



Lutheran Immigration and Refugee Service

Backgrounder

From Persecution to Prison: Family Detention

In the spring and summer of 2014, the United States experienced a tremendous increase in children and families fleeing Central America and arriving at our borders in pursuit of safety and protection. In response to these arrivals, the Obama Administration abandoned our reputation as a nation of welcome and expanded the practice of detaining families. The Department of Homeland Security increased capacity to detain families from 96 spaces in just one facility in Berks County, Pennsylvania to approximately 3,000 in three separate facilities by the end of 2015 with additional expansion planned. The explicitly stated purpose for this increase was to deter other families from coming to the United States. The first detention facility opened as part of this expansion was a 700-bed facility located in Artesia, New Mexico which housed mothers, young children and babies. That facility opened in June 2014 and closed in December 2014 due to credible concerns about the poor treatment of families held there.

Today, family immigration detention facilities are located in:

- [Karnes City, Texas](#): an adult immigration detention facility was converted to a 532-bed family detention facility in August 2014. The Karnes facility is operated by the Geo Group, a private prison corporation, and was recently granted a temporary childcare license amidst an ongoing [lawsuit](#) citing unsuitable conditions for children.
- Dilley, Texas: opened in December 2014 and was intended to eventually detain 2,400 individuals. It is the largest immigration detention facility in the United States. The Dilley facility is operated by Corrections Corporation of America, a private prison corporation and is also involved in a [lawsuit](#) about childcare. A judge issued a temporary injunction of the facility's childcare license.
- Berks, Pennsylvania: current capacity of 96 beds. The Berks facility is operated by the county though its [license was revoked](#) in the beginning of 2016. The facility continues to operate while it undergoes an appeal process.

Family Detention: History

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) currently detains adult immigrants in a sprawling nationwide system of over 250 immigration detention facilities, costing taxpayers almost \$2 billion annually. Each year, ICE detains approximately 480,000 men and women in these facilities.

ICE has operated the 96-bed Berks County Family Shelter (Berks) in Leesport, Pennsylvania since 2001. From 2006-2009, ICE also operated the 512-bed T. Don Hutto Correction Center (Hutto) in Taylor, Texas as a family detention center. While DHS claimed the Hutto facility was specially equipped to meet the needs of families, reports emerged that children as young as eight months old wore prison uniforms, lived in locked prison cells with open-air toilets, were subjected to highly restricted movement, and were threatened with alarming disciplinary tactics, including threats of separation from their parents if they cried too much or played too loudly. Medical treatment was inadequate and many children, some as young as one year old, lost weight. The Hutto facility was the subject of a lawsuit, a human rights investigation, multiple national and international media reports and a national campaign to end family detention. It ultimately stopped holding families in 2009.

Detention: Humanitarian Concerns

There is no humane way to detain families. New family detention facilities that opened the summer of 2014 hold toddlers, teens, babies, and their mothers. Many of those detained are survivors of violence and trauma experienced in their home country or during the journey to the United States. Numerous reportsⁱ by independent non-governmental organizations, government oversight agencies, and Congressional hearings have found that **DHS has not maintained safe or humane conditions in immigration detention facilities.**ⁱⁱ

Allegations of abuses similar to those that led to the closure of the Hutto facility have surfaced at all three currently operating family facilities. These include substandard medical care, abusive treatment and neglect by personnel, inadequate access to legal services and law libraries, inadequate opportunities for visitation and outdoor recreation, inappropriate conditions and treatment for women, children, the mentally disabled, and those with medical issues, and lack of access to telephones. Detention has been documented as psychologically damaging and completely inappropriate for toddlers and children. Suicide attempts are known to have occurred at the Dilley and Karnes facilities. Multiple reports of [sexual assault](#) have been filed at Karnes, and an employee at the Berks facility was recently [convicted of three counts of sexual assault](#) after threatening the victim with deportation if she told anyone.

Holding women and children in jails or jail-like settings poses a serious threat to psychological health and risks re-traumatizing survivors of abuse, torture and trafficking. Following growing concerns about the conditions within the detention facilities, [136 Representatives](#) and [33 Senators](#) sent two separate letters in 2015 to Secretary of Homeland Security Jeh Johnson detailing concerns about the effects of detention on mothers and children and calling for an end to this practice.

There has also been litigation to enforce the [1997 Flores v. Reno settlement](#). This settlement stipulated that children, no matter if alone or accompanied, must be placed in the least restrictive setting and are to be released from custody without undue delay. Judge Dolly Gee of the District Court of California ruled in summer of 2015 that DHS had violated the Flores settlement by detaining children and their mothers. The litigation around the application of Flores to family detention [continues](#). LIRS's position is that the Administration should quickly and safely comply and release families from detention. Additionally, though litigation over state licensing of these facilities continues, we believe there is no child welfare-based licensing model for the mass detention of children and parents together.

Access to Due Process

Families who have recently arrived at the border face significant due process challenges. Families are more likely to be removed from the country without representation (more than 95% of families were removed when unrepresented for completed cases from fiscal year 2014 through 2016 (June)). The majority of families, 56%, in family detention have gone unrepresented in fiscal years 2014 through 2016 (June).

Recently Arrived Families in Expedited Removal Proceedings (Current Status of Case as of June 16, 2016)						
Priority Status Type	Cases That Began in Fiscal Year 2014		Cases That Began in Fiscal Year 2015		Cases That Began in Fiscal Year 2016 (Through June)	
	Unrepresented Families	Represented Families	Unrepresented Families	Represented Families	Unrepresented Families	Represented Families
<i>Detained</i>	1,370 (48%)	1,468 (52%)	2,133 (55%)	1,685 (45%)	882 (80%)	225 (20%)
<i>Enrolled in Alternatives to Detention (ATD)</i>	13,705 (53%)	12,217 (47%)	16,297 (52%)	15,273 (48%)	19,190 (76%)	6,148 (24%)
<i>Priority Status Was Discontinued</i>	582 (19%)	2,473 (81%)	2,113 (37%)	3,592 (63%)	835 (64%)	462 (36%)
Case Outcomes for ALL Families						
Pending	3,999 (26%)	11,262 (70%)	11,771 (57%)	17,464 (85%)	19,475 (93%)	6,608 (97%)
Completed Cases	11,658 (74%)	4,896 (30%)	8,772 (43%)	3086 (15%)	1,432 (7%)	227 (3%)
<i>Ordered Removed/ Voluntary Departure</i>	11,346 (97%)	2,861 (58%)	8,368 (95%)	2,023 (66%)	1,357 (95%)	149 (67%)
<i>Able to Stay in U.S.</i>	312 (3%)	1605 (33%)	404 (5%)	1063 (34%)	75 (5%)	78 (33%)

* Data reflect “current status” (most recent proceeding status). Therefore, appearance rates and representation rates represent a snapshot in time. Case outcomes do not capture pending cases. Case data from TRAC: <http://trac.syr.edu/phptools/immigration/mwc/> (Current through May 2016, accessed June 16, 2016). Only families detained or enrolled in ATDs are placed on priority dockets. Families that were misidentified as being enrolled in ATDs, were deprioritized.

**The vast majority of the cases filed in a fiscal year that have representation are still pending, therefore percentages only represent a fraction and may not be an accurate representation of percentage outcomes in a given fiscal year. The low relief outcome for completed cases, may be an indicator that legal representation also facilitates a family’s understanding of what their potential for relief is. Thus, families are more likely to accept removal/VD earlier on in the process with legal representation.

LIRS opposes the use of family detention as there is no humane way to detain families. Families fleeing from Central America are largely refugees and have undertaken a dangerous and traumatic journey seeking safety and deserve to be embraced in our homes, our churches and our communities. **Detention is completely inappropriate for these mothers and children.** In addition to being extremely expensive ([average cost](#) per day is \$123 for one adult and \$324 for one family) and inhumane, detention also prevents adequate access to legal services, opportunities for visitation, and long-term integration for vulnerable individuals. While the narrow purpose of immigration detention is ensuring compliance with immigration court proceedings, [Alternatives to Detention \(ATDs\)](#) have proven effective at ensuring such compliance while also maintaining respect for human dignity and upholding the United States’ legacy as a nation of welcome for those fleeing persecution.

Recommendationsⁱⁱⁱ

LIRS continues to urge Congress and the Obama Administration to **uphold family values, liberty, due process, and the rights and dignity of women and children** whose lives are at risk. Specific recommendations include, but are not limited to:

- Reject the use of detention as an enforcement tool for reducing migration or preventing refugee flows.
- End the use of family detention.
- Make individualized assessments of each family for enrollment into Alternatives to Detention including parole and bond.
- Expand the use of Alternatives to Detention—including community-based models—that are more humane, cost-effective, and effective at meeting the goals of immigration detention.
- Ensure that children are afforded the specialized medical and educational support that they require, which cannot be provided in secure detention facilities.
- Ensure that all families, detained or released on ATDs, have access to legal representation and due process protections to obtain any legal relief for which they may qualify.
- Ensure that detention is only used in cases where the U.S. government has proven that less-restrictive alternatives are not appropriate.
- Reduce over-reliance on electronic ankle tracking devices for women who pose minimal risk of flight.

If you have any questions, please contact Brittney Nystrom, LIRS Director for Advocacy at BNystrom@lirs.org or (202) 626-7943.

ⁱ *Summaries of recent Reports on Immigration Detention*, (National Immigration Forum, 2012).

<http://www.immigrationforum.org/images/uploads/2010/detentionreportssummaries.pdf>.

ⁱⁱ In late 2007, ICE created family detention standards; however, these standards are not codified, meaning they do not have the force of law and do not confer a cause of action in court. In addition, family detention facilities are subject to insufficient oversight to ensure compliance with these standards. <http://www.ice.gov/detention-standards/family-residential/>

ⁱⁱⁱ For more detailed information regarding the conditions at the Artesia and Karnes facilities and a list of detailed recommendations, please see the LIRS report, “Locking Up Family Values, Again: The Continued Failure of Immigration Family Detention” available at <http://lirs.org/familyvalues>.