

October 31, 2016

The Honorable Jeh Johnson  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Secretary Johnson:

We, the 230 undersigned organizations write to express our alarm over the Department of Homeland Security (“DHS”) record-level immigration detention rates, and to request a meeting to discuss this crisis as soon as possible.

The Wall Street Journal has reported that in coming weeks and months the immigration detention rate will hit a historic high of 45,000 immigrants detained per day and could climb to 47,000 by June.<sup>1</sup> These numbers far exceed the congressionally imposed bed quota of 34,000, shattering all prior detention records. The agency’s own officials report they are “scraping the bottom looking for beds,” raising concerns that new facilities will not conform with the Prison Rape Elimination Act regulations or with the most recent detention standards.<sup>2</sup> The final year of the Obama administration has ushered in the highest rate of immigration detention that the U.S. has ever seen.

Beyond the record-breaking detention levels, we are astonished that Immigration and Customs Enforcement (“ICE”) recently renewed a contract with Corrections Corporation of America (“CCA”) —one of the nation’s largest for-profit prison companies — to continue detaining Central American families in Dilley, Texas. ICE renewed the Dilley 2,400-bed contract for another five years, through September 2021.<sup>3</sup> This CCA contract extension came at a time when the Homeland Security Advisory Council is actively evaluating whether DHS should end the use of private prisons, and only weeks after the DHS Advisory Committee on Family Residential Centers recommended that DHS end family detention and overhaul immigration policies to safeguard child welfare.<sup>4</sup> The Dilley contract extension has made it unmistakably clear that DHS will continue to do big business with private prison titans at the expense of the most vulnerable in our midst — Central American children and mothers who remain detained for months, sometimes longer than a year, as they pursue their asylum claims.

**The mass detention of families and asylum seekers must end.** DHS detains approximately 3,600 mothers and children per day,<sup>5</sup> the vast majority of whom have endured violence and persecution in Central America and have significant claims for humanitarian protection.<sup>6</sup> At the same time, DHS has significantly increased its detention of adult asylum seekers who are fleeing persecution in Central America, Africa, and other regions.

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<sup>1</sup> Devlin Barrett, *Record Immigrant Numbers Force Homeland Security to Search for New Jail Space*, WALL STREET JOURNAL, Oct. 21, 2016.

<sup>2</sup> *Id.*

<sup>3</sup> Jamie McGee, *CCA Announces ICE Contract Extension*, THE TENNESSEAN, Oct. 18, 2016.

<sup>4</sup> Report of the DHS Advisory Committee on Family Residential Centers, Sept. 30, 2016.

<sup>5</sup> ACLU, *Shutting Down the Profiteers: Why and How the Department of Homeland Security Should Stop Using Private Prisons* (Sept. 2016).

<sup>6</sup> See UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection* (2014); UNHCR, *Women on the Run: First Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras and Mexico* (2015).

The mass detention of asylum seekers has been driven by two major policy shifts since 2014: a deterrence-based detention policy directed at Central Americans seeking asylum and the November 20, 2014 immigration enforcement priorities memorandum which has been interpreted to treat asylum seekers “apprehended at the border or at ports of entry attempting to unlawfully enter the United States” as top enforcement priorities. The use of immigration detention to deter future migration is inherently arbitrary, as it sidesteps the requirement for an individualized assessment of the need to detain, and is therefore prohibited under Article 9 of the International Covenant on Civil and Political Rights (ICCPR). In addition, the current interpretation of the 2014 enforcement priorities has effectively led to a penalization of asylum seekers in violation of Article 31 of the 1951 United Nations Convention relating to the Status of Refugees, which provides that states may not penalize asylum seekers for their “illegal” entry or presence in the country.

U.S. international legal commitments also require that detention for immigration purposes be used only in limited circumstances and for the shortest time possible, with procedures in place for individual reviews of custody before a court. Despite U.S. policies that allow for release on parole, bond, or other conditions, failures to implement these policies have led to the often prolonged and unnecessary detention of asylum seekers. For example, reports indicate that asylum seekers are needlessly detained for many months or longer despite meeting ICE’s publicly enumerated criteria for parole.<sup>7</sup> Moreover, arriving asylum seekers are not afforded access to immigration court custody reviews, other than in the Second and Ninth Circuits, and there only after six months of detention.

**The immigration detention system is now driven by profits and devoid of due process.** ICE is the biggest federal client of the private prison industry. Approximately 73 percent of detained immigrants are held in facilities operated by private, for-profit prisons corporations. In August the Deputy Attorney General announced that the Bureau of Prisons will phase out the use of private prisons. These are the very same private prisons that are doing big business with DHS to detain the vast majority of immigrants.

Profiteering should never play a role in any detention system, especially when it deprives the liberty of children, mothers, and asylum seekers. The results of privatized detention have been tragic. At the Eloy Detention Center, run by CCA, 14 people have died since 2003. Despite death reviews documenting alarming lapses in medical care, ICE has continued the Eloy contract with CCA. Similarly, in 2009-10 a CCA transport guard sexually assaulted multiple women locked up at the Hutto detention facility.<sup>8</sup>

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Mass detention of immigrants is costly to American taxpayers, devastating to immigrants and their families,<sup>9</sup> and profitable to private prison corporations. In these final months of the Obama administration we urge you to immediately take measures to reduce unnecessary and prolonged detention and to move toward more rights-respecting and cost-effective policies:

- End the detention of families and stop placing families in expedited and reinstatement of removal proceedings.

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<sup>7</sup> Human Rights First, *Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers* (July 2016).

<sup>8</sup> See *Shutting Down the Profiteers*, *supra* n. 5.

<sup>9</sup> See e.g., New York Times Editorial Board, *Mass Imprisonment and Public Health*, Nov. 26, 2014; Human Impact Partners, *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families* (June 2013).

- End the “mandatory detention” of asylum seekers by placing asylum seekers into regular removal proceedings rather than summary processing.
- To the degree that individuals seeking protection are processed through expedited or reinstatement of removal, robustly exercise existing humanitarian parole authority for these asylum seekers and issue written guidance reminding ICE Field Offices that the 2009 Asylum Parole Directive is in full force and must be followed.
- Commit to a complete phase out of ICE’s contracts with private prison companies and direct ICE not to enter into any new contracts with local jails.
- Provide all individuals detained by ICE prompt access to individualized custody redetermination hearings before an immigration judge, and implement automatic court custody redetermination hearings for every individual detained for more than six months, as numerous federal circuit courts of appeal have found the Constitution to require.
- Require that ICE consider a person’s ability to pay when setting bond.

Eight years ago this administration began with a commitment to overhaul our immigration detention system “thoughtfully and humanely.”<sup>10</sup> This administration is ending its tenure with skyrocketing detention rates that have shattered all prior records, locking up more children and asylum seekers than ever before, and running an out-of-control detention system where for-profit prison titans are profiting at the expense of taxpayers and immigrants. On behalf of the men, women and children who remain needlessly behind bars, we urge you to take immediate action.

**We request a meeting with you to discuss these concerns and recommendations as soon as possible.** To facilitate this request, please contact Heidi Altman at the National Immigrant Justice Center at [haltman@heartlandalliance.org](mailto:haltman@heartlandalliance.org) or 312-718-5021.

Sincerely,

Advocates for Immigrant Rights & Reconciliation  
 Alliance San Diego  
 America's Voice Education Fund  
 American Civil Liberties Union (ACLU)  
 American Friends Service Committee  
 American Immigration Council  
 American Immigration Lawyers Association  
 Americans for Immigrant Justice  
 Amnesty International USA  
 Arizona Coalition to End Sexual and Domestic Violence  
 Arkansas United Community Coalition  
 Arlington Street Church- Boston (Social Action Committee)  
 Asian American Legal Defense and Education Fund (AALDEF)  
 Asian Americans Advancing Justice - Los Angeles  
 Asian Americans Advancing Justice | AAJC  
 Asian Law Alliance  
 Asian Pacific American Labor Alliance, AFL-CIO (APALA)  
 Asian Pacific Institute on Gender-Based Violence

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<sup>10</sup> Nina Bernstein, *U.S. to Reform Policy on Detention for Immigrants*, NEW YORK TIMES, Aug. 5, 2009.

Asian Pacific Islander Legal Outreach  
Asian Pacific Policy & Planning Council  
Association of Latino/as Motivating Action (ALMA)  
Bay Area Latin America Solidarity Coalition (BALASC)  
Border Immigration Council  
Brighton Park Neighborhood Council  
California Council of Churches IMPACT  
California Partnership to End Domestic Violence  
Capital Area Immigrants' Rights Coalition  
CASA  
Casa de Esperanza  
Casa San Jose  
Catholic Charities of the East Bay  
Catholic Democrats of Nebraska  
Center for Community Change  
Center for Gender & Refugee Studies  
Central American Resource Center - Los Angeles (CARECEN-LA)  
Central American Resource Center (CARECEN)  
Chhaya CDC  
Chicago Religious Leadership Network on Latin America  
Church Women United in New York State  
Church World Service  
Cleveland Jobs with Justice  
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)  
Coalition of Latino Leaders--CLILA  
Colectiva Legal del Pueblo  
Colorado Immigrant Rights Coalition  
Community Legal Services in East Palo Alto  
Connecticut Students for a Dream  
Crossing Borders - Dubuque  
DC-MD Justice for Our Neighbors  
Detention Watch Network  
Dolores Street Community Services  
Dominican Development Center/Immigrant Organizing Initiative  
Dream Team LA  
East Bay Community Law Center  
El CENTRO de Igualdad y Derechos  
El Centro del Inmigrante  
El Refugio  
Employee Rights Center  
Encuentro  
Enlace  
Enlace Comunitario  
Equality New Mexico  
Esperanza Immigrant Rights Project, Catholic Charities Los Angeles  
Faith Action Network - Washington State  
Faith in the Valley  
Faith Voices Arkansas

Families for Freedom  
Fig Tree Revolution  
First Congregational UCC Ypsilanti MI  
First Focus  
First Friends of New Jersey and New York  
Florence Immigrant & Refugee Rights Project  
Florida Coastal Immigrant and Human Rights Clinic  
Florida Council of Churches  
Florida Immigrant Coalition, Inc.  
Franciscan Action Network  
Franciscan Peace Center  
Franciscans for Justice  
Free Migration Project  
Friends Committee on National Legislation  
Friends of Broward Detainees  
Friends of Miami-Dade Detainees  
Futures Without Violence  
Georgia Coalition Against Domestic Violence  
Georgia Detention Watch  
Grassroots Leadership  
Greater Hartford Legal Aid  
Greater Rochester Coalition for Immigration Justice  
Grupo de Apoyo e Integracion Hispanoamericano  
HIAS  
Hilton Head for Peace  
Human Rights Initiative of North Texas  
Human Rights Observation/Honduras  
Interfaith Movement for Human Integrity  
Illinois Coalition Against Domestic Violence  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Defenders Law Center  
Immigrant Defense Project  
Immigrant Detainee Accompaniment Program  
Immigrant Justice Corps  
Immigrant Law Center of Minnesota  
Immigrant Law Group  
Immigrant Legal Advocacy Project  
Immigrant Legal Resource Center  
Immigration Center for Women and Children  
Immigration Equality  
Immigration Resource Center of San Gabriel Valley  
Interfaith Center for Worker Justice of San Diego County  
Interfaith Committee for Detained Immigrants  
International Detention Coalition  
InterReligious Task Force on Central America and Colombia  
Iowa Coalition Against Sexual Assault  
Irish International Immigrant Center  
Jesuit Refugee Service/USA

Just Foreign Policy  
Just Neighbors  
Justice for All  
Justice for Our Neighbors Southeastern Michigan  
Justice Strategies  
Kentucky Coalition for Immigrant and Refugee Rights  
Kentucky Council of Churches  
Kids for College  
Kids in Need of Defense (KIND)  
Kino Border Initiative  
Korean American Resource and Cultural Center  
La union del pueblo Entero  
Las Americas Immigrant Advocacy Center  
Latin America Working Group  
Latino Commission on AIDS  
Leadership Conference of Women Religious  
League of United Latin American Citizens  
Logan Square Neighborhood Association  
Long Beach Immigrant Rights Coalition  
Long Island Wins  
Los Angeles Center for Law and Justice  
Lowcountry Immigration Coalition  
Make the Road Action  
Marin Task Force on the Americas  
Massachusetts Immigrant and Refugee Advocacy Coalition  
Massachusetts Law Reform Institute  
Mennonite Central Committee U.S. Washington Office  
Mexicanos en Exilio  
Mexico Solidarity Network  
Mid-South Immigration Advocates  
Migrant Justice  
Mujeres Latinas en Accion  
Mujeres Unidas y Activas  
My Sisters' Place  
National Asian Pacific American Families Against Substance Abuse  
National Asian Pacific American Women's Forum  
National Center For Lesbian Rights  
National Center for Transgender Equality  
National Council of Jewish Women  
National Education Association  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project of the National Lawyers Guild  
National Latina/o Psychological Association  
National Lawyers Guild - Los Angeles Chapter  
National Network for Immigrant and Refugee Rights  
National Network to End Domestic Violence  
NC Council of Churches

Nebraska Appleseed Center for Law in the Public Interest  
Nebraska Coalition to End Sexual and Domestic Violence  
NETWORK Lobby for Catholic Social Justice  
New Mexico Asian Family Center  
New York Justice For Our Neighbors  
Nicaragua Center for Community Action  
NM Faith Coalition for Immigrant Justice  
Northwest Immigrant Rights Project  
Ohio Council of Churches  
OneAmerica  
Oregon Interfaith Movement for Immigrant Justice  
Pangea Legal Services  
PASO - West Suburban Action Project  
Pax Christi Florida  
Pax Christi USA  
PICO National Network/LA RED  
Project IRENE  
Project South  
Puentes: Advocacy, Counseling & Education  
Queens Legal Services  
Reformed Church of Highland Park  
Refugee and Immigrant Center for Education and Legal Services (RAICES)  
Refugee Well-being Project  
Refugio del Rio Grande  
Rockland Immigration Coalition  
San Diego Immigrant Rights Consortium  
Services, Immigrant Rights, and Education Network (SIREN)  
Sisters and Brothers of Immigrants, Inc.  
Sisters of Charity of New York  
Sisters of Mercy of the Americas  
Sisters of St. Francis of Philadelphia  
Skagit Immigrant Rights Council  
SOA Watch  
SOA Watch-San Francisco  
SOLACE  
South Asian Americans Leading Together (SAALT)  
South Asian Fund For Education, Scholarship & Training (SAFEST)  
South Texas Human Rights  
South Texas Human Rights Center  
Southeast Asia Resource Action Center (SEARAC)  
Southern Border Communities Coalition  
Southern Poverty Law Center  
Southwest Organizing Project  
Tacoma Community House  
Tahirih Justice Center  
Taos Refugee and Immigration Network  
Task Force on the Americas  
The Center for Popular Democracy

The Leadership Conference on Civil and Human Rights  
Transnational Institute for Grassroots Research and Action (TIGRA)  
UC Davis School of Law Immigration Law Clinic  
Unitarian Universalist Service Committee  
United We Dream  
UNO Immigration Ministry  
Virginia Council of Churches  
Voces de la Frontera  
W. Haywood Burns Institute  
Washington Immigration Defense Group  
Washtenaw Interfaith Coalition for Immigrant Rights  
Wayne Action for Racial Equality  
We Belong Together  
Wilco Justice Alliance (Williamson County, TX)  
Wisconsin Council of Churches  
Women's Refugee Commission  
Worker Justice Center of New York  
Workers Defense Project  
Wyoming Coalition Against Domestic Violence and Sexual Assault  
Yolo Interfaith Immigration Network