

May 11, 2015

President Barack Obama
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Re: Call to end family detention

Dear Mr. President:

In light of recent developments and ongoing negotiations in litigation on the detention of immigrant families, we, the undersigned 188 immigrants' rights, faith-based, civil rights, human rights, survivors' rights, and criminal justice reform organizations, international educators, and legal service providers, urge your administration to end the practice of family detention.

Since the expansion of family detention a year ago, growing evidence continues to demonstrate that mothers and children detained in the Karnes County (TX), Dilley (TX), and Berks County (PA) family detention facilities are largely seeking protection in the United States. Detention has had a traumatic impact on the mental health and well-being of these families, and on children in particular, especially given the trauma they have already faced in Central America. These mental health effects are compounded where families have suffered detention that is prolonged and indefinite in nature. A growing number of Members of Congress have voiced their opposition to the detention of families, and a steady stream of news articles and human rights reports illustrate that families cannot be detained humanely.

In 2009 the Department of Homeland Security (DHS) stopped detaining families at the T. Don Hutto Detention Center (TX) following litigation and human rights reports decrying the practice. Today the status of two different lawsuits challenging current family detention policies should point to the same conclusion. In February 2015 a D.C. District Court issued a nationwide preliminary injunction in *R.I.L.R. v. Johnson* finding that the government cannot detain asylum-seeking mothers and children from Central America as a means to deter others from fleeing to the United States, and required that the government conduct individualized determinations to evaluate whether a family poses a danger or a flight risk that would require detention. More recently, negotiations are currently underway in litigation to enforce the *Flores* Settlement, in which plaintiffs argue that current family detention practices in secure and unlicensed facilities violate the longstanding settlement agreement in *Flores v. Meese*, which protects the rights of children in immigration custody and generally favors their release.

These developments make clear that DHS should not continue current practices of holding parents and children together in confinement. DHS must bring its detention policies into line with domestic law as well as our international obligations. As your administration charts a course forward, we urge you to uphold the following principles:

Families must not be subject to detention except in exceptional circumstances.

The dramatic expansion of family detention has resulted in many mothers and children being detained at a high cost to their mental health and physical well-being. Detention of mothers and children has been extended even after they pass credible fear and reasonable fear screening interviews, first through a policy of no-bond and no-release for virtually all detained families – a

policy which remains in place for certain families not covered by the *RILR* injunction – and currently through DHS’ imposition of prohibitively high bond amounts. DHS has broad authority to release from detention vulnerable populations who do not pose a flight or public safety risk either on recognizance or, where necessary, with additional measures such as alternatives to detention. These should include case management services to ensure that families are informed of their legal rights and obligations and receive appropriate referrals to social and legal services.

Families must receive full due process at the border.

Since last summer many Central American mothers and their children fleeing violence have been subjected to expedited removal and “mandatory detention,” often in remote locations that severely inhibit access to counsel, due process, and protection. Moreover, there is evidence that many migrants are unable to express a fear of return during expedited removal at the border because Customs and Border Protection (CBP) officers fail to ask questions about protection needs or accurately capture responses to such questions. DHS is now “reinstating” prior orders of removal against mothers who are apprehended with their children and subjecting these families to detention. Instead of placement into expedited or reinstatement of removal, all families should be placed in full hearings before an immigration judge under section 240 of the Immigration and Nationality Act - an essential due process safeguard against deporting mothers and children to violence and persecution.

Families should not be detained for purposes of deterrence.

Detaining one family to stop another from coming to the United States is illegal, unjust, and ineffective. The district court in *R.I.L.R.* rejected the U.S. government’s arguments that family detention was justified as a means to deter future migration, and instead required the government to assess whether detention is necessary to mitigate an individual’s flight or public safety risk. Further, the use of detention to dissuade a mother, child, or other individual from seeking asylum is inconsistent with U.S. obligations under international norms.

Families should not be separated.

The *Flores* Settlement applies to all children in DHS custody, including those detained with their parents, and favors a policy of release and reunification except for narrow exceptions. Wherever possible, children should be reunited with a parent or legal guardian. In order to effectuate the rights of children under the *Flores* Settlement, in the case of families apprehended at the border, DHS should release both parent and child except where extreme and unusual circumstances would necessitate otherwise. Compliance with the *Flores* Settlement must not result in a parent being detained while a child is released.

DHS should use other tools besides detention to mitigate flight risk where there is a demonstrated concern.

Families apprehended at the border generally have relatives or other strong community ties in the United States to whom they could be released during the pendency of their removal proceedings. Where an individualized assessment demonstrates that a family poses a flight risk, DHS should turn to community-based alternatives to detention (ATD) – not detention – to mitigate that risk. In fact, Immigration and Customs Enforcement (ICE) recently issued a Request for Proposals specifically for case management ATD programs appropriate for families. As detailed in your FY 2016 budget request, current ATD programs save taxpayer dollars, costing approximately \$5 per day compared

to \$343 per day for a family detention bed. Current ATDs have high compliance rates, with 99% appearance at immigration court hearings and 84% compliance with removal orders.¹

The writing on the wall is clear – DHS should not detain children and their parents in jail-like facilities. We urge you to undo the harsh family detention policies set in place in summer 2014 and implement a more just and humane approach. Family detention should not be your legacy. Now is the time to end it once and for all.

For more information, please contact Katharina Obser of the Women’s Refugee Commission (katharinao@wrcommission.org; 202/750-8597) or Joanne Lin of the American Civil Liberties Union (jlin@aclu.org; 202/675-2317).

Sincerely,

National Organizations

Advancing Justice - AAJC
Alliance for a Just Society
Alliance for Citizenship
Alliance of Baptists
America's Voice Education Fund
American Civil Liberties Union
American Friends Service Committee
American Immigration Council
American Immigration Lawyers Association
Americans for Immigrant Justice
ASISTA Immigration Assistance
Bend the Arc Jewish Action
Casa Esperanza
Catholic Legal Immigration Network, Inc (CLINIC)
Center for Community Change
Center for Constitutional Rights
Center for Gender and Refugee Studies
Center for Popular Democracy
Church of Scientology National Affairs Office
Church of the Brethren, Office of Public Witness
Church World Service
Columban Center for Advocacy and Outreach
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)
Conference of Major Superiors of Men
Council on American-Islamic Relations
Detention Watch Network
Disciples Home Missions, U.S. and Canada
Disciples Women, Christian Church (Disciples of Christ)
DREAM Action Coalition

¹“ S.744 and the Immigration Reform and Control Act of 1986: Lessons Learned or Mistakes Repeated?” Hearing Before the H. Comm. on the Judiciary (May 22, 2013) (Oral testimony of Julie Myers Wood, Former Assistant Secretary of Homeland Security, Immigration and Customs Enforcement; available at http://judiciary.house.gov/_cache/files/3498f4a0-82f4-4902-a73b-da2d54055f44/113-30-81174.pdf).

Fair Immigration Reform Movement
Farmworker Justice
First Focus
Franciscan Action Network
Franciscans for Justice
Gamaliel
Grassroots Leadership
HIAS
Human Rights Defense Center
Human Rights First
Human Rights Watch
Immigrant Defense Project
Immigrant Justice Corps
In The Public Interest
International Rescue Committee (IRC)
Jesuit Conference, National Advocacy Office of the Jesuits of the United States
Just Detention International
Justice Strategies
Kids in Need of Defense
Latin America Working Group
Leadership Conference of Women Religious
Leadership Team of the Felician Sisters of North America
League of United Latin American Citizens
Legal Momentum
Lutheran Immigration and Refugee Service
NAFSA: Association of International Educators
National Alliance of Latin American and Caribbean Communities
National Alliance to End Sexual Violence
National Coalition Against Domestic Violence
National Council of La Raza (NCLR)
National Education Association
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Immigration Project of the NLG
National Korean American Service and Education Consortium
National Latin@ Network of Casa de Esperanza
National Latina Institute for Reproductive Health
National LGBTQ Task Force
NETWORK, A National Catholic Social Justice Lobby
Office of JPIC, Comboni Missionaries, N. American Province
Physicians for Human Rights
PICO National Network
Redwood Justice Fund
Reform Immigration FOR America
Refugee & Immigration Ministries, Christian Church (Disciples of Christ)
Refugee and Immigrant Center for Education and Legal Services (RAICES)
Refugee and Immigration Ministries, Christian Church (Disciples of Christ)
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas

Sisters of Mercy South Central Community
SOA Watch
Southeast Asia Resource Action Center (SEARAC)
T'ruah: The Rabbinic Call for Human Rights
Tahirih Justice Center
The Advocates for Human Rights
The Episcopal Church
The Episcopal Network for Economic Justice
The Leadership Conference on Civil and Human Rights
U.S. Committee for Refugees and Immigrants
United Church of Christ
United Methodist Church, General Board of Church and Society
United We Dream
Washington Office on Latin America
We Belong Together
Women's Refugee Commission
Young Center for Immigrant Children's Rights at the University of Chicago

State/Local Organizations

African Services Committee
Agora
Alabama Coalition for Immigrant Justice
Alliance San Diego
Asian Law Alliance
Austin Immigrant Right Coalition
Austin Tan Cerca de la Frontera
Bellevue/ NYU Program for Survivors of Torture, NYU Center for Health and Human Rights
Cambodian Women Networking Asso.
CASA
Causa Oregon
Central American Resource Center (CARECEN-LA)
Central West Justice Center
Cherokee Family Violence Center
CHIRLA
Church Council of Greater Seattle
Coaliton of Latino Leaders--CLILA
Colectiva Legal del Pueblo
Coloradans For Immigrant Rights, a project of the AFSC CO
Community Legal Services in East Palo Alto
Conversations With Friends (Minnesota)
El CENTRO de Igualdad y Derechos
Faith Action Network
Families for Freedom
Florence Immigrant & Refugee Rights Project
Franciscan Peace Center
Friends of Broward Detainees
Georgia Detention Watch
Georgia Latino Alliance for Human Rights
Global Family Legal Services

Greater Reading Immigration Project
Her Justice
HIAS Pennsylvania
Human Rights Initiative of North Texas
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Legal Advocacy Project
Immigrants' Rights Clinic of Boston University School of Law
Immigration Center for Women and Children
Immigration Taskforce, Southwestern Pennsylvania Synod, Evangelical Lutheran Church in America
Immigration Team of the MN Conference of the UCC
Jewish Community Action
Juntos
Justice Center of Southeast Massachusetts
Kitsap Immigrant Assistance Center
Lane County Legal Aid and Advocacy Center
Latin American Coalition
Latino Education & Training Institute
MAIZ San Jose
Massachusetts Immigrant and Refugee Advocacy Coalition
Mayflower Immigration Team
Michigan Immigrant Rights Center
Migrant Power Movement
Minnesota Coalition for Battered Women
MN Conference of UCC Immigration Team
NE MN Synod Task Force on Immigration, Refugees, and Asylum Seekers Justice of the ELCA
Nebraska Appleseed Center for Law in the Public Interest
New Sanctuary Movement of Philadelphia
New York Immigration Coalition
Northwest Immigrant Rights Project
OneAmerica
Our Lady of Guadalupe Parish
Pangea Legal Services
Pennsylvania Immigration Resource Center
Philadelphia JACL
Progressive Leadership Alliance of Nevada
Promise Arizona
Queer Detainee Empowerment Project
RAICES
RAISE: Revolutionizing Asian American Immigrant Stories on the East Coast
Reformed Church of Highland Park, NJ
Rights for All People (RAP)
Rio Grande Valley Equal Voice Network
Russian-speaking Community Council of Manhattan and the Bronx, Inc. (RCCMB)
Sanctuary for Families
SEIU 521
Seattle Human Rights Commission
Ser Familia, Inc.
Services, Immigrant Rights, and Education Network (SIREN)
Sex Workers Project at the Urban Justice Center
Sisters of St. Francis, Clinton, Iowa

State Bar of New Mexico, Immigration Law Section
Stop The Checkpoints
Students Advocates for Higher Education at San Jose State University
Tennessee Immigrant and Refugee Rights Coalition
UC Davis Immigration Law Clinic
Unitarian Universalist PA Legislative Advocacy Network
United Methodist Women
Virginia Coalition for Immigrant Rights
Virginia Coalition of Latino Organizations (VACOLAO)
Voz Hispana Cambio Comunitario
Workers Defense Project
Young Immigrants in Action – SC

CC: Jeh Johnson, Secretary of the Department of Homeland Security
Alejandro Mayorkas, Deputy Secretary of the Department of Homeland Security
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Stevan Bunnell, General Counsel, Department of Homeland Security
Megan Mack, Officer for Civil Rights and Civil Liberties, Department of Homeland Security
Volker Turk, Assistant High Commissioner for Protection, United Nations High
Commissioner for Refugees
François Crépeau, United Nations Special Rapporteur on the Human Rights of Migrants