

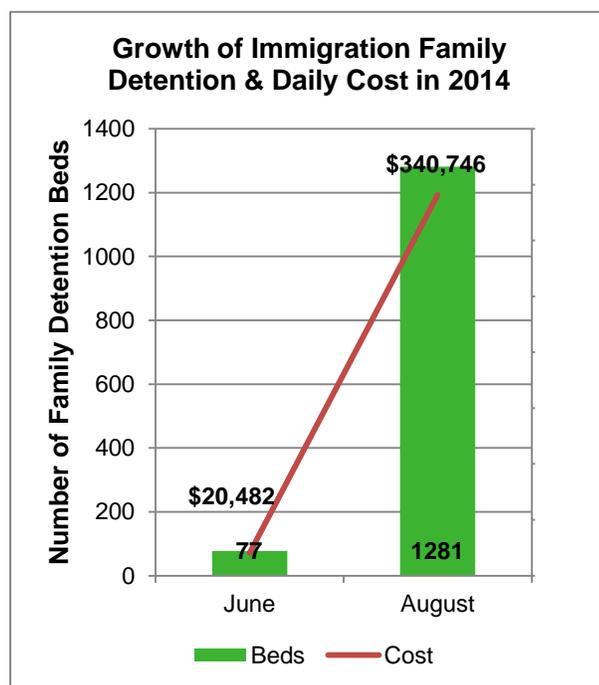
## **Costly Family Detention Denies Justice to Mothers and Children** *August 2014*

*In response to the influx of mothers and children fleeing violence in Central America, the Department of Homeland Security (DHS) has exponentially grown its family detention system at the expense of due process, taxpayer dollars, and the wellbeing of refugee families. Meanwhile, Congress is considering legislation to expand family detention. As a leading legal service provider for thousands of immigrant women and children, Heartland Alliance's National Immigrant Justice Center (NIJC) is committed to upholding protections for families and ending family detention.*

### **Background**

For decades, refugees have sought safety in the U.S. Recent rampant violence in El Salvador, Guatemala, and Honduras has prompted a substantial number of mothers and children to seek refuge in the U.S. Central America is one of the most violent regions in the world;<sup>1</sup> violence against women and girls is of particular concern. In 2011, El Salvador had the highest rate of gender-motivated killing of women in the world, followed by Guatemala (third highest) and Honduras (sixth highest).<sup>2</sup>

In response to this latest influx of refugees, DHS significantly expanded detention of women and children from approximately 80 detention beds to more than 1,200 beds across three states over two months (See Fig. 1). At the Artesia Detention Facility in New Mexico, **the median age of detainees is six years old.**<sup>3</sup> Families are subjected to an alarmingly swift expedited removal process. According to DHS Secretary Jeh Johnson, new detention facilities were built to quickly deport people and deter future migrants.<sup>4</sup> Reports show that the denial of due process is widespread and mothers and their children are in danger of being deported into potentially life-threatening situations.<sup>5</sup>



### **Detention is inappropriate for mothers and children because:**

#### **1. Family detention has negative physical and mental health effects.**

- Detention re-traumatizes children and mothers who are victims of violence.
- Children are particularly vulnerable. Children detained at Artesia experienced weight loss, gastrointestinal problems, and suicidal thoughts.<sup>6</sup> Regardless of the amount of time they are detained, children can suffer psychological trauma and subsequent mental health issues.<sup>7</sup>
- The longer families are detained, the more likely family relationships are to break down.<sup>8</sup> Given the restrictions and disciplinary rules within a detention facility, the limited authority retained by mothers weakens their parenting skills.

#### **2. Family detention impedes due process.**

- Frequently, these detention centers are located in remote locations, making it difficult for families to access legal services.
- Attorneys have limited access to detained families to help prepare their cases and are denied opportunities to speak on behalf of their clients during hearings.

- Most mothers detained with their children are subject to rushed hearings through the expedited removal procedures that prioritize speed of removal over due process.

### 3. Asylum claims are harder to prove in family detention.

- According to a senior Immigration and Customs Enforcement (ICE) official, the goal is to deport families within 10 to 15 days.<sup>9</sup> Consequently, DHS created a results-oriented expedited removal system that robs detained families of fair and meaningful opportunities to pursue asylum.
- To proceed with the asylum process, families must pass a screening process known as the “credible fear interview” (CFI). DHS uses CFIs to gather information to evaluate whether individuals have a fear of return that could qualify them for asylum in the United States. Interview conditions, in which children are often present, can discourage mothers from sharing painful details of their experiences. Mothers have also reported that asylum officers rushed their interview, and requested short answers.<sup>10</sup>
- Mothers and children are subject to a higher credible fear standard than other asylum seekers.<sup>11</sup> The credible fear screen-in rate for Artesia families is 37.8 percent<sup>12</sup> compared to the nationwide average credible fear screen-in rate of 62.7 percent.<sup>13</sup>

### Policy Recommendations

- **End the use of family detention.** The U.S. government essentially eliminated family detention in 2009 after a lawsuit challenged conditions.<sup>14</sup> Warehousing vulnerable mothers and children in remote facilities is inhumane and wastes taxpayer dollars.
- **Expand the use of ATDs**, such as orders of supervision, community-based alternatives, and secure ankle bracelets, which are more humane and cost-effective. ATDs cost 70 cents to \$17 per day<sup>15</sup> compared to \$266 per day in family detention.<sup>16</sup>
- **Government-appointed counsel for all.** Individuals in detention particularly struggle to find counsel and navigate the complex immigration system. Access to legal counsel generates efficiencies for immigration courts by making sure that individuals understand the process and their rights. This ensures that individual’s protection concerns receive adequate consideration.<sup>17</sup>

<sup>1</sup> Chavez, S. & Avalos, J., “The Northern Triangle: The Countries That Don’t Cry for Their Dead,” *InSight Crime – Organized Crime in the Americas*, 24 Apr. 2014, <http://www.insightcrime.org/news-analysis/the-northern-triangle-the-countries-that-dont-cry-for-their-dead>.

<sup>2</sup> Geneva Declaration on Armed Violence and Development, *Global Burden of Armed Violence 2011*, Oct. 2011, [http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011\\_CH4\\_rev.pdf](http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011_CH4_rev.pdf).

<sup>3</sup> *M.S.P.C. v. Johnson*, District of Columbia, 22 Aug. 2014, [https://www.aclu.org/sites/default/files/assets/filed\\_complaint\\_1.pdf](https://www.aclu.org/sites/default/files/assets/filed_complaint_1.pdf).

<sup>4</sup> *Hearing on the Review of the President’s Emergency Supplemental Request for Unaccompanied Children and Related Matters, Before the S. Comm. On Appropriations*, 10 Jul. 2014, <http://www.appropriations.senate.gov/webcast/full-committee-hearing-president%E2%80%99s-emergency-supplemental-request>.

<sup>5</sup> *M.S.P.C. v. Johnson*, 2014.

<sup>6</sup> Rappleye, H. & L. Riordan Seville, “Flood of Immigrant Families at Border Revives Dormant Detention Program,” *NBC News*, 25 Jul. 2014, <http://www.nbcnews.com/storyline/immigration-border-crisis/flood-immigrant-families-border-revives-dormant-detention-program-n164461>.

<sup>7</sup> International Detention Coalition, *Captured Childhood*, 2012, [http://idcoalition.org/wp-content/uploads/2012/03/Captured\\_Childhood-report.pdf](http://idcoalition.org/wp-content/uploads/2012/03/Captured_Childhood-report.pdf), p. 49.

<sup>8</sup> Pinnix, J. “AILA and Other Organizations Call for Ending Family Detention,” Allen, Pinnix & Nichols, P.A., 16 Jul. 2014, <http://immigration-naturalization-law.com/immigration-news/family-detention>.

<sup>9</sup> *M.S.P.C. v. Johnson*, 2014.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> U.S. Citizenship and Immigration Services (USCIS) Stakeholder Meeting, 12 Aug. 2014.

<sup>14</sup> ACLU, “DHS Plans to Improve Immigration Detention and Close Hutto Facility a Good First Step,” 6 Aug. 2009, <https://www.aclu.org/immigrants-rights/dhs-plan-improve-immigration-detention-and-close-hutto-facility-good-first-step>.

<sup>15</sup> National Immigration Forum, *Math of Immigration Detention*, Aug. 2013, [www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf](http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf).

<sup>16</sup> *M.S.P.C. v. Johnson*, 2014.

<sup>17</sup> Montgomery, J., *Cost of Counsel in Immigration: Economic Analysis of Proposal Providing Public Counsel to Indigent Persons Subject to Immigration Removal Proceedings*, NERA Economic Consulting, May 2014, [http://www.nera.com/nera-files/NERA\\_Immigration\\_Report\\_5.28.2014.pdf](http://www.nera.com/nera-files/NERA_Immigration_Report_5.28.2014.pdf).