



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

March 13, 2023

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue
NW Washington, D.C. 20500

Dear President Biden,

On behalf of the American Immigration Lawyers Association (AILA), representing almost 17,000 immigration attorneys and professionals, we write in response to reports that your Administration is considering detaining families pending expedited removal proceedings. Family detention causes irreparable harm to children and families and undermines their fair chance at seeking asylum or other legal relief. As President, you have pledged to reduce the use of immigration detention and stopped using detention centers for family detention. We urge you to recommit to this approach and take family detention off the table of options. AILA stands ready to work with you and your team to identify effective border solutions that ensure safety and fairness of migrants arriving at the border, and that can create order and safety at the border.

In 2014, when President Obama increased family detention, AILA wrote to the President and expressed the same concern then as now, family detention “[is a due process failure and a humanitarian disaster that cannot be fixed and must be closed immediately.](#)” During that time, AILA members dedicated [thousands of hours](#) to providing legal services to families subjected to family detention. Lawyers reported witnessing the devastating physical and mental harms these families suffered and their denial of a fair legal process. [Physicians and mental health clinicians](#) have testified to the short- and long-term harms detention causes to children. Daily, people in detention are subjected to unsanitary conditions, substandard health care and nutrition, and even [abusive treatment](#) by facility staff. Family detention imposes numerous hurdles to [a fair process](#) which are further compounded by the fact that the immigration system still does not provide legal representation for indigent persons and makes access to counsel while in detention extremely difficult.

As you plan to lift the Title 42 public health expulsion order, we urge you to implement solutions that protect the health and well-being of children and families. AILA applauded your administration’s significant efforts to reunite children that [were separated](#) under your predecessor’s policies. If you restart family detention, you will undermine your efforts to protect families. We also urge you to halt implementation of the proposed new regulation that will block access to many asylum seekers and place them at severe risk of enduring violence, persecution

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and even death. Blocking access to asylum and detaining families are not consistent with your vision of America as a welcoming nation.

AILA is prepared to work with your Administration to identify [solutions](#) to process and manage people arriving at the southern border in a humane, fair and efficient manner. Instead of detention, AILA recommends [modernizing ports of entry](#); improving border processing to ensure efficient and fair screening for migrants; ensuring the full use of legal pathways such as parole programs or existing employment or family visas; increasing agency funding and coordination among CBP, ICE, the immigration courts and USCIS to reduce backlogs and alleviate pressure in the border region; implementing [community-based case management programs](#) as safer, more effective alternatives to detention; and partnering with Western hemisphere governments on humanitarian and economic development initiatives to reduce displacement. We ask that you consider these solutions and unequivocally reject family detention.

Please contact Greg Chen, Senior Director of Advocacy at American Immigration Lawyers Association, gchen@aila.org, 202/507-7615, with any questions or follow-up.

Sincerely,

Ben Johnson
Executive Director

Jeremy McKinney
President

Cc:

Susan Rice, Director, Domestic Policy Council
Betsy Lawrence, Deputy Assistant to the President, Domestic Policy Council

Alejandro Mayorkas, Secretary, Department of Homeland Security
Blas Nunez-Neto, Acting Assistant Secretary, Department of Homeland Security
Royce Murray, Senior Counselor, Department of Homeland Security

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