

September 18, 2014

The Honorable Jeh Johnson
Secretary of the Department of Homeland Security
Washington, D.C.

Dear Secretary Johnson:

We, the undersigned 126 national, regional, state, and local organizations, assist and advocate on behalf of women survivors of violence, including immigrant survivors of domestic violence, sexual assault, and human trafficking in the United States. We write to express our concerns about the recent increase in detention of survivors of these forms of violence and call for an end to family detention. We are especially concerned about the impact of detention on their mental health and ability to effectively seek legal protection.

Since June, the Department of Homeland Security (DHS) has increased the number of family detention beds from roughly 80 beds to more than 1,200 beds in the short span of two months, first at the Artesia Family Residential Center in New Mexico and subsequently at the Karnes County Family Residential Center in Texas. The detainees are children and young mothers fleeing Central America, one of the most violent regions in the world:¹ in 2011, El Salvador had the highest rate of gender-motivated killing of women in the world, followed by Guatemala (third highest) and Honduras (sixth highest).² **The median age of children detained at the family detention center in Artesia is six years old.**

We call for an end to family detention because: (1) it is harmful and re-traumatizing to survivors of violence; (2) families in detention do not receive adequate access to counseling and mental health services; and (3) without these services, families are more likely to be unlawfully deported back to further persecution.

1. Family detention is a harmful and re-traumatizing setting for survivors of violence

Families are escaping the rampant violence in El Salvador, Guatemala, and Honduras and seeking refuge in the United States. The vast majority are survivors of domestic or sexual violence. Detention in jail-like facilities re-traumatizes victims of violence, and children in particular. The children detained at Artesia have experienced weight loss, gastro-intestinal problems, and suicidal thoughts.³ Regardless of the amount of time they are detained, children can suffer psychological trauma and be more vulnerable to future mental health issues.⁴ In addition, the longer families are detained, the more likely it is that critical family bonds will break down.⁵ Given the intense restrictions and disciplinary rules within detention facilities, mothers retain limited authority, which weakens their ability to effectively parent their own children. For young mothers who have faced domestic and/or gang violence and sexual abuse,

¹ Chavez, S. & Avalos, J., "The Northern Triangle: The Countries That Don't Cry for Their Dead," InSight Crime – Organized Crime in the Americas, 24 Apr. 2014, <http://www.insightcrime.org/news-analysis/the-northern-triangle-the-countries-that-dont-cry-for-their-dead>.

² Geneva Declaration on Armed Violence and Development, *Global Burden of Armed Violence 2011*, Oct. 2011, http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011_CH4_rev.pdf.

³ Rappleye, H. & L. Riordan Seville, "Flood of Immigrant Families at Border Revives Dormant Detention Program," *NBC News*, 25 Jul. 2014, <http://www.nbcnews.com/storyline/immigration-border-crisis/flood-immigrant-families-border-revives-dormant-detention-program-n164461>.

⁴ International Detention Coalition, *Captured Childhood*, 2012, http://idcoalition.org/wp-content/uploads/2012/03/Captured_Childhood-report.pdf, p. 49.

⁵ Pinnix, J. "AILA and Other Organizations Call for Ending Family Detention," Allen, Pinnix & Nichols, P.A., 16 Jul. 2014, <http://immigration-naturalization-law.com/immigration-news/family-detention>.

the detention setting often exacerbates the trauma they are already experiencing because of their victimization.

2. The remote location and conditions of detention impede access to critical services

Family detention facilities are frequently located in remote areas far from cities that have a capacity to provide services to survivors of domestic and sexual violence. For example, the family detention center in Artesia is located about three hours from the closest city that can provide services. These services are critical for women and children recovering not only from trauma in their home countries, but also violence that may have occurred on the long journey to the United States.

Furthermore, staff for Artesia lacks the cultural competency to appropriately screen and serve survivors of violence. The only mental health care available to women in Artesia is a male psychiatrist who meets with patients through Video TeleConference (VTC). The only mental health care available to children is a female psychiatrist who also speaks with children using VTC. The lack of mental health professionals, including rape crisis and domestic violence counselors, on the ground in these facilities is unacceptable. More must be done to ensure that survivors can meet with mental health professionals in a way that does not add to the trauma of their experience.

3. Without appropriate services, families are more likely to be deported to face further violence.

To have a chance to pursue legal protections in the United States, survivors of violence need counseling and time to recover from the trauma they experienced in their home countries and on their journeys to the United States. Those in family detention are subject to an expedited deportation process that denies them due process. To proceed with the asylum process, asylum officers must evaluate an individual's fear of return during a credible fear interview (CFI). When adults are interviewed in family detention, their children are often present, discouraging survivors from sharing painful details of their experience. Many are understandably unwilling or unable to make such intensely traumatic disclosures in front of their children and thus potentially cut off any further option for relief. Women have also reported that asylum officers rush the interviews and require short answers.⁶ Others report being asked only about their fear of gangs and not other forms of violence. Consequently, few survivors are able to express themselves fully and openly, leading to an inadequate detailing of their grounds for protection and curtailing their opportunity to seek asylum.

The credible fear screen-in rate for Artesia families is particularly troubling given that, as of August 2014, it was only 37.8 percent⁷ compared to the nationwide average credible fear screen-in rate of 62.7 percent.⁸ And yet the vast majority of these women and children are fleeing domestic and/or gang violence and abuse, and present facts that may give rise to a claim for asylum or other forms of protection, including U and T visas for victims of domestic violence, sexual assault, and trafficking. We note, however, that the CFI process focuses on asylum eligibility and does not screen individuals for these other protections Congress created to combat crime. Finally, the Board of Immigration Appeals (BIA) recently published a decision in, *Matter of A-R-C-G-et al.*, recognizing that survivors of domestic violence may merit refugee protection just like others who face persecution because of characteristics

⁶ *M.S.P.C. v. Johnson*, District of Columbia, 22 Aug. 2014, https://www.aclu.org/sites/default/files/assets/filed_complaint_1.pdf.

⁷ *Id.*

⁸ U.S. Citizenship and Immigration Services (USCIS) Stakeholder Meeting, 12 Aug. 2014.

they cannot change.⁹ This decision underlines the critical need for due process protections as well as CFIs that do not, by their very setting and circumstances, undermine a survivor's potential eligibility for relief.

The stakes are high to get this right: if survivors do not pass credible fear interviews because of DHS interview conditions, then DHS is very likely deporting survivors of violence back to persecution.

Recommendations

- 1) **End the use of family detention.** The U.S. government essentially eliminated family detention in 2009 after a lawsuit challenged conditions.¹⁰ Warehousing vulnerable mothers and children in remote facilities is inhumane and wastes taxpayer dollars.
- 2) **Expand the use of alternatives to detention (ATDs).** ATDs are more humane and cost-effective. ATDs cost 70 cents to \$17 per day¹¹ compared to \$266 per day in family detention.¹² Families on ATDs have better access to services to assist them.
- 3) **Ensure that asylum officers apply the appropriate legal standards in assessing credible fear during the credible fear interview, and that interviews are conducted appropriately with the vulnerabilities of survivors of violence in mind.** Screening for potential relief must consider recent gender-based asylum legal developments recognizing that survivors of domestic violence may qualify for asylum. Furthermore, adults should not be expected to disclose details of traumatic events in front of their children. Similarly, DHS must ensure that children are screened individually, and that credible fear interviews of children are conducted appropriately given their particular vulnerabilities as child survivors of physical or sexual violence.
- 4) **Ensure access to appropriate mental health and social services.** Survivors of violence need counseling to help them overcome the trauma they have experienced. This is important not only for their own wellbeing, but also to help them proceed with the legal process. Both adult and child survivors must recount difficult details of past abuse to pursue legal protections.
- 5) **End expedited processing for families.** Many parents and children in family detention are survivors of violence. They need time to recover from the trauma they have experienced in order to express themselves to adjudicators and representatives. Expedited processing denies them basic due process and may result in their deportation.
- 6) **Government-appointed counsel for all.** Individuals in detention particularly struggle to find counsel and navigate the complex immigration system. Access to legal counsel generates efficiencies for immigration courts by making sure that individuals understand the process and their rights. This ensures that each individual's protection concerns receive adequate consideration.¹³

It is critical that we ensure that survivors of domestic violence and sexual assault have meaningful opportunities to recover from trauma and pursue legal protections. This is a matter of life or death for many of the detained adult and child survivors currently being held in rapidly expanded family detention facilities. We urge you to ensure that they are not further re-traumatized or denied due process in family

⁹ *Matter of A-R-C-G et al*, 26 I&N Dec. 388 (BIA 2014)

¹⁰ ACLU, "DHS Plans to Improve Immigration Detention and Close Hutto Facility a Good First Step," 6 Aug. 2009, <https://www.aclu.org/immigrants-rights/dhs-plan-improve-immigration-detention-and-close-hutto-facility-good-first-step>.

¹¹ National Immigration Forum, *Math of Immigration Detention*, Aug. 2013, www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf.

¹² *M.S.P.C. v. Johnson*, 2014.

¹³ Montgomery, J., *Cost of Counsel in Immigration: Economic Analysis of Proposal Providing Public Counsel to Indigent Persons Subject to Immigration Removal Proceedings*, NERA Economic Consulting, May 2014, http://www.nera.com/nera-files/NERA_Immigration_Report_5.28.2014.pdf.

detention. Please do not hesitate to contact Grace Huang at the Washington State Coalition Against Domestic Violence at grace@wscadv.org or (206) 389-2515 ext. 209 with any questions or concerns.

Sincerely,

International/National

Americans for Immigrant Justice, Inc.

Asian and Pacific Islander Institute on Domestic Violence

ASISTA Immigration Assistance

Battered Women's Justice Project

Break the Cycle

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Center for Employment Training Immigration and Citizenship Program

Center for Gender & Refugee Studies

Futures Without Violence

Hawaii State Coalition Against Domestic Violence

Hollaback!, Inc.

LatinoJustice PRLDEF

Legal Momentum

Mil Mujeres

National Alliance to End Sexual Violence

National Asian Pacific American Women's Forum

National Center on Domestic and Sexual Violence

National Center on Domestic Violence, Trauma & Mental Health

National Clearinghouse for the Defense of Battered Women

National Coalition Against Domestic Violence

National Domestic Workers Alliance

National Immigrant Justice Center

National Network to End Domestic Violence

National Resource Center on Domestic Violence

Redwood Justice Fund

We Belong Together

Women of Color Network

Women's Refugee Commission

State

American Friends Service Committee Immigrant Rights Program, Newark, NJ
Arizona Coalition to End Sexual and Domestic Violence
California Partnership to End Domestic Violence
CHIRLA, BOD
Colectiva Legal del Pueblo
Colorado Coalition Against Domestic Violence
Georgia Rural Urban Summit
Her Justice
Illinois Coalition Against Domestic Violence
Immigration Center for Women and Children
Indiana Coalition Against Domestic Violence
Jane Doe Inc., the Massachusetts Coalition Against Sexual Assault and Domestic Violence
Kansas Coalition Against Sexual and Domestic Violence
Kentucky Coalition for Immigrant and Refugee Rights
La Clinica del Pueblo
Latino Policy Forum
Minnesota Coalition for Battered Women
Missouri Coalition Against Domestic and Sexual Violence
New Hampshire Coalition Against Domestic and Sexual Violence
New Jersey Coalition for Battered Women
New Mexico Coalition Against Domestic Violence
New Mexico Coalition of Sexual Assault Programs, Inc
New Mexico Immigrant Law Center
New York State Coalition Against Domestic Violence
North Carolina Coalition Against Domestic Violence
Northwest Immigrant Rights Project
Ohio Domestic Violence Network
Pennsylvania Coalition Against Domestic Violence
Pennsylvania Coalition Against Rape
Pennsylvania Immigration Resource Center
Raksha, Inc
Rhode Island Coalition Against Domestic Violence
Sanctuary for Families

The Center for Anti-Violence Education
Vermont Network Against Domestic and Sexual Violence
Virginia Sexual and Domestic Violence Action Alliance
Washington Immigration Defense Group
Washington State Coalition Against Domestic Violence
West Virginia Coalition Against Domestic Violence
Women's Bar Foundation Family Law Project for Battered Women

Local

AAPCI-Serenity House Family Residence
Advocacy Center of Tompkins County
American Gateways
Amnesty Atlanta
Barrier Free Living
Black Women's Blueprint
CARECEN Los Angeles
Catholic Charities of Chicago
Catholic Charities of Schuyler County - First Step Victim Services
Central West Justice Center
Centro Cultural Chicano
Centro Multicultural La Familia
Cofman & Bolourtchi LLC
Community Against Violence
Community Legal Services in East Palo Alto
CONNECT
Domestic Abuse Project
Enlace Comunitario
Equinox Domestic Violence Services
Esperanza Center, Catholic Charities of Baltimore
Familia America, LLC
Family Services
Foley Immigration Law
Fuerza Latina
Grace Smith House

Grossman Law, LLC
Gulfcoast Legal Services, Inc
Help Haven
Hope's Door
Ishola Law Group, LLC
JEGLAW LTD
King County Sexual Assault Resource Center
La Raza Centro Legal
Law Office of Helen Lawrence
Law Offices of Carol L. Edward & Associates. P.S.
Law Offices of Lea McDermid
Legal Aid Society of Rochester, New York
Los Angeles Center for Law and Justice
Mills & Born, Attorneys at Law
Mujeres Latinas en Acción
Neighborhood Christian Legal
North Georgia Immigrant Justice
Opening Doors, Inc.
Palladia, Inc.
Perretta Law Office
Public Counsel
Rosie's Place
S. Tx. Civil Rights Project
SafeHouse Center
Southwestern Law School Immigration Law Clinic
Tacoma Community House
The Healing Center
The Retreat
The Second Step
Turning Point, Inc.
Urban Resource Institute
Victim Resource Center of the Finger Lakes, Inc.
VIDA Legal Assistance, Inc.
Violence Intervention Program

CC:

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