

March 30, 2016

President Barack Obama
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

CC: The Honorable Jeh Johnson
Secretary of Homeland Security
Washington, D.C. 20528

President Barack Obama:

We, the undersigned organizations that serve and advocate for the protection of children and youth, trafficking victims, refugees, and asylum seekers from around the world, write to express deep concern regarding continued raids upon Central American families and children. We ask the administration to stop targeting these individuals, the vast majority of whom have come to the United States fleeing violence and seeking safety.

We were extremely concerned to see the Department of Homeland Security (DHS) press release of March 9, 2016, which described the recent apprehension through raids of 336 individuals, part of a program that DHS has named “Operation Border Guardian.”¹ The very title of this operation points to a much larger problem: DHS’s treatment of a humanitarian situation primarily as a border security issue. More specifically, the operation will have the effect of returning refugees to face persecution and is already creating a climate of fear across immigrant communities.

The operation directs DHS agents to enforce removal orders that were issued in legal proceedings that lacked basic due process. Because your administration has consistently advocated for comprehensive immigration reform, you know all too well the many ways in which the deck is stacked against asylum-seeking youth and families in our currently broken system. Most leave our border processing facilities unaware of their legal obligations or immigration process requirements. The majority will never have counsel to help them in court - despite the fact that the single biggest determining factor for access to immigration relief is whether a child has an attorney.²

¹ “Statement By Secretary Jeh C. Johnson On Southwest Border Security,” March 9, 2016, available at: <https://www.dhs.gov/news/2016/03/09/statement-secretary-jeh-c-johnson-southwest-border-security>

² Syracuse University’s Transactional Records Access Clearinghouse (TRAC) “Immigration Court Cases Involving Unaccompanied Juveniles, Filed by Month,” available at, <http://trac.syr.edu/immigration/reports/371/include/timeseriesG.html>; TRAC “Representation for Unaccompanied Children in Immigration Court,” 25 November 2014, available at, <http://trac.syr.edu/immigration/reports/371/>; *see also* “Unaccompanied Children Reunified with Family: Ensuring Court Appearance, Fair Proceedings and Protecting Children’s Safety,” (KIND, LIRS, WRC, and the Young Center), available at: <http://lirs.org/wp-content/uploads/2015/12/Children-Representation-Info-Sheet-Update-12-15.pdf>

Further, the overwhelming majority of unaccompanied children and family units who have been ordered removed by an immigration court—were ordered removed *in absentia*.³ Many of these individuals never even receive notice of their hearings. Numerous service providers documented cases in 2014 in which children consistently received inadequate notice of their hearings, their hearing information was not updated consistently on the immigration court hotline, or their hearings were scheduled far from where they live.⁴ Others receive inadequate advice or fall prey to notarios when rushing in desperation to find help of any kind before their court hearing on an expedited docket. Many unaccompanied children are unrepresented, creating a serious impediment to their ability to access protection. A study by the Transactional Records Access Clearinghouse, or TRAC, of closed cases in the immigration courts found that only one third of unaccompanied children, and one-quarter of families from Central America, had representation in their hearings in 2014.⁵ Children were five times more likely to win their cases with a lawyer than without, while families were fourteen times more likely to win their cases.⁶ Representation of UACs has increased over the last year but still hovers around 50%.⁷

It is a mockery of due process to rush young people and families back to extremely dangerous situations without guaranteeing them counsel and without actually hearing their claims for relief. It is simply misleading for DHS to suggest that having a removal order from an immigration judge means that a person's claim was considered on the merits and rejected.⁸ In case after case, attorneys assisting these youth and families at the very last moment are finding this to be far from the case. These individuals have a right to seek protection under our law, and DHS must take every precaution to make sure they get a real chance to do that. Instead, DHS has arrested hundreds of children and families without taking precautions to ensure that valid asylum claims were adjudicated before deportation. And even after confronted with these facts, DHS has continued to deny individuals prosecutorial discretion.

We are very concerned that the consequence of Operation Border Guardian and other raids will be that children and families with valid protection claims that would qualify them for humanitarian protection under U.S. law will be returned to Central America without due process,

³ From July 18, 2014-September 29, 2015, 87% of unaccompanied children who were ordered removed, were in *absentia* cases. For parents with children this amounted to 62% of the removal orders. Data from Executive Office for Immigration Review.

⁴ See a February 9, 2015 sign-on letter detailing this issue, available at:

<http://lirs.org/wpcontent/uploads/2015/06/20150127Advocacyletterreinabsentiachildren-FINAL-2-w-names.pdf>.

⁵ TRAC, "Representation for Unaccompanied Children in Immigration Court," November 25, 2014, available at <http://trac.syr.edu/immigration/reports/371/> and TRAC, "Representation is Key in Immigration Proceedings Involving Women and Children," February 18, 2015, available at <http://trac.syr.edu/immigration/reports/377/>.

⁶ The data refer to closed cases only. Ibid. (TRAC kids and women and children.)

⁷ Kids in Need of Defense data.

⁸ See *e.g.*, statement by ICE, "The claim I've seen is that these individuals are fearful; they fear retribution or violence if they're returned home. All of those are factors that were considered by the immigration judge...These are all individuals who already had their day in court,," said Bryan Cox, a spokesperson with ICE. "They made their claim to an immigration judge and the judge found not in their favor. From ICE's perspective, these are adults with a final order of removal issued from an immigration judge and they fall into our enforcement priorities." Available at: <http://clclt.com/charlotte/youths-found-at-the-border-fleeing-violence-are-now-being-returned-to-the-flames/Content?oid=3729861>

only to face more violence or even death. As you know, DHS has found that over 85% of the families in detention have a credible fear of persecution, and an investigation by *The Guardian* concluded that at least 83 deportees have been killed upon their return to El Salvador, Guatemala and Honduras since January 2014.⁹ The UN High Commissioner for Refugees, the Inter-American Commission of Human Rights, and numerous regional experts have confirmed that these children and families have strong and valid protection claims.¹⁰ We appreciate the Administration's recent announcement regarding the expansion of refugee programs in Central America, but we believe that the legal right to seek asylum at or within our borders is a critical component of any regional approach to protection and we ask you to recognize that legal right in all of your statements and communications regarding Central American refugees. Statements by this Administration calling refugee unaccompanied children and mothers with their children an "illegal" migration is not only false, but is inhumane.

Moreover, these raids have had the effect of compounding trauma and sowing the seeds of mistrust by legitimizing a climate of fear in immigrant communities. The direct consequence of these aggressive enforcement actions has been that many children, youth, and parents in affected immigrant communities are now afraid to go to their schools because they fear coming into contact with immigration officers or being picked up along the way.¹¹ Teachers in affected schools report high rates of non-attendance and drop-outs.¹² Parents are not taking their children to the doctor for routine check-ups and vaccinations out of fear of encountering DHS.¹³ Breadwinners are not reporting for work. Grocery stores and other commercial places are feeling

⁹ Sibylla Brodzinsky and Ed Pilkington, "The U.S. Government Deporting Central American Migrants to their Deaths," available at: <http://www.theguardian.com/us-news/2015/oct/12/obama-immigration-deportations-central-america>

¹⁰ UNHCR, Women on the Run, <http://www.unhcr.org/5630f24c6.html>; UNHCR, Children on the Run, <http://unhcrwashington.org/children>; UN Women <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america>; IACHR, The Situation of Human Rights in Honduras, <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>; Department of State 2014 Human Rights Report Guatemala,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>; Washington Office on Latin America, http://www.wola.org/commentary/five_facts_about_migration_from_central_america_s_northern_triangle;

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http://www.wola.org/commentary/five_facts_about_migration_from_central_america_s_northern_triangle; Peace Corps, <http://www.peacecorps.gov/media/forpress/press/2618/>

¹¹ "Central American immigrants, wary of recent raids sweeping up young people, adjust to a life of fear," LA Times, March 11, 2016, available at: <http://www.latimes.com/nation/la-na-immigration-raids-young-people-20160311-story.html>; "She left Honduras to escape violence, but a legal misstep has her stuck in detention," *The Guardian*, March 12, 2016, available at <http://www.theguardian.com/us-news/2016/mar/12/us-immigration-policy-georgia-detention-center-honduras>.

¹² "Attendance Drops At Maryland High School, as Deportation Fears Rise," January 17, 2016, available at: <http://www.npr.org/2016/01/17/463405722/attendance-drops-at-maryland-high-school-as-deportation-fears-rise>; "Durham Public Schools Board of Education Passes Resolution Asking ICE to Stop Detaining Students," February 11, 2016, available at: <http://www.bulldcityrising.com/2016/02/durham-public-schools-board-of-education-passes-resolution-asking-ice-to-stop-detaining-students.html>; "Charlotte Immigrant Teens At Center of Controversial ICE Arrests," March 11, 2016, available at: <http://www.charlotteobserver.com/news/local/article65538837.html>

¹³ "How Fear of Deportation Harm Kid's Education," January 26, 2016, available at: <http://www.theatlantic.com/education/archive/2016/01/the-educational-and-emotional-toll-of-deportation/426987/>

the impacts because immigrant families fear going out into their communities.¹⁴ Even people of faith are too afraid to go to church.¹⁵ The climate of fear that the raids have created is palpable across communities, across the country.

Though DHS has indicated that some locations are considered “sensitive” and therefore would be avoided in raids, several school-age youth have been apprehended en route to school. There have also been reports of ICE agents using misinformation to gain access to individuals’ homes or get individuals to exit their churches. While DHS has said that ICE’s sensitive locations memo still applies, the department has not issued any further guidance clarifying many of the ambiguities that remain.

These raids also have the perverse effect of causing family separation. Many of the families and youth impacted by the enforcement actions have been stripped away from their parents, their caregivers, their younger siblings and their children.¹⁶ Ample research shows that family separation due to immigration enforcement, as well as the fear of separation, has long-term negative impacts on a child’s mental and physical health, economic security, academic performance, and overall development.¹⁷ These effects are exacerbated in cases where enforcement actions happen in home or school, as well as among children who have already suffered trauma.

We respectfully request that you stop conducting raids and arrests on this population. We ask that you ensure those impacted by the enforcement actions have legal representation and are considered for the least restrictive alternatives to detention¹⁸ while they have a fair chance in court and all humanitarian options be considered. These raids, which we believe utilize ineffective and dangerous enforcement tactics that often give rise to serious due process concerns, are generating fear and panic in immigrant communities. Children, including U.S. citizen children, are bearing the brunt of these misguided and dangerous deterrence policies. The Administration can ensure compliance with the law by using far less aggressive and inhumane

¹⁴ Esther Yu-Hsi Lee, “Obama’s Immigration Raids Are Turning Latino Communities Into Ghost Towns,” January 14, 2016, available at: <http://thinkprogress.org/immigration/2016/01/14/3738349/wheaton-latino-owned-businesses/>

¹⁵ See e.g., “She left Honduras to escape violence, but a legal misstep has her stuck in detention,” *The Guardian*, March 12, 2016, available at <http://www.theguardian.com/us-news/2016/mar/12/us-immigration-policy-georgia-detention-center-honduras> (“Everyone loves Kimberly, she’s a sweet young lady,” said Larry Campbell, a family friend and church elder at Corners Church of Christ. “And once you pick up one person, the feeling is you could pick up others and it just creates a lot of fear among our entire church and in our community.”)

¹⁶ Supra n. 3; Michael Kaplan, “Obama Immigration Raids 2016: Immigrant Rights Groups, Democrats Condemn Family Deportation Roundups,” January 6, 2016 available at: <http://www.ibtimes.com/obama-immigration-raids-2016-immigrant-rights-groups-democrats-condemn-family-2252265>

¹⁷ Heather Koball et al., Urban Institute and Migration Policy Institute, Health and Social Service Needs of U.S.-Citizen Children with Detained or Deported Parents. (Sept. 2015), available at: <http://www.migrationpolicy.org/research/health-and-social-service-needs-us-citizen-children-detained-or-deported-immigrant-parents>

¹⁸ S.47, “VAWA Reauthorization Act of 2013,” P.L. 113-4 (March 7, 2013), amended the Trafficking Victims Protection Reauthorization Act to require DHS to consider the least restrictive alternatives to detention when unaccompanied children turn 18 and are subsequently transferred to DHS custody, codified at 8 U.S.C. 1232(c)(2)(B).

measures as these. Any border security or “guardian” measure must include protection. We cannot neglect the security of individuals our nation has a moral and legal obligation to protect.

Sincerely,

National Organizations

Alliance for a Just Society
Alliance for Citizenship
American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
American Friends Service Committee (AFSC)
American Immigration Council
American Immigration Lawyers Association
America's Voice Education Fund
Asian American Legal Defense and Education Fund (AALDEF)
Catholic Legal Immigration Network, Inc. (CLINIC)
Center for Community Change Action
Church World Service
Columban Center for Advocacy and Outreach
Detention Watch Network
Disciples Center for Public Witness
Disciples Refugee & Immigration Ministries
Evangelical Lutheran Church in America, Advocacy Office
Fair Immigration Reform Movement (FIRM)
Familia: Trans Queer Liberation Movement
Farmworker Justice
First Focus
Franciscan Action Network
Grassroots Leadership
HIAS
Holy Spirit Missionary Sisters - USA, JPIC
Immigrant Legal Resource Center
Justice Strategies
Kids in Need of Defense
Latin America Working Group
Latino Commission on AIDS
Latino Victory Project
Leadership Conference of Women Religious
League of United Latin American Citizens
Lutheran Immigration and Refugee Service
Mennonite Central Committee U.S. Washington Office
MomsRising.org / MamásConPoder.org

National Association of Social Workers
National Center for Lesbian Rights
National Council of Jewish Women
National Council of La Raza
National Education Association
National Immigrant Justice Center
National Immigrant Solidarity Network
National Immigration Law Center
National Justice for Our Neighbors
National Latina Institute for Reproductive Health
National Network for Arab American Communities
National Network for Immigrant and Refugee Rights
NETWORK, A National Catholic Social Justice Lobby
Pax Christi USA
Presbyterian Peace Fellowship
Project South
Provincial Council of Clerics of St. Viator (Viatorians)
School Sisters of Notre Dame - Central Pacific Shalom/JPIC Office
School Sisters of St. Francis
Sisters of Charity, BVM
Sisters of Mercy of the Americas, Institute Justice Team
Sojourners
Southeast Asia Resource Action Center (SEARAC)
Southern Border Communities Coalition
Tahirih Justice Center
The Advocates for Human Rights
The United Methodist Church - General Board of Church and Society
U.S. Committee for Refugees and Immigrants
Unitarian Universalist Association
Unitarian Universalist Service Committee
United We Dream
We Belong Together
Women's Refugee Commission
Young Center for Immigrant Children's Rights at the University of Chicago Law School

State Organizations

Advocates for Children and Youth
Atlas:DIY
Augustana Lutheran Church, Portland, Oregon
Beacon Presbyterian Fellowship
Capital Area Immigrants' Rights Coalition
Catholic Charities of the Archdiocese of Washington Immigration Legal Services

Center for the Human Rights of Children, Loyola University Chicago
Central American Resource Center (CARECEN) DC
Chicago Benedictines for Peace
Chicago Religious Leadership Network on Latin America
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Coalition of Latino Leaders - CLILA
Collaborative Center for Justice
Colorado Immigrant Rights Coalition
Community Agency for Resources Advocacy and Service
Conversations With Friends (MN)
Crossing Borders - Dubuque
DC-MD Justice for Our Neighbors
El Centro Hispano, Inc.
First Christian Church (Disciples of Christ), Tucson, Arizona
Florida Immigrant Coalition
Franciscan Peace Center
Friends of Broward Detainees
Georgia Detention Watch
Georgia Latino Alliance for Human Rights
Greater Birmingham Ministries
HIAS Pennsylvania
Iglesia Bautista Central de Chicago
Immigrant Allies of Marshalltown
Immigrant Justice Advocacy Movement
Immigration Taskforce, Southwestern Pennsylvania Synod, ELCA
Intercommunity Justice and Peace Center
Interfaith Movement for Human Integrity
Interfaith Movement for Immigrant Justice
Iowa Justice for Our Neighbors
Iowa Unitarian Universalist Witness/Advocacy Network
Jewish Community Action
La Luz Hispana
La Unión del Pueblo Entero
Legal Aid Justice Center
Lowcountry Immigration Coalition
Massachusetts Immigrant and Refugee Advocacy Coalition
Ministerio Latino
Ministerio Nueva Creación ELCA/UCC
Missouri Immigrant and Refugee Advocates
National Center for Transgender Equality
New Mexico Faith Coalition for Immigrant Justice
New Mexico Voices for Children
New Sanctuary Movement of Philadelphia

NJ State Industrial Union Council
North Georgia Immigrant Justice
Northern Illinois Justice for Our Neighbors
Northwest Immigrant Rights Project
Nuns on the Bus-Ohio
NYS Interfaith Network for Immigration Reform
OneAmerica
Pangea Legal Service
Pennsylvania Council of Churches
Pilgrim United Church of Christ
Public Counsel
Puente Ministry
RADIO ALUMBRA
Reedley Social Services, Inc.
Reformed Church of Highland Park
Refugee and Immigrant Center for Education and Legal Services (RAICES)
Results Missoula, Montana
SC State Team of NETWORK, a national Catholic social justice lobby
Services, Immigrant Rights, and Education Network (SIREN)
Sisters and Brothers of Immigrants
Sisters of St. Joseph of Rochester
Sisters of the Most Precious Blood of O'Fallon, MO
South Texas Human Rights Center
The Good Shepherd United Church of Christ
United Methodist Church, New York
University Church
University Presbyterian Church, Tempe, Arizona
Virginia Coalition for Immigrant Rights
Virginia Coalition of Latino Organizations (VACOLAO)
Wellington Avenue United Church of Christ
Wellspring UCC
WI United Methodist Church Immigration Task Force