



**Written Statement of Grassroots Leadership Before the United States Commission on Civil Rights**

*Hearing on*

**The State of Civil Rights at Immigration Detention Facilities**

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Grassroots Leadership thanks the U.S. Commission on Civil Rights for hearing testimony on the important and timely topic of civil rights in immigration detention facilities.

Grassroots Leadership is a southern-based organization that advocates for policies to reduce reliance on incarceration and detention and limit the use of for-profit prisons, jails, and detention centers. For more than a decade, our organization's Austin, Texas office has studied the growth of the immigrant detention and incarceration systems, advocated for alternatives to detention, and coordinated visits to immigrants in detention centers and sites of immigrant incarceration in Texas and in other parts of the country.

The growth in the use of detention over the past two decades has led to a system of mass immigrant detention run largely for-profit and prone to abuse. In Texas, we have seen an explosive growth in the number of immigrant detention and incarceration sites since the early 2000s. It is not an exaggeration to say that nearly every new prison built in Texas between 2002 and today was designed with the expectation of winning a federal contract to detain or incarcerate a largely immigrant population through one of three federal agencies - the Immigration and Customs Enforcement division of the Department of Homeland Security, the U.S. Marshals Service, or the Federal Bureau of Prisons.

The recent dramatic expansion of mass family detention, including the detention of small children and their mothers in remote for-profit South Texas detention centers, highlights the many problems with our nation's detention system and should be of particular concern to us all.

### **Civil and Criminal Detention and Incarceration of Immigrants**

For the purposes of these hearings, we will largely limit our remarks to the conditions found amongst immigrants detained under the authority of Immigration and Customs Enforcement (ICE) and our experience with those facilities in Texas. However, it is worth noting that an entire system of criminal prosecution and incarceration of migrants runs concurrently to the civil immigration detention system operated by ICE. The policies of criminally prosecuting migrants have built a shadow detention system on top of our nation's already vast and troubled system of civil detention.

In fact, two criminal immigration charges are now the most prosecuted offenses in the federal court system. 8 U.S.C. § 1325, unlawful entry to the U.S., is a misdemeanor carrying a sentence of up to 180 days. 8 U.S.C. § 1326, unlawful reentry after deportation, is a felony charge

normally carrying a federal prison sentence of up to two years, but with aggravated circumstances the maximum may rise to 10 or 20 years.

The increase in numbers of criminal immigration cases started to become overwhelming in the mid-2000s with initiation of “Operation Streamline,” a policy that mandated the criminal prosecution of nearly all border-crossers along Southern border. The results have been stark. More than 53,000 people were criminally prosecuted for the misdemeanor unauthorized entry in 2013 up from just over 3,000 cases in 2002. Similarly, 37,440 migrants were charged with felony re-entry in 2013, up from only 9,337 in 2002. 33,938 of those individuals were sentenced to federal prison.<sup>1</sup>

Migrants funneled into the criminal system are generally detained in U.S. Marshals contracted facilities while awaiting their trials or when receiving short sentences, while migrants sentenced to federal prison for reentry are often sent to “Criminal Alien Requirement” or “CAR” contract facilities within the Bureau of Prisons. CAR facilities are privately operated prisons where immigrants are segregated from the U.S. citizen prisoners into prisons the ACLU described as rife with “shocking abuse and mistreatment” in its multi-year study of CAR contract facilities in Texas. That mistreatment included impediments to family contact, exclusion from rehabilitation programs, overt racist activity by private prison guards, and substandard medical care.

Responding to a shadow report by Grassroots Leadership and Justice Strategies, the United Nations Committee on Ending All Forms of Racial Discrimination called in 2014 for the U.S. to “ensure that the rights of non-citizens are fully guaranteed in law and practice” including, but not limited to, “abolishing ‘Operation Streamline’ and dealing with any breaches of immigration law through the civil, rather than the criminal immigration system.”<sup>2</sup>

### **Civil Detention the United States**

The civil detention system in the United States is marked by its scale and dramatic expansion. In the last 30 years, the number of people held in immigration detention centers has exploded from

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<sup>1</sup> "Shadow Report of Grassroots Leadership and Justice Strategies to The International Convention on the Elimination of All Forms of Racial Discrimination Regarding Criminal Prosecutions of Migrants for Immigration Offenses and Substandard Privately Operated Segregated Prisons," July 2014, [http://grassrootsleadership.org/sites/default/files/uploads/Streamline\\_CAR%20report%20CERD%20July%202014.pdf](http://grassrootsleadership.org/sites/default/files/uploads/Streamline_CAR%20report%20CERD%20July%202014.pdf).

<sup>2</sup> "Concluding observations on the combined seventh to ninth periodic reports of the United States of America," *United Nations International Convention on the Elimination of All Forms of Racial Discrimination*, September 2014, <http://www.state.gov/documents/organization/235644.pdf>.

an average daily population of just a few hundred in the early 1980s<sup>3</sup> to more than 33,000 individuals in FY 2013.<sup>4</sup>

Individuals in our nation's civil detention system include asylum-seekers, women with children, parents of U.S. citizen children, long-time legal permanent residents, and recently arriving migrants.

Since it was written into a 2007 appropriations bill, an immigration detention bed quota has required that ICE maintain a baseline of 34,000 immigration detention beds on any given day. No other law enforcement agency operates on such a quota system, which responds to neither the changes in federal immigration law nor the number of people crossing the border.<sup>5</sup>

While the bed quota should not dictate the number of immigrants in detention, in reality it helps drive the size of the detention system upwards. In Texas, advocates and attorneys have observed that ICE ensures maintenance of full detention facilities by arbitrarily increasing bond determinations. According to University of Texas law professor Barbara Hines, who has worked on many cases for women detained at the T. Don Hutto facility in Taylor, Texas, "Rather than base release decisions on individual circumstances and liberty interests, Immigration Customs and Enforcement (ICE) officials at the detention center set bonds for immigrant women to ensure compliance with the 34,000 detention quota. Bonds fluctuate drastically depending on the flow of immigrants in and out of the facility. When the facility is at capacity, ICE sets lower bonds; when the number of women entering the facility dips, ICE consistently sets higher bonds to meet the bed space requirement."<sup>6</sup>

The quota ties ICE's hands where it might otherwise exercise discretion to refrain from detention where it is unnecessary. In Barbara Hines' observation, "many of the immigrants caught up in the detention and deportation dragnet, who have lived for many years in the U.S. and who have significant family ties in this country, become numerical statistics that allow ICE to comply with

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<sup>3</sup> Jacob Fenton, Catherine Rentz, Stokely Baksh and Lisa Hill, "Map: The U.S. Immigration Detention Boom," *PBS/ Frontline*, October 20, 2011.

<sup>4</sup> Immigration and Customs Enforcement, *FY2013 YTD Average Daily Population (ADP) by Detention Facility*, April 21, 2013, <http://www.ice.gov/doclib/foia/dfs/detaineeoppytd2013.pdf>.

<sup>5</sup> Detention Watch Network, "End The Quota Narrative," February 2014, <http://www.detentionwatchnetwork.org/EndTheQuotaNarrative>.

<sup>6</sup> Barbara Hines, "Congress Should End Immigrant Detention Quotas," *Huffington Post*, June 9, 2013, [http://www.huffingtonpost.com/barbara-hines/congress-should-end-immig\\_b\\_5120131.html](http://www.huffingtonpost.com/barbara-hines/congress-should-end-immig_b_5120131.html).

the mandate.”<sup>7</sup> This arbitrary nature of the detention quota prevents ICE from exercising its discretion more fully to prevent hardship and injustices committed against immigrant families through detention.

Immigrants are not guaranteed counsel in immigration court and therefore more than 80 percent of immigrants in detention represent themselves during their proceedings.<sup>8</sup> Reports indicate that a detained person is three times more likely to avoid deportation when represented in court by an attorney.<sup>9</sup>

### **The Detention System: Remote and Largely Privatized**

In addition to being unrepresented by counsel, immigrants in civil detention are held in roughly 200 different facilities, many of which are in remote and rural locations, often far from adequate social and legal support. The result is that detention is often an isolating and sometimes dangerous experience.

In addition, the detention system is increasingly operated by a handful of for-profit private prison corporations. These corporations exert tremendous influence in the development and operation of the detention system. Just two private prison corporations – the GEO Group and Corrections Corporation of America – operate eight of the ten largest civil detention centers in the United States. Nearly 60 percent<sup>10</sup> of all immigration detention beds in the United States are now operated by for-profit prison corporations up from 49 percent in 2009.<sup>11</sup>

Further obscuring responsibility for contracts and liability is the fact that the vast majority of facilities are operated through intergovernmental service agreements (IGSAs) between the federal government and local counties or cities. These IGSAs can lead to a lack of transparency in the contracting process and a lack of accountability when violations of rights occur.

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<sup>7</sup> Barbara Hines, “Congress Should End Immigrant Detention Quotas,” *Huffington Post*, June 9, 2013, [http://www.huffingtonpost.com/barbara-hines/congress-should-end-immig\\_b\\_5120131.html](http://www.huffingtonpost.com/barbara-hines/congress-should-end-immig_b_5120131.html).

<sup>8</sup> American Bar Association, “Legal representation needed to fill justice gap, says immigration panel,” August 10, 2014, [http://www.americanbar.org/news/abanews/aba-news-archives/2014/08/representation\\_isla.html](http://www.americanbar.org/news/abanews/aba-news-archives/2014/08/representation_isla.html).

<sup>9</sup> “Immigrants represented by attorneys far more likely to win deportation cases, Stanford law clinic study finds,” *Stanford Report*, November 6, 2014.

<sup>10</sup> Immigration and Customs Enforcement. ERO Custody Management Division. List of facilities analyzed by Grassroots Leadership from document titled “DMCP Authorized Facilities.” October 6, 2014.

<sup>11</sup> Detention Watch Network, “The Influence of the Private Prison Industry in Immigration Detention,” 2011. <http://www.detentionwatchnetwork.org/privateprisons>.

In the case of the new family detention center in Dilley, Texas, ICE has expanded an existing intergovernmental service agreement with Eloy, Arizona which then subcontracts with Correction Corporation of America, despite the fact that Eloy is more than 900 miles away from the detention center and that city officials never visited the facility before it opened in December. ICE contracted with Eloy to oversee the contract for the Dilley detention center — which upon full build out will be the nation’s largest immigrant detention center — despite the fact that the CCA facility in Eloy has had the most deaths of detained people of any facility since the creation of the Department of Homeland Security.<sup>12</sup>

Because so much of the detained population is housed in facilities operated by a relatively small number of private prison corporations, the ability of ICE to cancel contracts with said companies is limited. Even when faced with multiple cases of abuse that have led to criminal prosecution of detention center staff, the agency has been reluctant or unable to cut contracts with bad actors.

One reason may be that since 2003, private prison corporations CCA and the GEO Group have combined to spend more than \$32 million lobbying the federal government, including direct lobbying of the Department of Homeland Security, the agency responsible for contracts to detain immigrants.<sup>13</sup>

In reality, private prison corporations are involved in all stages of the development of the detention system. In 2011, ICE announced plans announced to open a new “civil” detention center in Karnes County, Texas. ICE claimed the facility would be a model for the future of what it was calling a “truly civil” detention system. Grassroots Leadership and other civil rights and faith organizations expressed concern about expanding detention for those in the lowest custody level of detention. We were invited to a stakeholder meeting hosted at the ICE office in San Antonio and expected to have a frank conversation about our concerns about the facility, including that it would be operated by GEO Group, a company that experienced several egregious scandals in recent years. Instead, ICE officials spoke for only a few minutes before

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<sup>12</sup> Jon Burnett, “How Will A Small Town In Arizona Manage An ICE Facility In Texas?” *NPR News*, October 28, 2014, <http://www.npr.org/2014/10/28/359411980/how-will-a-small-town-in-arizona-manage-an-ice-facility-in-texas>.

<sup>13</sup> Data compiled from lobbyist disclosure forms maintained at the website of the Senate Office of Public Records indicates that Corrections Corporation of America has spent more than \$29 million lobbying since 2003 while the GEO Group has spent at least \$3.6 million since 2003 in the same period. These figures do not include lobbying expenditures by the company’s GEO Group’s subsidiaries, including BI Incorporated, which also has substantial contracts with the Department of Homeland Security. <http://soprweb.senate.gov/index.cfm?event=processSearchCriteria>.

turning the meeting over to GEO Group executives to explain what the new model of the civil detention system would look like.

This hyper-reliance on private prisons is of particular concern when the detained population is made up largely of vulnerable populations, including asylum-seekers, women with children, LGBT individuals, and immigrants unrepresented by lawyers. Private prison corporations rely on a model that cuts salaries and benefits to employees. That, combined with the rural locations of many detention centers can lead to high staff turnover rates and volatile prison conditions. While we are aware of no systemic study of staffing rates at ICE-contracted facilities, the state of Texas did its own study of Texas-contracted private prisons in 2008. According to the Senate Committee on Criminal Justice report to the Texas legislature, “During FY 2008 the correctional officer turnover rate at the seven private prisons was 90 percent (60 percent for the five privately-operated state jails), which in either case is higher than the 24 percent turnover rate for [state] correctional officers during FY 2008.” Higher turnover rate can lead to understaffing, which is a risk factor that can cause higher rates of abuse and misconduct. When facilities have fewer experienced staff members and a lower staff to prisoner ratio, less effective oversight and monitoring of both staff and detained people can result.<sup>14</sup>

### **Conditions in Immigrant Detention Centers in Texas**

A prime example is the Polk County Secure Adult Detention Facility, a 1,054-bed medium-security prison in Livingston, Texas. Built in 2005, the all-male detention center is owned by Polk County and operated by private prison corporation Community Education Centers (CEC). During a 2012 tour of the facility, detained men reported to Grassroots Leadership that the conditions at the facility included inadequate medical care, poor nutrition, lack of access to legal services, and an absence of any meaningful programming. At the time of Grassroots Leadership’s tour of the facility, men were kept in cramped dormitories, and granted only up to three hours of recreation outside of these dorms, which means that they ate, slept, used the bathroom and shower, and spent their daytime hours confined to their cells with eight other men for up to 21-23 hours of the day. Men reported a complete lack of privacy in toilet facilities and of being ashamed of having to drink out of a water fountain directly above the toilets. One man who had been detained for three months at the time he was interviewed summed up common sentiments: “There should be better treatment, better food. There is no fresh air. This is torture here.” At the time of the tour, the CEC warden told Grassroots Leadership staff that the Polk facility did not

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<sup>14</sup> The Private Corrections Institute, Inc., “Policy Brief: Prisoner Rape and Sexual Abuse in Private Prisons,” May 2012, [http://www.privateci.org/private\\_pics/PCI%20sexual%20misconduct%20brief.pdf](http://www.privateci.org/private_pics/PCI%20sexual%20misconduct%20brief.pdf).

comply with either the most current 2011 ICE Performance-Based National Detention Standards (PBNDS), nor had it fully implemented the 2008 standards.<sup>15</sup>

At the Joe Corley Detention Facility, another for-profit prison in Conroe, Texas run by the GEO Group, 120 detained men participated in a hunger strike in March 2014 protesting overcrowding and treatment by guards, who they allege are disrespectful and verbally abusive. They also called for better food, affordable prices at the commissary, and reasonable phone rates. David Vasquez, one of the men who helped to start the strike, reported being placed in isolation in retaliation for organizing his fellow prisoners.<sup>16</sup>

### **Sexual Abuse in Immigrant Detention Center in Texas**

Immigration detention centers in Texas have been home to several high-profile cases of sexual assault in recent years. The T. Don Hutto Residential Center in Taylor, Texas is an immigrant detention facility operated by private prison company Corrections Corporation of America. The facility is the nation's only exclusively female detention center, detaining a population that largely includes asylum seekers, many of whom have faced sexual violence and persecution in their countries of origin. In August 2010, Donald Dunn, a guard at Hutto, was arrested and charged with three counts of official oppression and two counts of unlawful restraint for sexually assaulting multiple detained women who were being driven to Austin-Bergstrom International Airport. The women say they were taken to gas stations on the way to the airport where they were unlawfully restrained and assaulted. One woman said she feared for her life if she did not comply. ICE subsequently ordered the prison contractor to stop allowing male guards to be alone with female detainees.<sup>17</sup>

This was not the first time that allegations of sexual assault had emerged at Hutto. In May 2007, a CCA guard was fired from the facility, then a family detention center, for sneaking into a family's cell during the night and having sexual contact with a woman while her son slept in the cell. The guard was never prosecuted because ICE claimed the sexual contact was consensual, and provisions against sexual contact between federal agents and detainees had not been extended to Department of Homeland Security. (This was later remedied through statute change

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<sup>15</sup> Detention Watch Network, "Expose and Close: the Polk County Detention Facility, Texas," November, 2012, <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/expose-polknov12.pdf>.

<sup>16</sup> Priscilla Mosqueda, "Immigrants Launch Hunger Strike in Texas Detention Center," *Texas Observer*, March 18, 2014, <http://www.texasobserver.org/immigrants-launch-hunger-strike-texas-detention-center/>.

<sup>17</sup> Statesman, "Former Worker Charged in sexual assaults of detainees," August 2010, <http://www.statesman.com/news/news/local/former-worker-charged-in-sexual-assaults-of-detain/nRw9h/>.

later in 2007).<sup>18</sup> Despite multiple incidents of sexual assault by CCA guards and the vulnerable population held at the facility, ICE has never, to our knowledge, seriously considered ending its contract with Hutto, let alone ending its relationship with CCA altogether.

Sexual assault allegations have also surfaced at the GEO Group operated Karnes County Residential Center near San Antonio, Texas. The facility began detaining families this past summer and now holds more than 500 women and children before they are either granted asylum or deported. According to attorneys and rights groups, women have made “serious allegations of substantial, ongoing sexual abuse” such as male guards removing them from their cells late at night or early in the morning to engage in sexual acts. Some women also say guards kissed, groped, and fondled them in front of their children and requested sexual favors in exchange for money or help with their pending immigration cases. Attorneys from rights groups such as MALDEF say that the Karnes facility violates the Prison Rape Elimination Act of 2003.<sup>19</sup>

At another GEO-run facility, the South Texas Detention Complex in Pearsall, Texas in September 2014, Juan Aguilar, a kitchen worker, was found guilty of sexual abuse of an inmate. During the trial, Aguilar admitted to performing a sexual act in February 2014 with a male inmate in a freezer in the kitchen area.<sup>20</sup> This was not the first time the facility in Pearsall had been home to sexual assault allegations. In 2008, San Antonio media outlets reported widespread sexual abuse at the facility. A guard was fired from the facility, but no prosecutions took place.<sup>21</sup>

At yet another detention center in Texas, a guard at the Port Isabel Detention Center in Los Fresnos, Texas was discovered to have sexually assaulted prisoners. In September 2009 Robert Luis Loya pleaded guilty to three counts of abusive sexual contact and three counts deprivation

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<sup>18</sup> Human Rights Watch, “Detained and at Risk: Sexual Abuse and Harassment in U.S. Immigrant Detention,” August 2010, <http://www.hrw.org/sites/default/files/reports/us0810webwcover.pdf>.

<sup>19</sup> Melisa Taylor, “Immigrant women allege sexual abuse at detention center,” *Al Jazeera America*, October 9, 2014, <http://america.aljazeera.com/articles/2014/10/9/family-detentioncenterabuse.html>.

<sup>20</sup> Guillermo Contreras, “Ex-jail worker guilty in inmate sex abuse trial,” *San Antonio Express-News*, September, 17, 2014, <http://www.mysanantonio.com/news/local/article/Ex-jail-worker-guilty-in-inmate-sex-abuse-trial-5762538.php>.

<sup>21</sup> Human Rights Watch, “Detained and at Risk: Sexual Abuse and Harassment in U.S. Immigrant Detention,” August 2010, <http://www.hrw.org/sites/default/files/reports/us0810webwcover.pdf>.

of rights under color of law for sneaking into medical isolation rooms at night to grope female patients.<sup>22</sup>

In 2010, sexual assault allegations surfaced against women detained at the Willacy Detention Center, a facility operated by Management and Training Corporation in Raymondville, Texas and known as “tent city” because the facility is constructed out of a series of Kevlar pods. ICE investigated the incident, and eventually cancelled its contract for the facility in 2011. However, only a month later, the Federal Bureau of Prisons awarded a new contract worth \$532 million to MTC to incarcerate immigrants sentenced to federal prison at Willacy as one of the agency’s “CAR” facilities.<sup>23</sup>

## **Family Detention**

Grassroots Leadership has serious concerns about the dramatic expansion of the detention of immigrant families - including small children and infants - at a pair of remote detention centers in South Texas. Since June, the number of family detention beds has soared from under 100 at a small facility in Pennsylvania to an expected capacity of more than 3,000 by May.

ICE’s history of detaining children with their families has been troubled at best. Between 2006 and 2009, Immigration and Customs Enforcement detained asylum-seeking families at the T. Don Hutto detention center in Taylor, Texas. Hutto was a former medium-security prison for men operated by the Corrections Corporation of America. The facility immediately drew widespread criticism after attorneys and detained families reported children in prison-like conditions including being held behind razor wire, prison-like cell counts multiple times a day, and small children wearing prison scrubs.<sup>24</sup> In May 2007, as referenced above, a CCA guard was fired from the facility for sneaking into a family’s cell and having sexual contact with a woman during the night while her son slept in the cell.<sup>25</sup>

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<sup>22</sup> Office of Public Affairs, U.S. Department of Justice, “Detention Officer Sentenced for Repeated Sexual Abuse of Detainees,” April 7, 2010, <http://www.justice.gov/opa/pr/detention-officer-sentenced-repeated-sexual-abuse-detainees>.

<sup>23</sup> ACLU, “Warehoused and Forgotten: Immigrants Trapped in Our Shadow Private Prison System,” June 2014, <https://www.aclu.org/sites/default/files/assets/060614-aclu-car-reportonline.pdf>.

<sup>24</sup> Justice Strategies and Grassroots Leadership, “For-Profit Family Detention: Meet the Private Prison Corporations Making Millions by Locking Up Refugee Families,” October 2014, <http://grassrootsleadership.org/reports/profit-family-detention-meet-private-prison-corporations-making-millions-locking-refugee#7>.

<sup>25</sup> Human Rights Watch, “Detained and at Risk: Sexual Abuse and Harassment in U.S. Immigrant Detention,” August 2010, <http://www.hrw.org/sites/default/files/reports/us0810webwcover.pdf>.

In 2009, amid intense public outcry and in the wake of litigation bettering conditions at Hutto, the Obama administration ended family detention at the facility and announced that new plans for family detention facilities would be scrapped. Only 96 family detention beds remained at a small facility in Berks County, Pennsylvania.<sup>26</sup> It appeared as if this troubling chapter in family detention was over.

However, as Central American refugees made headlines across the U.S. this summer, Immigration and Customs Enforcement set up 1,200 family detention beds and cribs in two locations — one at a government-operated law enforcement training center in Artesia, New Mexico and one at a converted men’s detention center in Karnes City, Texas. In September, ICE announced that it would be opening a massive 2,400-bed family detention facility in Dilley, Texas — to be run by CCA, the same company that had operated Hutto.<sup>27</sup>

Currently, nearly 600 families are detained at the Karnes County Residential Center. This facility is operated by GEO Group under an intergovernmental service agreement with Karnes County. The Karnes County Commission voted last month to allow GEO Group to double the size of the family detention facility to 1,200 beds.<sup>28</sup>

After the closure of Artesia in December, some families were moved to the new family detention center in Dilley, Texas. The Dilley facility is under also construction with an anticipated total capacity of 2,400 by May.<sup>29</sup> As noted earlier, the Dilley detention center also operates through an intergovernmental service agreement, though with Eloy, Arizona. Despite being legally responsible for the operations of the facility, Eloy is more than 900 miles from the site of the detention center and city officials never visited the facility before it opened in December.<sup>30</sup>

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<sup>26</sup> “Family Detention 101,” Detention Watch Network, July 15, 2014, [http://theadvocatesforhumanrights.org/uploads/family\\_detention\\_backgrounder.pdf](http://theadvocatesforhumanrights.org/uploads/family_detention_backgrounder.pdf).

<sup>27</sup> Carl Takei, “Border Crisis Prompting New Xenophobic Drumbeat for an Old Disgrace—Detention Camps,” *National Journal*, August 6, 2014, <http://www.nationaljournal.com/next-america/perspectives/border-crisis-prompting-new-xenophobic-drumbeat-for-an-old-disgrace-detention-camps-20140806>.

<sup>28</sup> Jessie Degollado, “Karnes County approves family detention expansion,” *KSAT*, December 16, 2014, <http://www.ksat.com/content/pns/ksat/news/2014/12/16/karnes-county-approves-family-detention-center-expansion.html>.

<sup>29</sup> Will Weissert, “Texas immigration family lockup will be nation’s largest,” *The Associated Press*, December 15, 2014, <http://www.thestate.com/2014/12/15/3875832/texas-immigration-family-lockup.html>.

<sup>30</sup> Jon Burnett, “How Will A Small Town In Arizona Manage An ICE Facility In Texas?” *NPR News*, October 28, 2014. <http://www.npr.org/2014/10/28/359411980/how-will-a-small-town-in-arizona-manage-an-ice-facility-in-texas>.

## **Prolonged Family Detention & the “Mommy Penalty”**

Even after families at Karnes have passed their credible fear interviews, the first step towards seeking asylum in the United States, ICE has maintained that women and their children should not be released under any circumstances for the entirety of their cases. DHS officials have gone so far as to invoke a national security clause in the instance of mass migration and a policy designed to send a deterrence message to other asylum-seeking families. According to Barbara Hines, co-director of the Immigration Clinic at the University of Texas at Austin School of Law, keeping “mothers and children detained is the most extreme position the government could take.”<sup>31</sup> Adult men or women without children who have passed their credible fear interviews are typically given bond, and attorneys have dubbed the denial of bond to immigrant families as the “mommy penalty.”

There is perhaps no case as extreme as that of Sara and Nayaly Beltrán, which came to Grassroots Leadership’s attention less than a month after the conversion of Karnes into a family detention center. Sara and her seven-year-old daughter Nayely had fled violence in El Salvador. The family had already passed their credible fear interview, the first hurdle in the process of seeking asylum. Nayely, the seven year old, had also been battling brain cancer and had not been receiving treatment for her condition while detained at Karnes. Three U.S. medical doctors wrote to ICE expressing concern that Nayely’s life was in danger and that she was in need of immediate treatment for her malignant brain tumor. Still, immigration authorities kept the family locked up at Karnes until Texas United For Families began a grassroots campaign to free the family and the media became involved.<sup>32</sup>

## **Conditions in Family Detention**

Already, many of the problems seen at Hutto have reemerged at the Karnes facility.

On September 16th, 2014, Grassroots Leadership joined other NGOs on a tour of the Karnes County facility and spoke with more than a dozen women detained at the facility. All of the women detained complained that their children were losing weight at the facility due to stress and a lack of adequate nutrition. Furthermore, women complained of threats that they would be separated from their children or put in prison if they did not sign their deportation papers and that

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<sup>31</sup> Interview in “No Sanctuary: Big Business and Family Detention” a film available through Grassroots Leadership.

<sup>32</sup>Justice Strategies and Grassroots Leadership, “For-Profit Family Detention: Meet the Private Prison Corporations Making Millions by Locking Up Refugee Families,” October 2014, <http://grassrootsleadership.org/reports/profit-family-detention-meet-private-prison-corporations-making-millions-locking-refugee>.

ICE officials would physically force them to put their fingerprints on deportation papers against their will.

On September 25th, 2014, Grassroots Leadership joined a complaint to the Department of Homeland Security's Office of Civil Rights and Civil Liberties along with attorneys from the University of Texas Law School, MALDEF, Human Rights First, and other organizations on behalf of women at Karnes. Amongst other issues, the complaint identified inadequate access to food for children; unreasonable restrictions on the movement of infants, including disallowing infants from crawling; a high number of male guards, a particular concern given that many of the women detained at Karnes have experience sexual violence and the history of sexual abuse in ICE and GEO facilities; threats of punishment against women and children at the facility, including threat of separation from children if a mother is "written up" too many times; and inadequate mental health and medical care at the facility.<sup>33</sup> No meaningful response to this complaint has been received to date and a receipt of the complaint was not acknowledged until December 17th.<sup>34</sup>

On September 30th, 2014, MALDEF and other attorneys filed a complaint alleging ongoing sexual abuse of detained women by guards employed at Karnes. Numerous women reported to attorneys that guards would remove them from their cells late at night and request sexual favors from detained women in return for money, help with their immigration case, or shelter once released from detention.<sup>35</sup>

These disturbing reports come at a high price for the children and women detained at Hutto. They also come at a high price to U.S. taxpayers. Media reports have indicated that the Dilley detention center will cost \$296 per individual per day for every child or mother detained at the facility.<sup>36</sup>

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<sup>33</sup> Complaints Regarding Conditions at Karnes County Residential Center, September 23, 2014, Found online at [http://www.maldef.org/assets/pdf/2014-09-25\\_ICE\\_Letter\\_re\\_Karnes\\_Conditions.pdf](http://www.maldef.org/assets/pdf/2014-09-25_ICE_Letter_re_Karnes_Conditions.pdf).

<sup>34</sup> Correspondence from the Department of Homeland Security's Office of Civil Rights and Civil Liberties to Ranjana Natarajan, Clinical Professor at the University of Texas School of Law, re: Complaint No. 14-12-ICE-0455, December 17, 2014.

<sup>35</sup> Complaints Regarding Sexual Abuse at Karnes County Residential Center, September 30, 2014, [http://www.maldef.org/assets/pdf/2014-09-30\\_Karnes\\_PREA\\_Letter\\_Complaint.pdf](http://www.maldef.org/assets/pdf/2014-09-30_Karnes_PREA_Letter_Complaint.pdf).

<sup>36</sup> Julia Preston, "Detention Center Presented as Deterrent to Border Crossings," *New York Times*, December 15, 2014. <http://www.nytimes.com/2014/12/16/us/homeland-security-chief-opens-largest-immigration-detention-center-in-us.html>

## **Recommendations**

- 1) Congress and the administration should prioritize policies that would significantly reduce the use of immigration detention and expand the use of non-punitive community supported alternative to detention programs. Congress should eliminate the immigration detention bed quota from its appropriations request.
- 2) ICE should end the practice of detaining immigrant children and their families, instead opting for policies that keep immigrant families together and out of detention while they pursue their asylum claims in immigration courts. ICE should immediately end its no bond policy for immigrant families, and should end contracts with private prison corporations GEO Group and Corrections Corporation of America to detain families at the Karnes County and Dilley family detention facilities.
- 3) ICE should reduce reliance on for-profit prison contractors. Congress should increase oversight within the contracting system and launch a system-wide review of the contracted prisons and intergovernmental service agreements. ICE should end contracts at facilities with a record of abuse and penalize contractors found to have multiple incidents of abuse or mismanagement in their facilities.