Congress of the United States
Washington, DC 20515

July 20, 2018

Acting Director Ronald D. Vitiello
U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536

Dear Acting Director Vitiello:

We write to express our deep concerns regarding the apparent misinterpretation of Immigration and Customs Enforcement (ICE) telephone access policies for mothers and fathers who are detained following their separation from their children at the border.

Recent reports indicate that these parents are being forced to pay exorbitant fees out-of-pocket if they wish to contact their children in this moment of crisis.[1] We believe that this policy is not only morally reprehensible, but also contrary to the plain language of relevant provisions contained within ICE's Performance-Based National Detention Standards (PBNDS) of 2008 and 2011. Every day, it seems there is new reporting regarding the troubling lack of process for reunification and serious barriers for parents and children to find one another. Given the urgency of this crisis, it is even more critical that our government remove obstacles—such as inexplicably high phone rates—for parents and children to communicate. We write to urge you to implement immediate, nationwide changes that will permit individuals who have been separated from their children to make phone calls regularly and at no expense to them.

The Administration has confirmed that more than 2,400 children have been forcibly separated from their families since the implementation of the President's zero tolerance policy.[2] Media reports indicate that these children are now detained in facilities throughout the U.S., and, in some cases, thousands of miles from the Southern border. Many of the thousands of mothers and fathers affected by this policy are currently being detained in ICE facilities across the country, hundreds or thousands of miles away from their children. Reports and first-hand accounts have indicated that many of these detained parents have been forced to endure weeks without any information as to the location of their children.[3] Once their children are finally located, moreover, reports indicate that their parents are forced to pay as much as $8 per minute to speak with them by telephone, and that their access to this service can be limited to as little as one call per week.[4] Charging these detained parents to speak with their children is callous, shameless, and completely unjustified given the minimal cost borne by detention facilities in providing this service. Moreover, we firmly believe that this policy contradicts the relevant provisions of ICE's detention standards.

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[1] *"Detained migrant parents have to pay to call their family members. Some can't afford to."* The Texas Tribune, July 3, 2018
[2] *"The Government was Holding 100 More Separated Children Than the Public Knew About."* Buzzfeed, June 25, 2018
[3] *"The chaotic effort to reunite immigrant parents with their separated kids."* The Washington Post, June 21, 2018
[4] *"Millions Raised For Immigrants Will Be Used To Provide Legal Support."* NPR, June 21, 2018.

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Section 5.6(V)(E) of ICE's PBNDS of 2008 and 2011 explicitly states that each immigration detention facility shall permit detainees to make direct or free calls to "immediate family or others for detainees in personal or family emergencies or who otherwise demonstrate compelling need (to be interpreted liberally)." Further, Section 5.6 (II)(1) maintains that "detainees shall have reasonable and equitable access to reasonably priced telephone services."[5]

The parents affected by the President's zero tolerance policy have been attempting to reach their immediate family members—their children—and they are clearly in a state of family emergency due to their forcible, prolonged separation and lack of communication. Therefore, charging these individuals to make these calls is clearly against agency standards, and we urge you to issue guidance to all ICE field offices updating this practice. The current practice of charging detainees to make these calls is creating profit for private corporations while also serving as a barrier to communication within an exceptionally vulnerable population. This practice is unacceptable, and it must end immediately.

This is not the first time that ICE's policies relating to phone access have come under scrutiny. The settlement reached in *Lyon vs. ICE, et. al,* provided detainees in ICE custody in Northern California with better access to conduct free, confidential calls to government offices and legal representation after the district court found evidence that systemic telephone restrictions impacted detainee access to counsel and evidence and established a real risk of prejudice to the fairness of detainees' immigration proceedings.[6] This was an important and overdue step, but current federal immigration enforcement actions and the crisis they have created necessitate further scrutiny to reduce the level of hardship that we are forcing upon this population. These parents must be permitted to speak with their children at no cost, and they should not be forced to spend the minimal resources they have to simply find out where their children are located.

No one—not private detention facilities, nor the federal government—should be in any way enriched by detained parents trying to speak with their children. We urge you to immediately allow detained parents the ability to talk to their children for free, and we look forward to your timely consideration and response.

Sincerely,

Jared Polis
Member of Congress

Patty Murray
United States Senator

Luis V. Gutiérrez
Member of Congress

[5] Immigration and Customs Enforcement. *Performance-Based National Detention Standards of 2011, Section 5.6.* Revised December 2016.
[6] *"Lyon vs. ICE, et. al."* American Civil Liberties Union, January 5, 2016.

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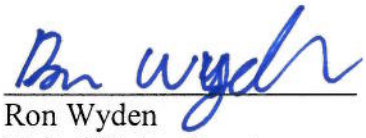

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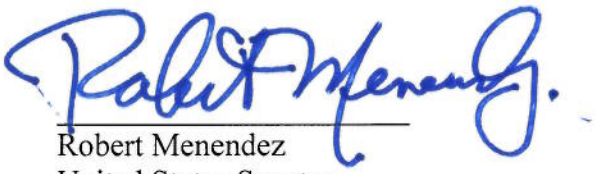

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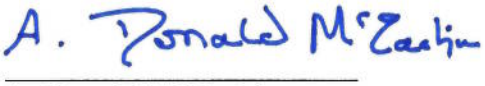

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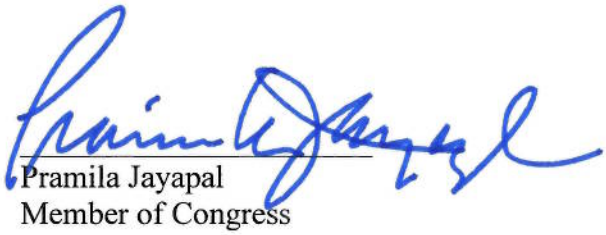

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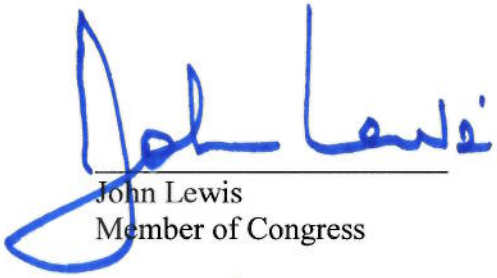

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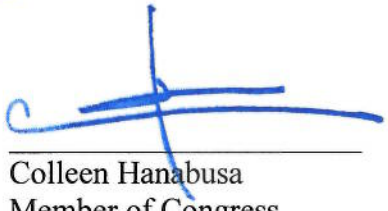

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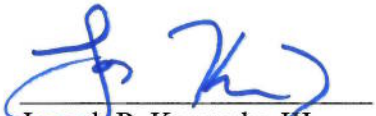

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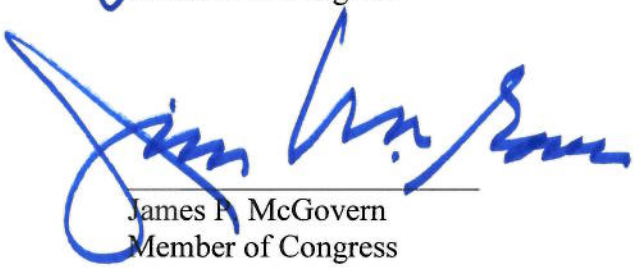

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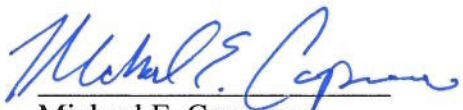

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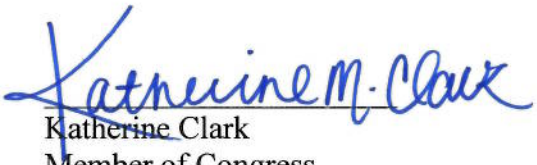

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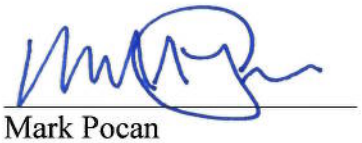

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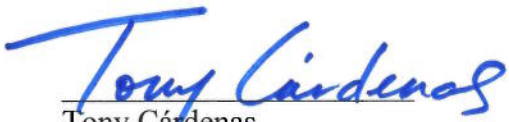

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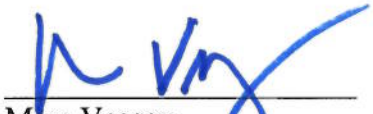

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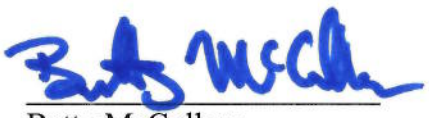

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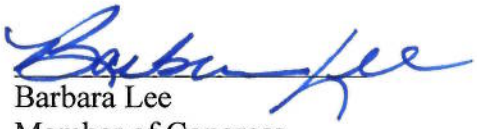

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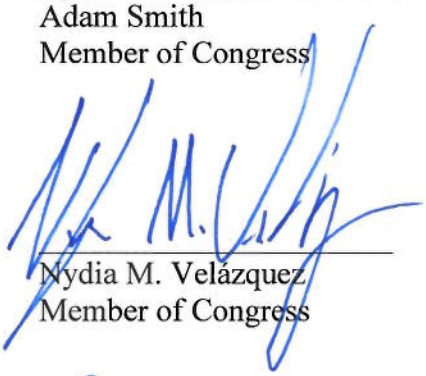

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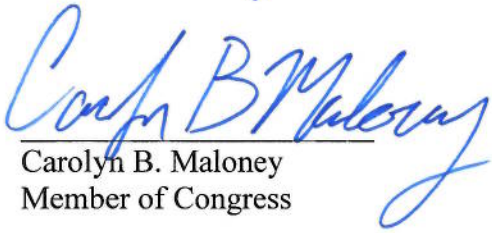

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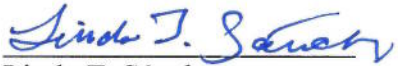

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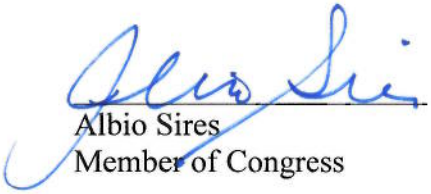

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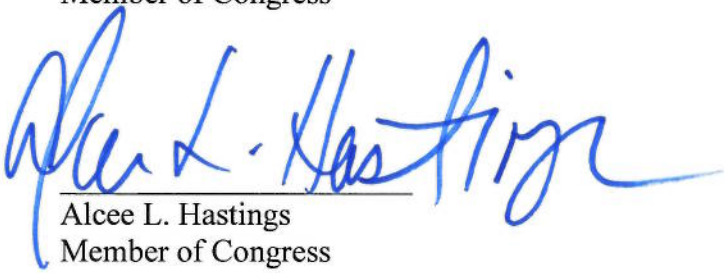

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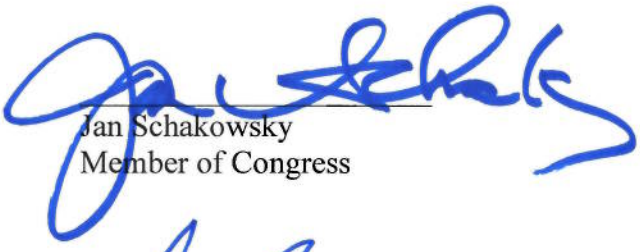

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