

Family Detention



“On this continent, too, thousands of persons are led to travel north in search of a better life for themselves and for their loved ones, in search of greater opportunities. Is this not what we want for our own children? We must not be taken aback by their numbers, but rather view them as persons, seeing their faces and listening to their stories, trying to respond as best we can to their situation. To respond in a way which is always humane, just and fraternal.”

Pope Francis Address to U.S. Congress, September 24, 2015

Why Is the Government Detaining Immigrant Mothers and Children?

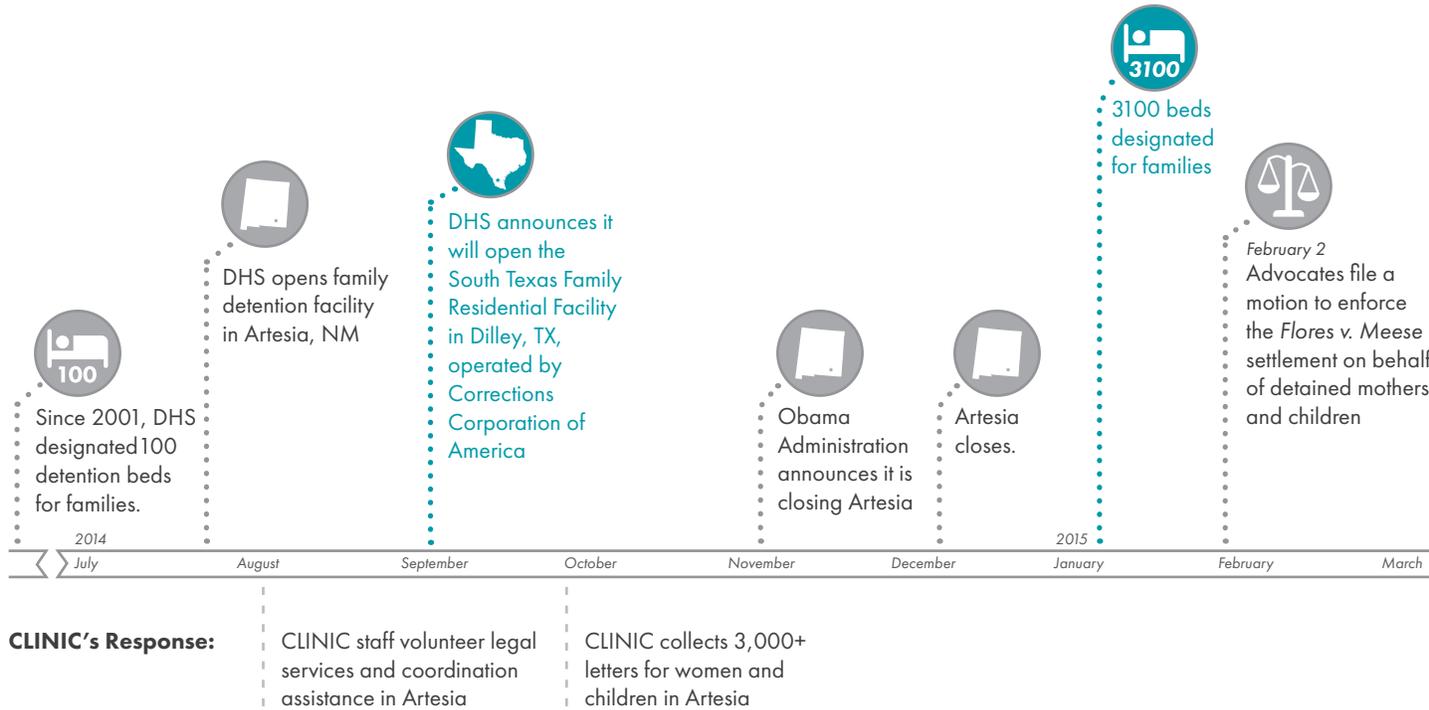
The policy of detaining Central American immigrant children and their mothers in large scale prison-like facilities was [introduced by the Administration](#) in Artesia, New Mexico in response to the approximately 68,000 families that entered the United States in Fiscal Year 2014. The Administration, in a [June 30, 2014 letter](#) to Congress, outlined that it was undertaking “an aggressive deterrence strategy focused on the removal and repatriation of recent border crossers,” which included detaining immigrant families. Though a federal judge ruled in February 2015 that ([RILR, et al. v. Jeh Johnson, Civil Action No. 15-11 \(JEB\), February 20, 2015](#)) the Administration should not detain migrants solely “for the purpose of deterring future immigration,” and the number of immigrant families arriving at the U.S./Mexico border has approximately [halved in fiscal year 2015](#), the practice has not abated.

What is Family Detention?

Family detention is one piece of the national immigrant detention network that continues to [cost taxpayers](#) over \$2 billion/year. Immigrant mothers and children who are apprehended on the U.S./Mexico Border by the Customs and Border Patrol (CBP) are placed into Immigration and Customs Enforcement (ICE) custody and ICE then places some of these immigrant families into family detention facilities. Family immigrant detention facilities are described by ICE as “residential facilities” with the families considered “residents” but in reality the families have limited freedoms and are forced to live in a restrictive detention setting.¹

While the ICE-run facility in Artesia closed in December of 2014, there are currently three family detention facilities in the United States- two located in South Texas and one in Pennsylvania. The Karnes County Residential Center (“Karnes”), located in Karnes City, Texas, has 530 beds and the South Texas Family Residential Center (“Dilley”) in Dilley, Texas, has 2400 beds. A third facility in Berks County, Pennsylvania, has 90 beds. There are planned expansions for Karnes and Berks—an increase of over 500 beds for Karnes and an 100 additional beds for Berks. The two facilities in Texas are operated by for-profit companies.

Rapid Rise of Family Detention



Catholic Social Teaching and Family Detention

Immigrant detention is an explicit concern of the Catholic Church. The U.S. Catholic Bishops have addressed immigrant detention in *Responsibility Rehabilitation and Restoration, A Catholic Perspective on Crime and Criminal Justice*:

“We bishops have a long history of supporting the rights of immigrants. The special circumstance of immigrants in detention centers is of particular concern. [The government] uses a variety of methods to detain immigrants some of them clearly inappropriate.” Additionally, Bishop Eusebio Elizondo, Chairman of the U.S. Conference of Catholic Bishops’ Committee on Migration, wrote to Department of Homeland Security (DHS) Secretary Jeh Johnson in 2015 opposing family detention, declaring that “it is inhumane to house young mothers with children in restrictive detention facilities as if they are criminals.”

Why Is Family Detention Particularly Harmful?

A majority of the recent large number of families who have been apprehended at the U.S.-Mexico border are fleeing extreme violence and persecution in El Salvador, Guatemala, and Honduras. These women and children seek safety and protection in the United States while risking increasingly dangerous journeys. Instead of receiving refuge,

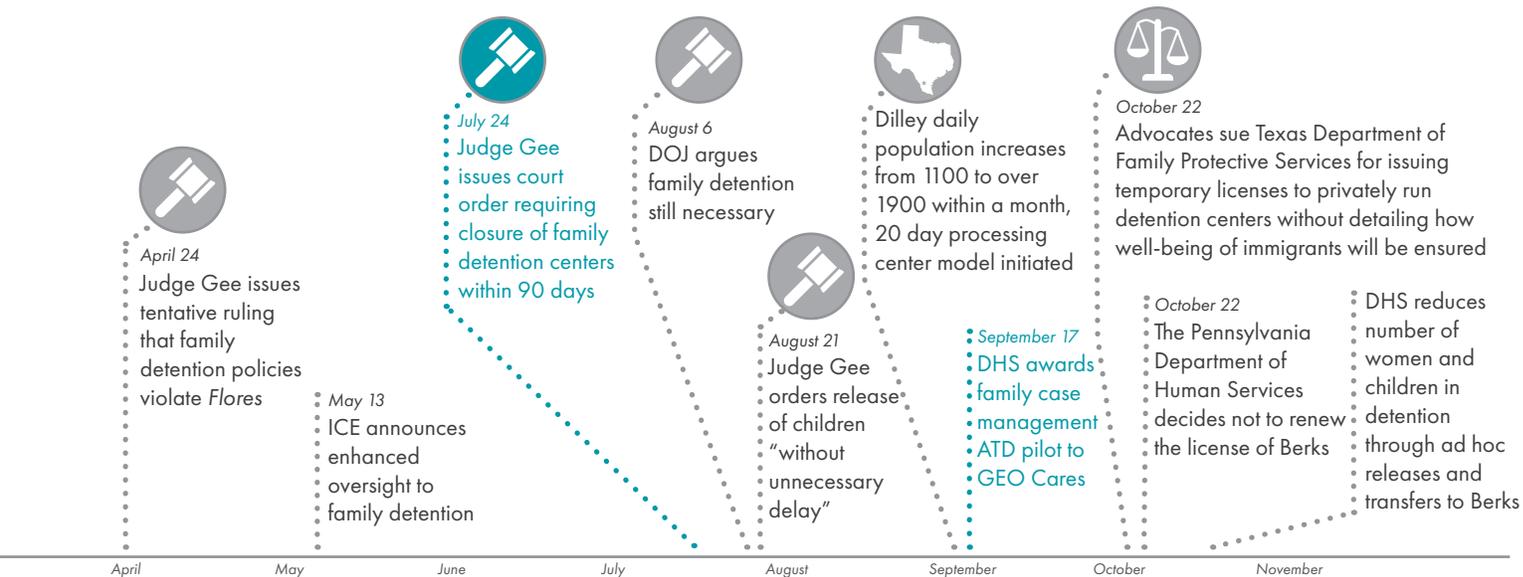
ICE places them in confining detention facilities. Detaining children is **psychologically and physically damaging** and against international human rights law and general child welfare principles. Many of these mothers and children have legitimate protection claims meriting a grant of asylum relief as proven by the high credible fear passage rates. These women and children should not be detained.

What Laws Oversee the Conditions at the Facilities?

ICE has created **family detention standards**, but the standards themselves are not codified and as such do not confer a cause of action in court. Family detention facilities are subject to minimal independent oversight to ensure compliance with standards. DHS is legally mandated to place families with children in the least restrictive setting possible, through the *Flores* settlement.² *Flores* requires that the government release a minor from its custody without unnecessary delay. The government has a failed record of consistently implementing *Flores*.

Litigation over Flores Settlement

In response to the government’s non-compliance with *Flores*, in February 2015 advocates filed a motion to enforce *Flores* on behalf of detained mothers and children in the U.S. District Court of the Central District of California. In April 2015,



<p>March 31, 2015</p> <p>CLINIC partners to form the CARA Pro Bono Detention Project</p>	<p>July 30, 2015</p> <p>CARA files a complaint about inadequate medical treatment in family detention centers</p>	<p>September 30, 2015</p> <p>CARA files a complaint about access to counsel concerns, claims of coercion to accept ankle monitors</p>	<p>October 16, 2015</p> <p>CLINIC and 140 others urge state officials to deny child care licenses to private prison companies operating in TX</p>
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the U.S. District court issued a tentative ruling that family detention policies violate *Flores*. In July 2015, the U.S. District Court issued a court order requiring that children are no longer detained long-term within the detention facilities. In August 2015, the government argued that family detention was still necessary and the U.S. District Court responded that children must be released from family detention facilities and that the government must comply with the order by October 23, 2015. Currently the government continues to detain mothers and children, and the population has fluctuated wildly in both Dilley and Karnes since the U.S. District Court issued the order. The [government has stated](#) that it is “transitioning our family residential center facilities into processing centers where individuals can be interviewed and screened rather than detained for a prolonged period of time” but the reality on the ground contradicts this statement.

CLINIC’s Efforts to End Family Detention

CLINIC has worked to end family detention from the beginning, when the family detention was opened in Artesia, NM in July 2015. CLINIC provided on the ground volunteer coordination services. In March 2015, CLINIC [partnered](#) with the American Immigration Council, the Refugee and Immigrant Center for Education and Legal Services (RAICES), and the American Immigration Lawyers Association (AILA) to form the CARA Pro Bono Project, an on the ground legal

services project within Dilley and Karnes to ensure that detained children and their mothers receive a competent pro bono representation. CLINIC has two contract attorneys based in Dilley. Through on the ground staff in Dilley and CLINIC staff in Washington, CLINIC continues to work to end family detention. In July 2015, CLINIC, with its CARA partners, [filed a complaint](#) about the medical care that the detained families have received to DHS Office for Civil Rights and Civil Liberties (CRCL). In September 2015, CLINIC filed with CARA partners a complaint to DHS CRCL regarding access to counsel issues. Moving forward, CLINIC [continues to work to end family detention](#) and see immigrant women and children receive meaningful access to justice that will allow them to receive the legal protections they deserve.

End notes

¹ 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.
² *Flores v. Reno*, No. CV 85-4544-RJK, Stipulated Settlement Agreement, January 17, 1997. Flores settlement



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