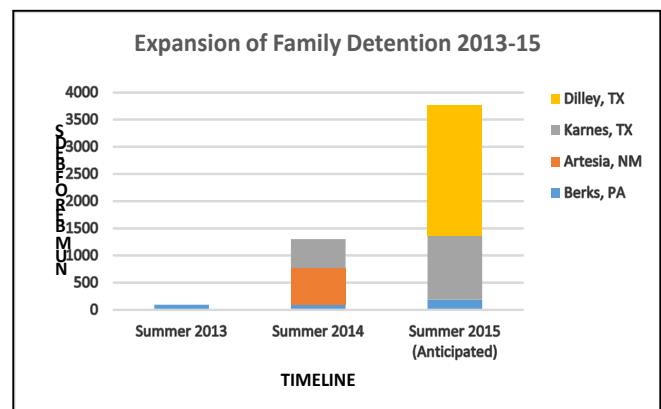


FAMILY DETENTION

BACKGROUND

What is family detention?

- In 2009, the US stopped using large-scale family detention in response to public opposition and a lawsuit highlighting conditions that were entirely inappropriate for children and families at the T. Don Hutto facility in Texas.
- **Rather than learn from this lesson, the US has instead dramatically expanded family detention in the last year** as large numbers of children and families, escaping violence in El Salvador, Guatemala, and Honduras, arrived at the US southern border. Data from both UNHCR and the US government show that **the vast majority of these children and families are likely eligible for asylum in the US.**
- Despite this, the Administration claimed that the arriving women and children were a national security threat and needed to be detained in order to deter other migrating families. An accompanying no-release policy allowed for the *rapid deportation of many detained refugee families.*
- In February 2015, a federal district court ordered DHS to **stop using deterrence as a justification for the detention of families** (*RILR v. Johnson*). While this is an important step toward righting this broken policy, the large-scale detention of families continues under other false justifications.
- **By Spring 2015, the mega-facility in Dilley, TX is expected to have 2,400 beds and the facility in Karnes, TX will have an anticipated 1,100 beds.** Both of these facilities are run by private prison corporations: Dilley by Corrections Corporation of America (CCA) and Karnes by GEO Group.



What is the impact of family detention?

- In 2014, Artesia was the first large-scale facility to be opened since Hutto. It **was infamously known as a “deportation mill”** and was the subject of a lawsuit and multiple reports of abuse and lack of due process, which led to its closure in December 2014. Sadly, many families were simply transferred to a larger CCA-run facility in Dilley..
- Family detention facilities have been **plagued by reports of subpar conditions and abuse**, including: inadequate medical and mental health care, children losing weight, inappropriate disciplinary tactics including threats to separate families if children misbehave, and fundamentally broken due process with little or no access to attorneys.
- **Detention is psychologically damaging and completely inappropriate for children.** Numerous studies demonstrate that detention poses a serious threat to individuals’ psychological health and further aggravates isolation, depression, and mental health problems associated with past trauma. These impacts are even more severe for young children whose development can be severely compromised.

Family detention violates legal obligations and Congressional intent

- **DHS is legally mandated to place families with children in the least restrictive setting possible** by the 1997 settlement in *Flores v. Reno*. Family detention violates this settlement and other legal precedents which **demand that the government actively and continuously seek the release of each child in custody.**
 - On February 2, 2015, *Flores* attorneys filed a motion to enforce the original agreement on behalf of the Central American children and families currently detained under a “no release” policy.
 - The government’s record of failing to comply with legal obligations makes clear that family detention is not a viable option. Expanding family detention is also inconsistent with our international obligations to protect the rights of vulnerable migrants and to avoid using detention as a deterrent for migration.

- **Congress has already indicated a desire to end, *not expand*, family detention.** Prior to opening the T. Don Hutto, ICE separated families who were apprehended together by sending children to ORR shelters and adults to detention.¹ This resulted in the forced separation of parents from their children, which unlawfully rendered the children unaccompanied. After learning about this practice, Congress directed DHS to stop separating migrant families.² In response, DHS expanded family detention and opened Hutto in 2006. **However, the practice of detaining families in jail-like settings is contrary to Congressional intent, which indicates a desire to end, *not expand*, family detention.** Congress reaffirmed its intent in 2007, expressing alarm over the use of family detention.³

TALKING POINTS

DETENTION

- **Detention facilities lack oversight, accountability, and transparency.**
 - 144 immigrants have died in detention since 2003.
 - **There are no binding, uniform detention standards to ensure humane treatment.** Detention standards are not codified, meaning **standards do not have the force of law and the violation of a standard does not confer a cause of action in court.** Facilities are **not subject to independent oversight.**
- **84% of detained immigrants go through the system without a lawyer.** Unlike in the criminal justice system, immigrants are not provided lawyers to navigate complicated immigration laws.
- **Our current system reflects a “one size fits all policy” and violates due process because of mandatory detention laws.** Approximately 70% of immigrants are subject to mandatory detention, which requires their incarceration without the right to a bond hearing before an immigration judge and strips them of the right to due process.

FAMILY DETENTION

- **Detention runs contrary to our values** of basic dignity, due process, and human rights. Detained families are seeking protection from sexual assault, trafficking, and violence; our default should *not* be to put children in prison.
- **Children and families require specialized medical, educational, and legal support**, all of which are severely impeded by detention.
- **DHS is legally mandated to place families with children in the least restrictive setting possible** by the 1997 settlement in *Flores v. Reno*. Family detention violates this settlement and other legal precedents which demand that the government actively and continuously seek the release of each child in custody.
- **Family detention is a wasteful use of resources** at \$343 per family member per day. During a fiscal crisis, it is unacceptable to be spending billions of taxpayer dollars to needlessly detain refugee families.

We are asking Members of Congress to oppose funding for family detention in FY 2016 and to speak out publicly *against* the use of family detention and *in favor of* closing both the Dilley and Karnes facilities.

¹ For more details and the history of family detention, please see [Locking Up Family Values: The Detention of Immigrant Families](#), an extensive 2007 report by the Women’s Refugee Commission and Lutheran Immigration and Refugee Service.

² House Committee on Appropriations, *Department of Homeland Security appropriations bill, 2006: report together with additional views (to accompany H.R. 2360)*, 109th Cong., 1st Session, 2005, H. Rep. 109-79.

³ House Committee on Appropriations, *Department of Homeland Security appropriations bill, 2007: report together with additional views (to accompany H.R. 5441)*, 109th Cong., 2d Session, 2006, H. Rep. 109-476.