



National Hispanic Leadership Agenda

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United States Hispanic Chamber of Commerce

United States Hispanic Leadership Institute

United States-Mexico Chamber of Commerce

U.S.- Mexico Foundation

November 10, 2014

The Honorable Barack H. Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Re: NHLA Opposition to Detention of Immigrant Families

Dear President Obama:

We write on behalf of the National Hispanic Leadership Agenda (NHLA), a coalition of 39 leading national Latino nonpartisan civil rights and advocacy organizations, to urge you to close currently operating family detention centers and to end plans to open new centers. The use and expansion of family detention facilities is a step backwards in our nation's immigration policies and a wholly inappropriate response to the humanitarian crisis on the border.

Families held in detention centers are predominantly women and children who fled horrific violence and inhumane conditions in Central America, including sexual and domestic abuse, human trafficking, gang violence, and extortion. Families arrive at our border—if they arrive at all—seeking refuge face imprisonment and deportation back to countries wracked with violence. While operating within a civil justice framework, our nation's immigration detention facilities operate more akin to a criminal justice system. And yet, detained women and children have extremely limited access to legal services, making it nearly impossible to pursue legitimate humanitarian claims. Survivors of domestic violence and sexual abuse are particularly vulnerable to further abuse and re-traumatization in detention.

In fact, a recent complaint filed with the Department of Homeland Security (DHS) by MALDEF (Mexican American Legal Defense and Educational Fund) details sexual assault and harassment of immigrant women detained at the Karnes County Residential Center (Karnes Center). The abuse at Karnes Center includes employees "removing female detainees from their cells late in the evening and during the morning hours for the purpose of engaging in sexual acts."¹ These abuses are not the first time women held in immigration detention centers alleged exploitation. In 2010, authorities arrested a guard at the T. Don Hutto Family Residential Center in Taylor, Texas after several women alleged that he fondled them while frisking them. One of the victims told investigators she thought she would be "killed or violated."²

¹ Letter from Marisa Bono, Staff Attorney, MALDEF, to Jeh Johnson, Secretary, U.S. Department of Homeland Security, (Sep. 30, 2014), available at http://www.maldef.org/assets/pdf/2014-09-30_Karnes_PREA_Letter_Complaint.pdf.

² Michelle Chen, *Women Detainees Sexually Abused as ICE Polices Itself*, COLORLINES (Aug. 25, 2010, 10:28 AM), http://colorlines.com/archives/2010/08/women_detainees_sexually_abused_as_ice_polices_itself.html.

Our country's checkered history with family detention demonstrates that imprisoning families limits access to due process and harms the physical and mental health of women and children. Rather than incarcerating thousands of mothers, infants, and children, your Administration should:

1. **Immediately investigate allegations of sexual abuse.** Your Administration must take swift action to investigate allegations of sexual assault and abuse. Your Administration must promptly implement protective and punitive measures, including disciplinary action, contract termination, and staff dismissal as appropriate.
2. **End the use of family detention.** Your Administration essentially eliminated family detention in 2009 after litigation and an outcry over human rights abuses from immigrant rights organizations. Given the shameful history of family detention, it is disturbing that your Administration intends to open a new 2,400 bed family detention facility in Dilley, Texas. Detaining vulnerable mothers and children in remote facilities is inhumane, a waste of taxpayer dollars, and runs contrary to our nation's commitments to due process and civil rights.
3. **Expand the use of alternatives to detention (ATD).** Orders of supervision and community-based alternatives are humane and cost-effective alternatives to detention. Family detention costs \$266 per day, whereas existing ATD programs cost as little 70 cents to \$17 per day.³ Community support programs, case management, and other programs already in use by U.S. Immigration and Customs Enforcement (ICE) are effective in ensuring appearance and compliance with immigration orders. Your Administration should utilize ATDs as widely as possible because they facilitate better access to counsel and other support systems, including family and counseling.
4. **Abandon opposition to releasing families from detention centers and cease unfair no-bond or high-bond practices.** In Artesia Family Residential Center and Karnes Center, DHS initiated a no-release policy for persons already determined to have a credible fear of return, while their cases are pending, based on a disingenuous post-9/11 opinion by then Attorney General John Ashcroft, *In re D-J*, 23 I&N Dec. 572 (A.G. 2003). DHS—through ICE lawyers in particular—claims that detention in instances of mass migration is critical for the purposes of national security.⁴ Denying the release of women and children from detention facilities or setting no bond or a high bond amount is an inappropriate response to a humanitarian crisis and not in the national security interests of our nation.
5. **Appoint government counsel.** Your Administration does not guarantee appointed counsel to immigrants in detention and, consequently, immigrants struggle to find attorneys and navigate the complex immigration system. Approximately 84 percent of immigration detainees are unrepresented in immigration court.⁵ Without government-appointed counsel, women and children with meritorious claims for relief run the risk of wrongful deportation. Access to legal counsel makes immigration courts more efficient—freeing up bed space at detention facilities and substantially reducing costs for the federal government—and ensures individuals understand the immigration process and their rights. Moreover, independent studies conclude that offering counsel for immigrants in proceedings could actually produce fiscal savings.⁶

³ National Immigration Forum, *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies*, Aug. 2012, available at <http://immigrationresearch-info.org/report/other/math-immigration-detention>.

⁴ Brendan Fischer, *DOJ: Due to 9/11 Moms and Kids are National Security Threat*, PRWATCH, (Aug. 11, 2014), <http://www.prwatch.org/news/2014/08/12563/obama-moms-and-kids-are-national-security-threat-because-911>.

⁵ Nina Siulc, et. al, *Improving Efficiency and Promoting Justice in the Immigration System: Lessons from the Legal Orientation Program*, VERA INSTITUTE FOR JUSTICE, May 2008, available at http://www.vera.org/sites/default/files/resources/downloads/LOP_Evaluation_May2008_final.pdf.

⁶ John D. Montgomery, *Cost of Counsel in Immigration: Economic Analysis of Proposal Providing Public Counsel to Indigent Persons Subject to Immigration Removal Proceedings*, NERA ECONOMIC CONSULTING, May 28, 2014, available at http://www.nera.com/content/dam/nera/publications/archive2/NERA_Immigration_Report_5.28.2014.pdf.

Your Administration must reverse course on family detention and end this inhumane and costly practice that undermines our most basic values. Instead, it should address the factors pushing children and families to make the incredibly perilous journey and treat these families and children as refugees—not criminals.

If you have any questions regarding this letter, please feel contact Jose Magaña-Salgado, with MALDEF, at (202) 572-0558 or jmagana-salgado@maldef.org, or Bertha A. Guerrero, with Hispanic Federation, at (202) 641-7186 or bguerrero@hispanicfederation.org.

Thank you for your time and consideration.

Sincerely,



Thomas A. Saenz
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NHLA Immigration Committee Co-Chair



Jose Calderon
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Cc:

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