

## Family Detention Backgrounder

Family detention is inhumane and the United States has failed to maintain detention facilities that comport with basic due process and human rights standards.

### Family Detention Facilities at a Glance

#### **Berks (Pennsylvania)**

- 96-bed facility that ICE plans to double in 2015

#### **Artesia (New Mexico)**

- 672-bed facility that opened on June 27, 2014
- Infamously known as a “deportation mill” and the subject of a [lawsuit](#) and reports (including by [DWN](#) and its [members](#)) of abuse and lack of due process leading to its closure on Dec 30, 2014

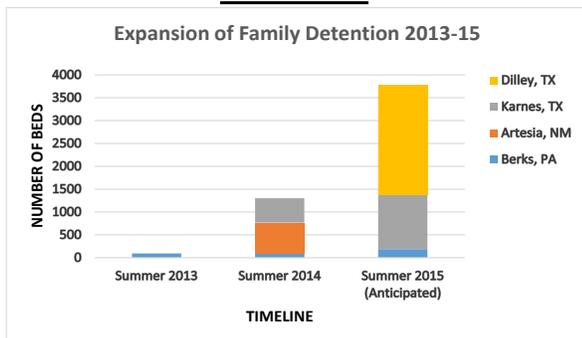
#### **Karnes (Texas)**

- 532-bed facility that opened on Aug 1, 2014 and which ICE plans to expand
- A former all-male ICE detention facility converted into a family detention center
- Run by [GEO Group](#), a private prison corporation

#### **Dilley (Texas)**

- 2,400-bed facility that opened on Dec 15, 2014
- At a cost of over \$300 per person/day, it will be the [largest and most expensive](#) ICE detention center in the country
- Nearly 100 miles from the closest major city
- Run by the [Corrections Corporation of America](#) (CCA), a private prison corporation

### Family detention has radically expanded since 2013:



Pennsylvania. From 2006 to 2009, ICE also operated the 512-bed T. Don Hutto Correction Center (Hutto) in Taylor, Texas as a family detention center. Prior to the opening of Hutto, ICE was placing children in ORR shelters and separating them from their parents, who were sent to immigration detention centers.<sup>1</sup> This resulted in the forced separation of parents from their children, which unlawfully rendered the children unaccompanied. After learning about this practice, Congress

### **What is family detention?**

Immigration and Customs Enforcement (ICE), a division of the Department of Homeland Security (DHS), operates a sprawling system of over 200 immigration detention facilities, costing taxpayers more than \$2 billion annually. In one part of this huge system, ICE detains mothers and children in family detention centers, rather than complying with their legal obligations concerning the custody of children (more below). While ICE has [family detention standards](#), they are not codified, meaning they do not have the force of law and do not confer a cause of action in court. Moreover, family detention facilities – like all ICE detention centers – are subject to minimal independent oversight and accountability to ensure compliance with standards.

### **Infants and mothers with legitimate asylum claims are detained.**

Families arriving at the border are seeking safety or protection from violence and consist of women with young children, including infants and toddlers. However, family detention may not be limited to families apprehended at the U.S.-Mexico border; it also includes families apprehended in the U.S. and can include mentally ill individuals and pregnant women. **During the summer of 2014, ICE implemented a “no bond” policy, circumventing the rights to liberty and due process, impeding access to attorneys, and making it easier to rapidly deport detained families with legitimate asylum claims.**

### **Detention is psychologically damaging and completely inappropriate for children.**

[Studies](#) conducted by the bipartisan U.S. Commission on International Religious Freedom, New York University’s Bellevue Program for Survivors of Torture, and Physicians for Human Rights demonstrate that detention poses a serious threat to the psychological health of detained immigrants and further aggravates isolation, depression, and mental health problems associated with past trauma.

### **Family detention is contrary to Congressional intent.**

In 2001, the then-Immigration and Naturalization Service (INS) began detaining families at Berks (96 beds) in Leesport,

<sup>1</sup> 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.

directed DHS to stop separating migrant families.<sup>2</sup> 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.<sup>3</sup> In 2009, ICE ended the practice of family detention at Hutto (more below).

### **ICE's failed attempts to detain families on a mass scale make it clear that family detention is not the answer.**

When Hutto, a former medium-security prison built by the CCA, was opened in 2006, ICE insisted that it was specially equipped to meet the needs of families. However, [reports](#) emerged that **children as young as eight months wore prison uniforms and jumpsuits, lived and slept in locked prison cells with open-air toilets, and families were subject to highly restricted movement and threatened with family separation if children cried or played too loudly.** Medical treatment was wholly inadequate, infants lost weight due to poor nutrition, and children received only one hour of education a day. In 2009, ICE stopped using Hutto to detain families after public opposition and a [lawsuit](#) highlighting conditions that were entirely inappropriate for children and families. The administration also withdrew plans for three new detention facilities. Contrary to concerns at the time – which echo concerns from Congress and the administration today – family arrivals did *not increase* directly following the end of family detention at Hutto. Despite this, ICE reacted to a 2014 increase in women and children arriving from Central America by opening up an impromptu family detention facility in Artesia, New Mexico. As former federal law enforcement training grounds, the facility was ill-equipped to house women and children for the year that it remained open. The closure of Artesia on December 30, 2014 was lauded by lawmakers because of its poor conditions; however, many of the detained families were simply transferred to a larger CCA-run facility in Dilley, Texas.

### **DHS is legally mandated to place families with children in the least restrictive setting possible.**

In 1997, a [settlement](#) in *Flores v. Reno*, No. CV 85-4544-RJK (Px) (C.D. Cal. 1988) (*Flores* settlement), set forth a policy for all children under the age of 18 in government custody. **The Flores settlement mandates that the government “release a minor from its custody without unnecessary delay”** as long as detention is not required to ensure a child’s appearance in immigration court or for safety reasons. This settlement and other [legal precedents](#) demand that the government **actively and continuously seek the release of each child in custody.** Since the government has often [failed to comply](#) with these requirements, Congress has passed legislation multiple times to reform the immigration system as it applies to children. And 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 failed record in complying with legal obligations makes clear that family detention is not a viable option. The expansion of 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.

### **What should the U.S. government do?**

- **Close Karnes and Dilley.** We risk repeating the mistakes from Hutto and Artesia if the administration continues to rapidly expand family detention without any real input from communities and NGOs.
- **Reject the use of detention as a tool for reducing migration.** 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 toddlers in prison without the opportunity for humanitarian parole or release.
- **End the no bond and high bond policies for detained families. The administration and ICE must also demonstrate a real commitment to individualized assessments that support release, humanitarian parole, and appropriate alternatives to detention.** The President’s FY2016 budget request seeks \$435 million for 2,760 family detention beds. Rather than incarcerating families, funds can be better used to support ORR and refugee resettlement programs already in use. Additionally, alternatives to detention must include case managers or social workers.
- **Children and families require specialized medical, educational, and legal support that incarceration impedes.** Detention prohibits due process by cutting off access to legal support that families need to navigate immigration laws that have been compared in complexity to the U.S. tax code. For families without housing, the government can partner with non-profits and child welfare organizations experienced in supporting asylum-seekers.

<sup>2</sup> 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.

<sup>3</sup> 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.