September 25, 2014

President Barack Obama The White House 1600 Pennsylvania Avenue NW Washington, DC 20500

Re: NGOs united in opposition to family detention in Dilley, Karnes, and Artesia

Dear Mr. President:

We, the undersigned 168 immigrants' rights, faith-based, civil rights, human rights, antiviolence, and criminal justice reform organizations and legal service providers, are deeply dismayed to learn that your administration intends to open a new family detention facility in Dilley, Texas, dramatically expanding the warehousing of vulnerable mothers and children fleeing Central America to seek safety in the United States. This population includes young children forcibly displaced by the same chronic and acute violence described by the United Nations High Commissioner for Refugees in a 2014 report, as well as their mothers, many of whom were victims of violence by intimate partners or criminal armed actors in their home countries. Many of these families experienced further violence, including kidnapping and rape, during their journey to find safety in the United States.

Family detention is wrong. In 2009, your administration wisely decided to stop detaining families at the T. Don Hutto Detention Center in Taylor, Texas, following years of litigation and other advocacy on the deplorable conditions of confinement and treatment of children at that facility. In summer 2014, unfortunately, you decided to return to the failed practice of family detention at facilities in Artesia, New Mexico, and Karnes County, Texas, together holding a total of more than 1,000 vulnerable mothers and children. On September 23, U.S. Immigration and Customs Enforcement announced plans to open a massive 2,400-bed family detention facility in Dilley to be run by a private prison company at substantial cost. We urge you to reverse course immediately by closing Artesia and Karnes and cancelling plans to build in Dilley.

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¹ U.N. High Commissioner for Refugees [UNHCR], *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection* (March 2014), *available at* http://www.unhcrwashington.org/sites/default/files/UAC_UNHCR_Children%20on%20the%20Run_Full%20Report.pdf.

² U.S. Immigration and Customs Enforcement, "ICE to open additional facility in South Texas to house adults with children," Sep. 22, 2014, *available at* http://www.ice.gov/news/releases/1409/140922dilley.htm. Forrest Wilder, *Feds Set to Open Massive New Family Detention Center in November*, Texas Observer, Sep. 23, 2014, *available at* http://www.texasobserver.org/feds-set-open-massive-new-family-detention-center-november/.

In the meantime, we also urge you to instruct DHS to eliminate its widely reported no-bond policy for families held in detention.³ There is no evidence that detention deters unauthorized migration. More importantly, imposing mandatory detention on women and children who have established a credible fear of persecution in order to deter other families from seeking asylum in the United States is an egregious misuse of the government's detention authority, and violates the essence of due process.

The problems with family detention are numerous.

1. Family detention inhibits access to fair hearings.

Immigration detention, particularly in remote locations, creates serious barriers to due process by making it very difficult to identify and work with legal counsel – especially for detained individuals with limited funds – and to build cases for asylum or other legal relief. Several studies have documented the impact of counsel on the outcome of cases for asylum seekers and other immigrants – including a shocking 3 percent success rate for detained, unrepresented immigrants. The Legal Orientation Program, while important to provide basic legal information to detained individuals, is not a substitute for legal counsel, and even these basic presentations were not made available for many weeks at Artesia and Karnes. Furthermore, court hearings by

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³ John Stanton, *Government Declares Undocumented Immigration Child, Mother, A 'National Security Threat'*, Buzzfeed, Aug. 5, 2014, *available at* http://www.buzzfeed.com/johnstanton/government-declares-undocumented-immigrant-child-mother-a-na#4bkg6uf; Julia Preston, *In Remote Detention Center, a Battle on Fast Deportations*, New York Times, Sep. 5, 2014, *available at* http://www.nytimes.com/2014/09/06/us/in-remote-detention-center-a-battle-on-fast-deportations.html?smid=tw-share&r=0.

⁴ The New York Study Group on Immigrant Representation reported that only 3 percent of detained, unrepresented immigrants apprehended in New York or with cases heard in the New York immigration court reach a successful outcome in their cases (defined as legal relief or case termination). 13 percent of unrepresented non-detained immigrants reach a successful outcome in their cases. The number jumps to 74 percent when the non-detained immigrant is represented. *See* Steering Committee of the New York Immigrant Representation Study Report, "Accessing Justice I: The Availability and Adequacy of Counsel in Removal Proceedings," Cardozo Law Review, (2011) Vol. 33:2, p. 364 and seriatim, *available at* http://www.cardozolawreview.com/Joomla1.5/content/33-2/NYIRS%20Report.33-2.pdf; Steering Committee of the New York Immigrant Representation Study Report, "Accessing Justice II: A Model for Providing Counsel to New York Immigrants in Removal Proceedings," Cardozo Law Review, (Dec. 2012) pp. 1, 11, *available at* http://www.cardozolawreview.com/content/denovo/NYIRS ReportII.pdf ("people in the New York immigration courts *with* a lawyer are 500 percent as likely to win their cases as those without representation."); Government Accountability Office, *U.S. Asylum System: Significant Variation Existed in Asylum Outcomes Across Immigration Courts and Judges*, GAO-8-940 (Washington, DC: GAO, 2008), p. 7, *available at* http://www.gao.gov/new.items/d08940.pdf (Representation generally doubled the likelihood that immigration judges would grant asylum to affirmative and defensive asylum applicants compared to those without representation,

video teleconference, which to date are the practice at Artesia and Karnes, present significant due process concerns.⁵

2. Family detention is detrimental to physical and mental health, especially for asylum seekers and young children. It also damages the family structure by undermining parents' authority.

Detention harms children's health. Their physical and psychological development suffers during detention, and the harms can be long-lasting. Being held in a prison-like setting, even for a short period of time, can cause psychological trauma for children and increase their risk factor for future mental disorders. According to Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, detention can also exacerbate the trauma experienced by both children and adults who have fled violence in their home countries – precisely the population detained at Artesia and Karnes. Finally, detention damages the family structure in particular by stripping parents of their role as arbiter and decision-maker in the family unit, confusing children and undermining child-rearing. This adds to the already extreme stresses on detained children and erodes their trust in their parents at a time when they need it most.

3. Family detention is unnecessary. Alternatives to detention (ATD), including community-support programs, are humane, effective, and far less costly than detention.

DHS already spends about \$2 billion in taxpayer resources annually on immigration detention – the sole purpose of which is to make sure people show up at court hearings. Alternatives to detention are far less costly than institutional detention. In fact, family detention costs \$266 per person per day, whereas existing ATD programs cost 17 cents to \$17.78 per person per day. Alternatives are also effective. ICE's current ATD program has very high compliance rates – 99

⁵ Human Rights First, *Jails and Jumpsuits: Transforming the U.S. Immigration Detention System – A Two-Year Review* (2011), p. 32, *available at* http://www.humanrightsfirst.org/wp-content/uploads/pdf/HRF-Jails-and-Jumpsuits-report.pdf.

⁶ Janet Cleveland, Cecile Rousseau, and Rachel Kronick, Brief Submitted to the House of Commons Standing Committee on Citizenship and Immigration concerning Bill C-31, the *Protecting Canada's Immigration System Act*, "The harmful effects of detention and family separation on asylum seekers' mental health in the context of Bill C-31," (April 2012), pp. 3, 7, *available at* http://www.csssdelamontagne.qc.ca/fileadmin/csss_dlm/Publications/Publications_CRF/brief_c31_final.pdf.

⁷ Physicians for Human Rights and Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers* (June 2003), *available at* http://www.survivorsoftorture.org/files/pdf/perstoprison2003.pdf.

⁸ Women's Commission for Refugee Women and Children and Lutheran Immigration and Refugee Service, *Locking Up Family Values: The Detention of Immigrant Families* (Feb. 2007), pp. 42, 43, *available at* http://lirs.org/wp-content/uploads/2012/05/RPTLOCKINGUPFAMILYVALUES2007.pdf; Cleveland, Rousseau, & Kronick, *supra* note 6, at 11.

⁹ Department of Homeland Security, Immigration and Customs Enforcement, Salaries and Expenses, FY2014 Cong. Budget Justification, at 6, *available at* http://www.dhs.gov/sites/default/files/publications/MGMT/DHS-%20Annual%20Performance%20Report%20and%20Congressional-Budget-Justification-FY2014.pdf.

percent of enrollees appear at all court hearings and 84 percent comply with removal orders. Alternatives are widely used in the pre-trial criminal justice context. They are recommended as cost-savers by the American Jail Association, American Probation and Parole Association, American Bar Association, Association of Prosecuting Attorneys, Heritage Foundation, International Association of Chiefs of Police, National Conference of Chief Justices, National Sheriffs' Association, Pretrial Justice Institute, Texas Public Policy Foundation, and the Council on Foreign Relations' Independent Task Force on U.S. Immigration Policy. 12

4. Family detention undermines efforts to address the mass incarceration problem.

The United States is already the world's leading incarcerator, with over 2.3 million people held in prisons and jails. Under your leadership, Attorney General Holder has taken important steps toward reducing federal incarceration levels, ¹³ but at the same time you are proposing to normalize the detention of families, even contracting with private prison companies to construct new facilities with thousands of beds. Expanding family detention is inconsistent with the work your administration has undertaken to address mass incarceration.

10

¹⁰ S.744 and the Immigration Reform and Control Act of 1986: Lessons Learned or Mistakes Repeated?: Hearing Before the H. Comm. on the Judiciary (May 22, 2013) (Oral testimony of Julie Myers Wood, Former Assistant Secretary of Homeland Security, Immigration and Customs Enforcement), available at http://judiciary.house.gov/_files/hearings/113th/05222013_2/Wood%2005222013.pdf.

¹¹ Julie Myers Wood and Steve J. Martin, *WOOD AND MARTIN: Smart Alternatives to Immigrant Detention*, Washington Times, Mar. 28, 2013, *available at* http://www.washingtontimes.com/news/2013/mar/28/smart-alternatives-to-immigrant-detention/.

¹² See American Jail Association, Resolution on Pretrial Justice (Oct. 24, 2010), available at http://www.pretrial.org/download/policystatements/AJA% 20Resolution% 20on% 20Pretrial% 20Justice% 202011.pdf; American Probation and Parole Association, APPA Supports Pretrial Supervision Services (June 15, 2010), available at http://www.appanet.org/eweb/Dynamicpage.aspx?webcode=IE NewsRelease&wps key=4ce5b0cc-e5d6-4407-bcab-096640386f02; American Bar Association, ABA Criminal Justice Standards on Pretrial Release – Third Edition (Oct. 28, 2002), available at http://www.pretrial.org/wpfb-file/aba-standards-on-pretrial-release-2002-pdf/; Association of Prosecuting Attorneys, Policy Statement on Pretrial Justice, available at http://www.pretrial.org/wpcontent/uploads/2013/02/APA-Pretrial-Policy-Statement.pdf; Matt Mayer, The Heritage Foundation, Heritage Web Memo 3455: Administrative Reforms Insufficient to Address Flawed White House Immigration and Border Security Policies (Jan. 10, 2012), available at http://www.heritage.org/research/reports/2012/01/administrative-reforms-inimmigration-and-border-security-policies; International Association of Chiefs of Police, "Law Enforcement's Leadership Role in the Pretrial Release and Detention Process (Feb. 2011), available at http://www.pretrial.org/wpcontent/uploads/2013/02/IACP-LE-Leadership-Role-in-Pretrial-20111.pdf; National Conference of Chief Justices, Resolution 3, Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release (Jan. 13, 2013), available at http://www.pretrial.org/wp-content/uploads/2013/02/CCJ-Resolution-on-Pretrial-1.pdf; National Sheriffs' Association, National Sheriffs' Association Supports and Recognizes the Contribution of Pretrial Services Agencies to Enhance Public Safety (June 18, 2012), available at http://www.pretrial.org/wp-content/uploads/filebase/policy-statements/NSA%20Pretrial%20Resolution.pdf; Pretrial Justice Institute, The Solution, available at http://www.pretrial.org/solutions/; Marc Levin, Texas Public Policy Foundation, "Public Safety and Cost Control Solutions for Texas County Jails (Mar. 6, 2012), available at http://www.texaspolicy.com/center/effective-justice/reports/public-safety-and-cost-control-solutionstexas-county-jails; and Council on Foreign Relations' Independent Task Force, Task Force Report: U.S. Immigration Policy (July 2009), available at http://www.cfr.org/immigration/us-immigration-policy/p20030. ¹³ U.S. Department of Justice, "The Attorney General's Smart on Crime Initiative," available at http://www.justice.gov/ag/smart-on-crime/ (accessed Sep. 17, 2014).

5. International human rights law strongly disfavors the use of administrative immigration detention, and rejects it completely for children.

The UN Working Group on Arbitrary Detention, the UN Committee on the Rights of the Child (CRC), and the UN High Commissioner for Refugees have all made this opposition to immigration detention clear. Indeed, the CRC stated in 2012 that detaining children "constitutes a child rights violation and always contravenes the principle of the best interests of the child."

The federal government already faces litigation highlighting many of the problems listed above at the new family detention facility in Artesia. ¹⁵ There is no evidence that the warehousing of vulnerable mothers and children fleeing persecution and violence in their home countries will decrease border crossings. Family detention will certainly not ensure access to protection to those who qualify. The expansion of this shameful practice will, however, forever alter your legacy. We urge you to uphold the values of fairness, compassion, and human rights, as well as the best interests of children. Please close Artesia and Karnes immediately, cancel the contract for Dilley, and roll back all further plans to expand family detention.

Sincerely,

National and International Organizations

AFL-CIO
Alliance for a Just Society
Alliance for Children and Families
American Civil Liberties Union
American Immigration Council
American Immigration Lawyers Association

¹⁵ Press Release, American Civil Liberties Union, *Groups Sue U.S. Government over Life-Threatening Deportation Process against Mothers and Children Escaping Extreme Violence in Central America* (Aug. 22, 2014), *available at* https://www.aclu.org/immigrants-rights/groups-sue-us-government-over-life-threatening-deportation-process-against-mothers.

¹⁴ The United Nations Working Group on Arbitrary Detention has stated that immigration detention should be abolished and until then only used as a last resort (U.N. Office of the High Commissioner on Human Rights [OHCHR], Working Group on Arbitrary Detention, Report of the Working Group on Arbitrary Detention, A/HRC/13/30 (Jan. 18, 2010), para. 58 and 59, available at http://daccess-ddsny.un.org/doc/UNDOC/GEN/G10/102/94/PDF/G1010294.pdf?OpenElement). The Convention on the Rights of the Child, to which the United States is a signatory, requires that the detention of a child be used only as a last resort. (Convention on the Rights of the Child, article 37(b).) The UN Committee on the Rights of the Child clarifies further that "States should expeditiously and completely cease the detention of children on the basis of their immigration status" (2012 Day of General Discussion, Geneva, Switz., Sep. 28, 2012, U.N. Committee on the Rights of the Child [CRC], Report of the 2012 Day of General Discussion: The Rights of All Children in the Context of International Migration (2012), para. 78, available at http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf). The UNHCR Executive Committee has stated that "States should refrain from detaining children, and do so only as a measure of last resort and for the shortest appropriate period of time, while considering the best interests of the child" (U.N. High Commissioner for Refugees [UNHCR], Conclusion on Children at Risk (Oct. 5 2007), No. 107 (LVIII) - 2007, available at: http://www.refworld.org/docid/471897232.html).

American Jewish Committee (AJC)

American Psychological Association

Americans for Immigrant Justice

America's Voice Education Fund

Amnesty International USA

Asian Americans Advancing Justice-AAJC

ASISTA Immigration Assistance

Black Alliance for Just Immigration

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Center for Community Change

Center for Employment Training

Center for Gender & Refugee Studies, UC Hastings College of Law

Conference of Major Superiors of Men

Detention Watch Network

Enlace

Families for Freedom

Farmworker Justice

First Focus

Friends Committee on National Legislation

Global Campaign to End Child Detention

Grassroots Leadership

HIAS

Hispanic Federation

Human Rights Advocates International

Human Rights Defense Center

Human Rights First

Human Rights Watch

Immigrant Legal Resource Center

In the Public Interest

International CURE

International Detention Coalition

Japanese American Citizens League

Jesuit Conference of the United States

Justice Strategies

Kids in Need of Defense (KIND)

LatinoJustice PRLDEF

Lawyers' Committee for Civil Rights Under Law

League of United Latin American Citizens

The Leadership Conference on Civil and Human Rights

Lutheran Immigration and Refugee Service

Mennonite Central Committee U.S. Washington Office

Mexican American Legal Defense and Educational Fund

National Advocacy Center of the Sisters of the Good Shepherd

National Asian American Pacific Islander Mental Health Association

National Association of Social Workers

National Center for Transgender Equality

National Council of Jewish Women

National Council of La Raza

National Immigrant Justice Center

National Immigration Forum

National Immigration Law Center

National Immigration Project of the NLG

National Korean American Services and Educational Consortium

National Latina Institute for Reproductive Health

National Network for Immigrant and Refugee Rights

National Organization for Women

National Partnership for New Americans

Peoples' Action for Rights and Community

Permanent Peoples' Tribunal, Commission on Migration, Refuge, and Forced Displacement,

Mexico Chapter

Prison Policy Initiative

Private Corrections Working Group

Religious of the Assumption

Responsible Endowments Coalition

Rights Working Group

Service Employees International Union (SEIU)

Sisters of Mercy of the Americas

South Asian Americans Leading Together

Southeast Asia Resource Action Center

Southern Border Communities Coalition

The Advocates for Human Rights

The Episcopal Church

Torture Abolition and Survivors Support Coalition (TASSC) International

Unitarian Universalist Service Committee

United We Dream

U.S. Committee for Refugees and Immigrants

We Belong Together

Women's Refugee Commission

Young Center for Immigrant Children's Rights

State and Local Organizations

ACCESS

Alliance San Diego

Amoachi and Johnson, PLLC

Asian Americans Advancing Justice - Asian Law Caucus

Asian Law Alliance

Brooklyn Defender Services

Capital Area Immigrants' Rights (CAIR) Coalition

CASA de Maryland

Catholic Charities Legal Services - Las Cruces, NM

Coalicion De Derechos Humanos

Coalition for Humane Immigrant Rights Los Angeles

Cobb Immigrant Alliance

Coloradans for Immigrant Rights

Colorado Immigrant Rights Coalition

Community Legal Services in East Palo Alto

Community to Community Development (C2C)

Conversations with Friends, Minnesota

Dakotas-Minnesota Area of the United Methodist Church

DREAM Activist Virginia

El CENTRO de Igualdad y Derechos

Encuentro

Esperanza Immigrant Rights Project

First Friends of NJ & NY

Florida Immigrant Coalition, Inc.

Fuerza del Valle Workers' Center

Georgia Detention Watch

Green Valley/Sahuarita Samaritans

Grupo Comunitario de Hatch

Gulf Coast Jewish Family & Community Services

Illinois Coalition for Immigrant and Refugee Rights

Illinois Collaboration on Youth

Immigrant Law Center of Minnesota

Immigration Center for Women and Children

Immigration Team of UCC MN Conference

Interfaith Center for Worker Justice of San Diego County

Interfaith Coalition on Immigration

Jewish Community Action

Korean American Resource and Cultural Center

Korean Resource Center

La Union Del Pueblo Entero

Las Cruces Friends Meeting (Quaker)

Latin American Coalition, North Carolina

Latinos United for a New America (LUNA)

Lawyers' Committee for Civil Rights of the San Francisco Bay Area

Make the Road New York

Massachusetts Immigrant and Refugees Advocacy Coalition

Michigan United

Mountain View Dreamers

New Mexico Voices for Children

New Orleans Workers' Center for Racial Justice

New York Immigration Coalition

NM CAFé

Northern Manhattan Coalition for Immigrant Rights

Northwest Immigrant Rights Project

OneAmerica, Washington

PALABRA

Pangea Legal Services

Paso del Norte Civil Rights Project

Pennsylvania Immigration and Citizenship Coalition, PICC

People Acting in Community Together

Pineros y Campesinos Unidos del Noreste, PCUN/CAUSA

Promise Arizona, PAZ

Public Counsel

RAICES

Ranch Hope

Reformed Church of Highland Park, NJ

Resist the Raids

Rights for All People (RAP)

Services, Immigrant Rights, and Education Network (SIREN)

Seton Hall University School of Law Center for Social Justice

Shirlington Employment and Education Center

Social Justice Guild of the First Existentialist Congregation

Somos un Pueblo Unido

St. Matthew Immigration/Detention Ministries

Stop the Checkpoints

Strong Families New Mexico

Student Advocates for Higher Education

Tacoma Community House

Tennessee Immigrant and Refugee Rights Coalition

The Door

United Families

Virginia Coalition of Latino Organizations (VACOLAO)

Voces de la Frontera

Wilco Justice Alliance

Cc: Denis R. McDonough, Assistant to the President and Chief of Staff, Office of the Chief of Staff, Executive Office of the President

Lisa O. Monaco, Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor, Office of the Homeland Security Advisor,

National Security Council Staff, Executive Office of the President

Cecilia Munoz, Assistant to the President and Director, Domestic Policy Council,

Executive Office of the President

Amy E. Pope, Special Assistant to the President and Senior Director for Transborder Security, Transborder Security Policy, National Security Council Staff, Executive Office of the President

Cc: The Honorable Jeh C. Johnson, Secretary, Department of Homeland Security Thomas Winkowski, Principal Deputy Assistant Secretary, Immigration and Customs Enforcement, Department of Homeland Security Cc: The Honorable Harry Reid, Majority Leader, U.S. Senate
The Honorable Mitch McConnell, Minority Leader, U.S. Senate
The Honorable John A. Boehner, Speaker, U.S. House of Representatives
The Honorable Nancy Pelosi, Minority Leader, U.S. House of Representatives

The Honorable Patrick J. Leahy, Chairman, Committee on the Judiciary, U.S. Senate The Honorable Chuck Grassley, Ranking Member, Committee on the Judiciary, U.S. Senate

The Honorable Thomas R. Carper, Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate

The Honorable Tom Coburn, Ranking Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate

The Honorable Bob Goodlatte, Chairman, Committee on the Judiciary, U.S. House of Representatives

The Honorable John Conyers, Jr., Ranking Member, Committee on the Judiciary, U.S. House of Representatives

The Honorable Michael McCaul, Chairman, Committee on Homeland Security, U.S. House of Representatives

The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security, U.S. House of Representatives

 Cc: T. Alexander Aleinikoff, Deputy High Commissioner, Office of the United Nations High Commissioner for Refugees
 Shelly Pitterman, Regional Representative, Washington, D.C., Office of the United Nations High Commissioner for Refugees