



June 25, 2019

Amnesty International USA Statement Regarding FY2019 Border Supplemental Request

On behalf of Amnesty International USA and our two million members and supporters in the United States, we write to share our recommendations for the FY2019 border supplemental measures currently under consideration in both chambers of Congress.

A top priority for Amnesty International USA is the protection of asylum-seekers at the U.S./Mexico border. While we recognize the need for funding to ensure the safe, humane, rights-respecting reception of asylum-seekers, including families and children, we are deeply concerned about the potential misuse of funding to further criminalize and harm people seeking safety. As Congress considers the supplemental funding package, we wish to share the following views regarding some of our key concerns and priorities.

Amnesty International opposes:

- **Any additional funding for the Department of Defense (DoD).** The Senate bill contains close to \$145 million in additional DoD funding “for necessary expenses to respond to the significant rise in unaccompanied minors and family units at the southwest border and related activities.” Further militarizing the border is the wrong response to the growing numbers of asylum-seekers at the U.S./Mexico border, and this money risks being misused for detention space for families and adults.
- **Any additional funding for the U.S. Marshals Service.** Both the House and Senate bills include \$155 million for criminal prosecutions of migrants. People seeking protection at the border should not be prosecuted. Yet asylum-seekers are [routinely swept up](#) in large-scale illegal entry and reentry prosecutions, and the [rash of “zero tolerance” prosecutions](#) has led to the irreversible damage of family separation, which Amnesty International has concluded [amounted in some instances](#) to torture.
- **Provisions allowing unaccompanied children to be held for a year or longer in facilities that don’t comply with the law.** Both bills as currently written allow children to be held in unlicensed facilities, in violation of the *Flores* agreement, for up to 12 months (House) and up to 14 months (Senate). Although the House bill contains a manager’s amendment limiting the use of unlicensed influx facilities for 90 aggregate days, it carves out an impermissible loophole by allowing for housing of children over 90 days if there is “insufficient space” in licensed shelters. Amnesty has documented how harmful [non-Flores compliant facilities like Homestead can be](#) for the children warehoused there and strongly opposes language allowing the administration to skirt its legal obligations towards children for months on end.
- **Provisions allowing for the construction of Customs and Border Protection (CBP) facilities without sufficient safeguards.** We are deeply concerned by the provision of several hundred million dollars in funding for CBP processing centers, particularly given how dangerous these facilities have proven to be for detainees, including children and families. Children should not be held in detention at all, let alone in dangerous tent cities at the border. Funding for CBP must be accompanied by strong protections mandating specific minimum humanitarian standards (such as those contained in [H.R. 3239, introduced by Rep. Raul Ruiz](#)), compliance with [TEDS standards](#), including the 72-hour maximum period allowed for CBP custody, and oversight mechanisms. Neither the Senate bill nor the House bill as amended satisfactorily addresses these concerns.

Amnesty International supports:

- **Provision requiring spending of Central American aid (in the House, but not the Senate, bill).** President Trump’s cutting of humanitarian assistance to Central American countries means that

the dangerous conditions forcing people to flee will only continue to worsen. Amnesty International supports the House bill provision requiring the administration to comply with previously appropriated spending for FY17, FY18, and FY19 to address the root causes of migration.

- **Strict limits on U.S. Department of Homeland Security's (DHS) ability to transfer and reprogram funds (in the House, but not the Senate, bill).** DHS has previously abused its transfer and reprogramming authority, allowing detention levels to skyrocket. While the House bill contains a strong prohibition on the misuse of that authority, Sec. 306 of the Senate bill would allow the transfer of personnel, supplies, or equipment within DHS, creating potential for abuse.
- **\$200 million for a migrant processing center pilot program for unaccompanied children and families, with strong guardrails (in the House, but not the Senate, bill).** The House bill would create a pilot processing center for children and families. However, to prevent this pilot processing center from becoming another family detention facility run by a for-profit corporation, the provision must be amended to (1) provide funds for non-profit organizations; (2) provide for the involvement of international organizations; (3) guarantee access to legal orientation during the Customs and Border Protection (CBP) processing phase; and (4) require transfer or release of unaccompanied children after 72 hours and adults or families after 9 days.
- **Funding for expansion of Legal Orientation Program (House version).** We support the \$15 million increase for Legal Orientation Programs contained in the House bill.
- **\$100 million for Office of Refugee Resettlement post-release services (in House and Senate bills).** Funding for child advocates and legal services for unaccompanied children included in the House and Senate bills should be retained in the final bill.

Amnesty International requests:

- **Specific language ensuring no money in the supplemental is used to enforce the DHS-ORR information-sharing agreement.** As a direct result of the [DHS-ORR information sharing agreement](#), children are languishing in facilities when they could instead be living with sponsors. Rather than rescinding this harmful policy, which would reduce the number of children needing to be housed in government custody, the administration is instead asking Congress for billions of additional dollars for facilities to house children. Any funding for DHS or HHS must contain strict prohibition on any dollars being used to enforce the DHS-ORR information sharing agreement.
- **Specific language defunding the harmful "Migrant Protection Protocols" and ensuring that no "port courts" are constructed.** Programs like the so-called Migrant Protection Protocols violate the government's obligations towards asylum-seekers, send them back to situations of grave danger in Mexico, and require complicated, resource-intensive coordination between agencies. Any FY19 supplemental funding must specify that additional money to DHS cannot be used to implement this harmful program.
- **Specific language prohibiting the CBP credible fear screening program.** The bills should include language defunding the pilot Border Patrol credible fear screening program, which would almost certainly result in the [wrongful return of asylum-seekers](#) at the U.S. border and further retraumatize individuals in search of safety.

For more information, please contact Charanya Krishnaswami, Americas Advocacy Director, at ckrishna@aiusa.org or at (202) 675-8766.

Sincerely,

Joanne Lin, National Director for Advocacy & Government Relations

Charanya Krishnaswami, Americas Advocacy Director