



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

September 16, 2014

United States Congress
Washington, DC

Dear Member of Congress:

As the national bar association of more than 13,000 immigration lawyers and law professors, the American Immigration Lawyers Association (AILA) writes to express our deep opposition to the Administration's detention and rapid deportation of mothers and children who have fled from Central America and are seeking asylum under U.S. law. We have asked the Administration to close the Artesia, New Mexico family detention center immediately and to reverse its deportation and detention strategy. We urge you to investigate this situation and to oppose the inhumane practices that are taking place at Artesia and any funding requests for the detention of families.

In response to the humanitarian crisis in Central America that has compelled tens of thousands of mothers and children to flee their home countries, the Department of Homeland Security (DHS) opened a hastily conceived facility in Artesia to detain mothers and children and rush them through the deportation process. Since July, AILA members have responded to the urgent need for—indeed the complete lack of—legal representation at Artesia by travelling at their own expense to this remote facility. Even working 18-20 hours a day, seven days a week, volunteers have barely been able to meet the demand for legal help, serving as many detainees as humanly possible through the AILA Pro Bono Project (Project).

Based on hundreds of interviews with these detained families that our expert lawyers have conducted, AILA has concluded that Artesia is a due process failure and a humanitarian disaster that cannot be fixed and must be closed immediately. Attorneys with long histories of representing clients at remote detention facilities have described Artesia as not just the worst situation they have ever encountered, but something far worse than anything they could have imagined.

Moreover, we are deeply concerned about DHS's continued expansion of family detention—including a new facility in Karnes, Texas with at least 500 beds and a planned 2,400-bed facility in Dilley, Texas. Within months DHS will be detaining nearly 4,000 mothers and children, a forty-fold increase in the use of detention on immigrant families. If these facilities implement the same rapid deportation model as is used in Artesia, hundreds if not thousands of mothers and children who have suffered domestic violence, sexual assault, gang violence and other atrocities protected under U.S. asylum and humanitarian law will be unlawfully repatriated to their home countries. We urge you to stop this from happening.

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Stories abound of injustice at Artesia.

- An 11-year-old U.S. citizen boy was detained at Artesia for 35 days.
- A woman who had been beaten so severely by her partner in Guatemala that she suffered a miscarriage, was deported early one morning without her attorney's knowledge, before she could even finish drafting her declaration to support her case.
- A family of Seventh Day Adventists who had been shot by the gangs for refusing to stop evangelizing was arrested by Customs and Border Protection. The mother and child were sent to Artesia and were initially found not to have a credible fear of asylum. After they received legal counsel and requested reconsideration, an immigration judge rejected the asylum officer's negative finding and found her to have credible fear, allowing her to go forward with her asylum claim. She and the child were granted bond. The father, who was the leader of the church group, had suffered gunshot wounds and was detained in a separate facility. He was also found not to have a credible fear. DHS put him on a plane for deportation while he was still recovering from the wounds. With the intervention of his wife and child's lawyers, he was pulled off the plane and is waiting in detention for reconsideration.

While individuals within the agency, both on the ground and at headquarters, have made valiant efforts to try to resolve the many problems that have interfered with effective representation, the remoteness of the center and the lack of adequate and appropriate resources have conspired to make due process meaningless.

The Administration has publicly stated that detention and rapid deportation are intentionally designed to deter people from coming to the United States. Such aggressive deterrence policies are resulting in the wrongful deportation of legitimate asylum seekers and constitute a violation of U.S. law and U.S. obligations under international law.

Based on our Project attorneys' experience screening and representing mothers and children detained at Artesia, it is clear that most of them would likely qualify as refugees under U.S. law. The Project has opened nearly 300 cases at Artesia, representing more than 400 individual mothers and children. In early September, the first two Project cases to get all the way to the final hearing stage were granted asylum by an immigration judge. Both women experienced severe domestic violence.

But many legitimate asylum claims will never have a chance to be heard. Artesia detainees are subjected to "expedited removal" – the fastest removal procedure at our government's disposal, with little chance to raise an asylum claim. The detention and rapid deportation strategy being

executed at Artesia is even more draconian. The rate at which Artesia asylum officers find that detainees have a “credible fear” of persecution or torture – the first step in mounting an asylum claim in expedited removal – is much lower than the national average. From Artesia’s opening on June 27 through early August, the overall grant rate for credible fear determinations at Artesia was 37.8 percent whereas the national grant rate during the month of July was 62.7 percent.

Every day, AILA member attorneys see that the pressure to rush women and children through the deportation process is resulting in the denial of many legitimate asylum claims – both by asylum officers and by judges – without legal foundation. Officers interview families for their credible fear claims less than three days after their arrival, meaning most will receive no legal information or advice from legal counsel before presenting their cases. The speed with which officers are making credible fear decisions is also absurdly fast: 6.4 days on average.

Artesia mothers and children are not even given a fair chance to post bond. Detention officers and immigration judges are misapplying well-established criteria for release: public safety risk and flight risk. Women and children who pose no risk to anyone, who have family members to support them in the U.S., and even who have already been found to be bona fide asylum seekers remain detained at Artesia. In contravention of U.S. and international law, DHS has an across-the-board policy of denying bond or requiring an extremely high bond for these families. DHS attorneys file a pro-forma motion opposing bond in every case that asserts these women and their children constitute national security threats. The average bond amount set by immigration judges nationally is \$5,200;¹ at Artesia, bond is usually denied, and when it is granted, it is far above the national average – often prohibitively expensive between \$20,000 and \$30,000. The detention and bond scheme at Artesia is unprecedented and nothing short of unlawful.

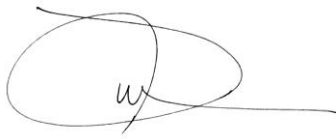
The continued detention of these families is mentally and physically damaging. Detention scars children’s physical and psychological development, exacerbates trauma experienced by those fleeing violence and persecution, and damages the family structure by stripping parents of their decision-making role, causing confusion and adding to the already extreme stresses of detention. AILA member volunteers see the effects that detention is having on these families. They describe children who are dehydrated, listless, cold and losing weight. Mothers also report degrading treatment by some of the guards – including being called “piggies” at mealtimes. One woman suffering from diarrhea had no choice but to defecate on herself in front of her son because the guard ignored her pleas to be allowed to go to the bathroom.

¹ "The bails of the 55,546 individuals released on bond in 2011 averaged \$5,162, according to statistics from the federal agency." <http://www.chron.com/news/houston-texas/article/Huge-rise-seen-in-ICE-cases-released-on-bail-3432655.php>

We ask you to oppose what the President is doing and urge him to close Artesia and to abandon the strategy of detaining and rapidly deporting families. Every individual facing deportation, regardless of where they came from, deserves basic fairness and humane treatment.

We would welcome the opportunity to meet with you to discuss these matters. Please contact Gregory Chen, Director of Advocacy, gchen@aila.org, 202-507-7615.

Sincerely,



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President



Crystal Williams
Executive Director



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