids, detention without due process, worker exploitation, and families separated for years or even decades. Humane immigration reform would restore integrity to the U.S. tradition of welcoming immigrants and provide real solutions to a broken immigration system. We believe that fundamental and comprehensive reform of U.S. immigration policy is needed in order to:

- Create an orderly, equitable, and efficient legal immigration system;
- Enforce employment and labor rights for all workers, regardless of immigration status;
- Protect human and civil rights for immigrants currently living in the United States;
- Support communities with large concentrations of immigrants and facilitate immigrant integration; and
- Align enforcement with humanitarian values.

Evidence indicates that border enforcement has been substantially addressed. The U.S. invests more in immigration enforcement by the Department of Homeland Security than in all other federal law enforcement agencies combined. The militarization of the border, including the construction of physical and virtual fences, does not effectively stem undocumented migration,

yet such policies have desecrated religious sites that are sacred to Native Americans, violated numerous environmental laws and protections, and induced human and civil rights abuses affecting citizens as well as potential immigrants. A functioning and humane legal immigration system will integrate immigrants into U.S. society, reduce pressure on the border, and allow federal agencies to focus on actual national security concerns as well as the illegal trafficking of drugs, arms, and persons across maritime and land borders.

FCNL is also concerned about the civil liberties implications of employer-based enforcement mechanisms – particularly a mandatory E-Verify system that will undoubtedly catch citizens, especially those with foreign sounding names – in their nets. Employer-based enforcement systems that focus on individuals would reach much more widely than other approaches (such as the vigorous enforcement of wage, hour and safety laws). If they are included in reform legislation, they must be balanced by protections of privacy, due process, and fundamental fairness.

Finally, we believe that federal immigration laws should be enforced by federal authorities. ICE ACCESS programs implemented by state and local law enforcement agencies, including the fundamentally flawed 287(g) and Secure Communities programs, create an atmosphere that subtly encourages racial profiling, and interfere with local officers' primary task of promoting the safety and security of communities. Such programs should not be a part of a reformed U.S. immigration system.

We believe that the U.S. government is capable of designing and implementing an equitable and humane immigration system that meets the needs of this nation and demonstrates U.S. leadership in compassion, fairness, and human rights.

Lutheran Immigration and Refugee Service

LIRS Statement for Hearing: "Oversight Hearing- Immigration Enforcement"

House Committee on Appropriations, Homeland Security Subcommittee

March 14, 2013

Lutheran Immigration and Refugee Service (LIRS), the national organization established by Lutheran churches in the United States to serve uprooted people, applauds the Subcommittee for calling today's hearing to examine federal spending on immigration enforcement. LIRS is a strong and tireless advocate for compassionate and humane immigration reform. We firmly believe that any reform of our immigration system must include protections against arbitrary detention and safeguards to ensure enforcement is carried out in a fair, humane, and economically sound manner.

As Congress has deliberated on how to reform America's immigration laws for decades, enforcement of current laws has exponentially expanded. When adjusted for inflation, the government spends 15 times as much on immigration enforcement today ($17.9 billion) as it did in 1986 ($1.2 billion).[1] Much of this price tag can be attributed to a swollen immigration detention system that is perpetuated by Congressional requirements that the Department of Homeland Security maintain 34,000 immigration detention beds each day. Our nation deserves thorough Congressional oversight of an enforcement regime that is not only expensive and arbitrary, but also fails to maximize cost-saving programs that currently exist.

Fundamental human rights principles restrict the use of detention except as a last resort and only when less restrictive alternatives cannot meet the government's objectives, i.e. to ensure that a non-citizen appears for removal proceedings.[2] The United States' current practices of immigration detention deviate from those principles. There is a lack of judicial review and an over-reliance on the arbitrary and often prolonged or indefinite detention of migrants – many of whom most need our welcome and protection, such as survivors of torture, refugees, asylum-seekers, and other individuals who fear persecution and torture if removed from the United States.

"LIRS's broad network of social ministry organizations, including partners that offer legal services and spiritual comfort to people held in immigration detention, is committed to promoting justice for all migrants," said Linda Hartke, LIRS President and CEO. "As a faith-based organization, we are gravely concerned about the impact of detention on all migrants, particularly the most vulnerable. We urge Congress and the Administration to address the complexities of our broken immigration system in a way that reflects our American values and strengthens our moral integrity."

Since the last time our federal immigration laws were rewritten in 1996, the scale and impact of immigration detention has ballooned. The current fiscal costs of immigration detention are staggering and largely avoidable.

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[1] *Immigration Enforcement in the United States: The Rise of a Formidable Machinery,* Migration Policy Institute, http://www.migrationpolicy.org/pubs/enforcementpillars.pdf (January 2013).
[2] *Article 9, International Covenant on Civil and Political Rights,* UN General Assembly, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (March 1976).

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Despite being an expensive and extreme way to ensure appearance at immigration court proceedings, the growth of immigration detention has been steep and continual. Since the last serious debate on immigration reform in 2007, the budget for Immigration and Customs Enforcement's (ICE) detention and removal operations has grown from $1.984 billion to $2.75 billion.[3,4] In the decade since the creation of ICE in 2003, more than 2.5 million individuals have passed through immigration detention facilities.[5] The 34,000 immigrants ICE detains in federal, private, or state and local facilities each day represents a dramatic increase in daily bed space since 1996 when 8,279 beds were available[6,7]. Parallel growth is visible in the total number of migrants who pass through ICE detention annually; in 2010, almost 392,000 migrants were detained as opposed to 108,000 in 1996[8,9]. In fiscal year (FY) 2011 alone, ICE detained an all-time high number of persons- 429,000.[10]

The United States currently spends approximately 24% more money on immigration enforcement activities than on all other federal law enforcement programs combined.[11] The expansion of the immigration detention business has incentivized city and county jails, and the private prison industry to partner with ICE by jailing migrants in their facilities. In 2007, the Corrections Corporation of America (CCA), a private prison company, earned profits of nearly $1.5 billion; 13% of that profit came from ICE contracts.[12]

The ICE Office of the Public Advocate provides a valuable service to family members and communities of detained immigrants.

LIRS was dismayed by language introduced by the Senate Appropriations Committee to eliminate funding to the position of ICE Public Advocate. We strongly urge members of the House Appropriations Committee to decline to endorse language that would eliminate this valuable position. The loss of the Public Advocate position would be a disservice to those held in

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[3] *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy,* Lutheran Immigration and Refugee Service, www.lirs.org/dignity (October 2011).
[4] *Consolidated Appropriations Act of 2012*, PL 122-74, http://www.gpo.gov/fdsys/pkg/PLAW-112publ74/html/PLAW-112publ74.htm (Dec. 23, 2011).
[5] *The Influence of the Private Prison Industry in the Immigration Detention Business,* Detention Watch Network, http://www.detentionwatchnetwork.org/privateprisons (May 2011).
[6] *Consolidated Appropriations Act of 2012*, PL 122-74, http://www.gpo.gov/fdsys/pkg/PLAW-112publ74/html/PLAW-112publ74.htm (Dec. 23, 2011).
[7] *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy,* Lutheran Immigration and Refugee Service, www.lirs.org/dignity (October 2011).
[8] *Securely Insecure: The Real Costs, Consequences, and Human Face of Immigration Detention,* ACLU of Georgia and Georgia Detention Watch, http://www.georgiadetentionwatch.com/reports-documents/ (January 2011).
[9] *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy,* Lutheran Immigration and Refugee Service, www.lirs.org/dignity (October 2011).
[10] *Immigration Enforcement Actions: 2011,* Office of Immigration Statistics, http://www.dhs.gov/sites/default/files/publications/immigration-statistics/enforcement_ar_2011.pdf (Sept. 2012).
[11] *Immigration Enforcement in the United States: The Rise of a Formidable Machinery,* Migration Policy Institute, http://www.migrationpolicy.org/pubs/enforcementpillars.pdf (January 2013).
[12] *Tom Jawetz statement on Part II of H.R. 1889, Private Prison Information Act of 2007 before the House of Representatives Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security*, ACLU National Prison Project (June 2008).

immigration detention as well as their family members and community members, many of whom are U.S. citizens. The Public Advocate increases efficiencies within ICE by providing a single source of basic information to those affected by immigration enforcement and freeing ICE Deportation Officers to perform their duties.

The composition of ICE's enormous detained population is varied and includes many vulnerable persons. When vulnerable people are detained and families are separated the loss to our communities is immeasurable.

Through LIRS's programmatic work, we have witnessed firsthand the detrimental effects immigration enforcement measures, such as immigration detention, have on individuals, families, and communities. Children grow up while their mother or father is detained, often far from home. Communities are deprived of skilled and committed workers and job creators who often lose their homes and businesses as a consequence of immigration detention, regardless of the outcome of their immigration case.

Individuals detained for immigration purposes by ICE in the United States include those who entered the country in search of meaningful employment and those who overstayed a visa. Some are pregnant women, heads of households, or elderly. Individuals with severe mental health and medical conditions are held every day in immigration custody. Among the most vulnerable are torture survivors, asylum seekers, and victims of human trafficking who come to the U.S. seeking protection. Many current detainees are long-time lawful permanent residents with extensive family, employment, and community ties in the United States. Although many people in immigration detention have potential claims for lawful status, they are detained for months, even years.

Individualized and informed detention determinations are preferable to arbitrary and overbroad detention mandates.

Federal enforcement laws and policies should not use a blanket approach for reaching detention determinations. Such one-size-fits-all enforcement methods have led to more migrants being detained than is necessary to meet the goal of immigration detention—compliance with immigration processes.

ICE has recently developed and implemented nationwide use of a risk assessment tool to reach consistent and informed determinations of when detention is truly necessary and when low-risk migrants should be released or placed in a less-restrictive program.[13] This tool should enable the government to identify which individuals present genuine risks of flight or threats to public safety as well as people who may be negatively impacted by detention, such as survivors of torture, domestic abuse victims, and other victims of violence.

An effective risk assessment should also inform the government about the level of risk in individual cases and how to mitigate any risk in the most cost-effective and least restrictive manner, including

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[13] *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy,* Lutheran Immigration and Refugee Service, www.lirs.org/dignity (October 2011).

the use of alternatives to detention. Equipped with relevant information, the government would be empowered to facilitate the safe release of vulnerable migrants who pose no risks of flight or danger, but whose applications are pending in the immigration courts or on appeal. A system of informed decision-making, a continuum of effective alternatives to detention, and a process of release that promotes safety will foster long-term security and model efficient and just governance that is consistent with the spirit of welcome the United States is known to embody.

ICE should continue to monitor the results of this important assessment tool and make adjustments as necessary to best tailor detention determinations to the mission of the agency while maximizing cost-effective release and supervision options.

There are proven and effective alternatives.

LIRS supports increased use of alternatives to detention, which range in cost from a few cents a day to an average of $22 a day and allow migrants to reunite with family members and contribute to their communities while undergoing immigration proceedings.[14] Potential alternatives to detention include release on the individual's own recognizance, parole, bond, or enrollment in an alternatives to detention (ATD) program. Unfortunately, ICE has not maximized the use of release and supervised release options and its failure to do so is responsible, at least in part, for the rapid increase in detention numbers.

ATDs are not novel or untested. They are routinely used in the criminal justice system and have been commonplace in immigration enforcement for over a decade. The Immigration and Naturalization Service—the predecessor to ICE before the Department of Homeland Security was formed—created the Alternatives to Detention unit in 2002. Appearance rates in immigration proceedings for those released into an ATD program average over 90%, making these options a practical, humane, and economical alternative to detention.[15]

While ATD programs employ a wide variety of technologies and forms of supervision to ensure the individual appears for his/her immigration proceedings, ICE relies heavily on electronic monitoring and other intrusive forms of supervision. When properly applied, as in the case of populations that require high-level supervision, electronic monitoring may be an effective, cost-saving program. However, ICE commonly uses these devices on individuals who do not need a high level of supervision and should instead be released on recognizance, bond, or parole or be enrolled in a less restrictive ATD program. Electronic monitoring devices impose substantial burdens, making it extremely difficult for the individual to participate in daily activities. For example, some individuals have been required to charge their ankle monitors, which do not always function properly, every day for approximately two hours during which time they must sit connected to an electrical outlet.

LIRS Recommendations to Congress:

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[14] *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy,* Lutheran Immigration and Refugee Service, www.lirs.org/dignity (October 2011).
[15] Ibid.

- Require any restriction of liberty to be the least restrictive form of custody necessary and proportionate to meet government interests.
- Ensure access to judicial review of any decision to restrict liberty, including but not limited to the use of detention.
- Repeal federal statutes that mandate detention without an individualized assessment of the need for detention, i.e., a real public safety threat or a demonstrated risk of flight that cannot otherwise be mitigated.

LIRS is nationally recognized for its leadership advocating on behalf of refugees, asylum seekers, unaccompanied children, immigrants in detention, families fractured by migration and other vulnerable populations, and for providing services to migrants through over 60 grassroots legal and social service partners across the United States.

If you have any question about this statement, please contact Brittney Nystrom, Director for Advocacy, at (202) 626-7943 or via email at bnystrom@lirs.org.

Additional LIRS Resources

- The January 29, 2013 press release on President Obama's speech outlining a vision for immigration reform may be read here: www.bit.ly/VxQHYW
- The January 28, 2013 press release on the release of the bipartisan principles for immigration reform in the Senate may be read here: www.bit.ly/WhPPX2
- LIRS's FAQ's on the Family Immigration System may be read here: www.bit.ly/11Jqt2Z
- The December 15, 2011 press release expressing concerns with increased FY 2012 immigration detention spending may be read here: www.bit.ly/XoeHtA
- The October 2011 report, *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy,* may be read here: www.bit.ly/VwrNFE