



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION



January 6, 2016

The Honorable Jeh Johnson  
Secretary  
Department of Homeland Security

Dear Secretary Johnson,

The American Immigration Lawyers Association (AILA) and the American Immigration Council (Council) write to express our opposition to the raids that the Department of Homeland Security (DHS) executed this past weekend resulting in the arrest and detention of 121 Central American children and mothers. We see no justification for DHS's use of these aggressive enforcement tactics on such a vulnerable population that risks sending families back to life-threatening conditions in their home countries. These actions are a waste of enforcement resources, raise serious concerns about violations of due process, and foment fear within immigrant communities. Recognizing that some families may be deported as early as today, we ask that you meet with us as soon as possible, preferably this week, to discuss how to guarantee due process and the necessary humanitarian protections for these families. We also ask that DHS provide more information regarding the raids and the apprehended families—the lack of transparency has made it extremely difficult to provide assistance to those affected.

Before deportation, every mother and child should have a meaningful opportunity to present claims for asylum, withholding of removal and other forms of relief before an immigration judge. Your announcement of January 4 indicated that these removal actions would focus on individuals who appeared in court and had their claims fully adjudicated. We have requested, but have not received, confirmation that every individual who was ordered removed and who was arrested in the raids, in fact, received meaningful notice of hearings and appeared as required. If any individuals were ordered removed *in absentia*, DHS should establish a process to provide those individuals the opportunity to present their cases before an immigration judge before deportation.

For those who did appear and were ordered removed, DHS should not proceed with deportation until the individuals have had the opportunity to pursue legitimate appeals with the Board of Immigration Appeals, and, if appropriate, federal courts of appeal. Many of these families faced an accelerated immigration court hearing schedule (“rocket dockets”). The expedited dockets made it even more difficult for the families to find counsel and fully present their claims. ICE counsel should join in motions to reopen where a child or mother was unable to meaningfully present their claim for asylum or other protection under U.S. law.

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Equally important, DHS should ensure that each apprehended family has the opportunity to consult with legal counsel prior to deportation. As you know, asylum seekers are far more likely to prevail on asylum or related claims if they are represented by counsel compared to those who appear *pro se*. DHS needs to establish a process to ensure that every family receives the effective assistance of counsel prior to executing deportation. Those ordered removed who did not have legal counsel should be given the opportunity to obtain counsel and present their cases. Recognizing the extreme vulnerability of the people who are now facing imminent deportation, the government should use its existing legal assistance pilot programs to provide counsel for those unable to obtain or pay for counsel on their own.

Since AILA and the Council began providing services at the South Texas Family Residential Center through the CARA Pro Bono Project, we have encountered repeated resistance and obstruction from Immigration and Customs Enforcement (ICE) and private contract facility staff making the provision of services extremely difficult. In the past several days, CARA staff have experienced similar resistance in their efforts to assist the families that were recently detained. We ask you to instruct staff to cooperate more fully with our organizations as we strive toward the shared goal of ensuring these families receive due process and meaningful access to the protections available under our immigration laws. ICE should provide CARA Project staff with a list of the families scheduled for immediate deportation or find other ways to facilitate CARA Project efforts to identify and assist these families. Case files and other materials should be provided promptly.

Putting aside the fundamental issue of whether it is reasonable to execute the removal orders of these families, sending them to some of the most dangerous places in the world, DHS and ICE should have explored more humane ways to ensure these families comply with the removal orders before resorting to these aggressive tactics. Many of these mothers had been dutifully complying with ICE reporting requirements to check in on a regular basis. One mother and her four children had turned in their passports and consistently reported to ICE but never received a bag and baggage letter prior to the raid. ICE should have sent all the families notices to report for removal (“bag and baggage” letters) or taken them into custody in far less intrusive methods.

DHS’s aggressive tactics could backfire and drive immigrant communities further underground. The fear generated by such actions could result in even lower appearance rates at court hearings, which is exactly the opposite of what the government aims to achieve. We fail to see what legitimate goal DHS will achieve with this approach and hope you will reconsider the strategy.

Since 2014, DHS has used expedited removal and other rapid procedures against these Central American families that have undermined their meaningful opportunity to express fear and to seek asylum. Now DHS has employed heavy-handed raid tactics that impose even greater barriers to humanitarian relief. AILA and the Council have proposed more sensible and humane procedures to ensure compliance with immigration law while also protecting the rights of these families.

We stand ready to work with DHS to achieve these goals. We urge DHS to reconsider its approach, take steps to ensure that each family is afforded a full and meaningful opportunity to seek asylum, and pursue other forms of protection.

Please contact Greg Chen, Director of Advocacy at the American Immigration Lawyers Association, 202/716-5818, [gchen@aila.org](mailto:gchen@aila.org).

Sincerely,



Victor Nieblas Pradis  
President  
American Immigration Lawyers Association



Benjamin Johnson  
Executive Director  
The American Immigration Council

cc: Alejandro Mayorkas, Deputy Secretary, Department of Homeland Security  
Cecelia Muñoz, Assistant to the President and Director of the Domestic Policy Council