

# Lawsuit exposes conditions at New Mexico immigrant detention center

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On August 22, a coalition of civil rights and immigrants' rights attorney organizations, including the National Lawyers Guild, the American Civil Liberties Union, the American Immigration Council and the National Immigration Law Center, filed a lawsuit against US government officials, among them Secretary of the Department of Homeland Security Jeh Johnson and US Attorney General Eric Holder.

The goal of the lawsuit (the complaint is available here) is to stop the expedited deportations of women and children who have fled threats and violence, mostly in the Central American nations of El Salvador, Guatemala and Honduras, and to require that all credible applications for asylum be processed according to law.

The lawsuit is brought on behalf of ten immigrants—three of whom are minors—identified only by their initials. They are currently being held at a converted wing of the Federal Law Enforcement Training Center, which trains Border Patrol agents and other federal officers, located in the southeastern New Mexico town of Artesia.

Since June, women and children apprehended crossing the New Mexico border have been locked up in Artesia, and their numbers are approaching 700. The facility's capacity is 672. The numbers would be higher but for the fact that detention center authorities have routinely violated detainees' rights and deported them without due process.

Some Democrats have painted the Obama administration's implementation of the detention center as a humane measure that would provide housing and give the detained immigrants a chance to apply for asylum. The reality, described in a number of reports by civil rights and immigrants rights groups as well as in the complaint, is another story.

The location of the center makes it extremely difficult for the detainees to get adequate legal assistance. The

nearest cities of any size are El Paso, Texas and Albuquerque, New Mexico, respectively 200 and 240 miles away from Artesia. Lawyers living in these cities and wishing to represent detainees face hours of driving time back and forth.

Both attorneys and detainees encounter numerous roadblocks to meeting and getting a fair hearing—called a “credible fear interview”—at the detention center. Some attorney and immigrant rights groups who visited the detention center have published reports about Artesia. One such report (available here) by the New Mexico Immigrant Law Center lays bare the true nature of conditions at the center:

- The women were not adequately informed about their rights and the deportation process. They were given little or no information on how to contact lawyers and did not know that free legal services were available.

- Immigration officers at Artesia tell families that everyone detained at Artesia will be deported, and that while they can try to apply for asylum, doing so will just result in their lengthy detention and they will end up being deported anyway.

- “With no land line at the facility, the detainee handbook states that women should have access to flip phones held by guards three times a day, but those interviewed said they are only allowed one 3-5 minute call each day and that if the children misbehaved, everyone lost access to phones.”

- The detention center administration makes it difficult for lawyers to meet and talk to detainees. One attorney—who had driven for 9 hours from Colorado—asked to talk to the court administrator, and was told the center doesn't have one. A man who claimed he was in charge for the day said, “I'm telling you that our job is to get these people out of here. Everybody here is going to be deported. There may be one person in a thousand that is eligible for a benefit in the US. The rest

will be deported.”

- Clients are deported without their attorneys’ knowledge. The same attorney submitted a form signed by her client stating that she was the client’s legal representative at 5 p.m. one day. She later found out that her client was deported at 1 a.m. the following morning.

- Privacy rights are continuously infringed upon. The areas for interviews are not closed, and guards are free to walk about. In addition, mothers are forced to keep their children while being interviewed, even while recounting incidents of physical and sexual violence.

These and other complaints are listed in the lawsuit, which also takes aim at the deliberate lowering of the procedural bar to facilitate the deportation process.

According to the lawsuit, “Under the Immigration and Nationality Act (‘INA’) and its implementing regulations—as well as under the Due Process Clause—Plaintiffs have an indisputable right to seek asylum and related relief, and to a fair hearing to present their claims. But that process at Artesia has been anything but fair, and falls far short of the government’s obligations under existing law. Instead, the government has created what can only be described as a ‘deportation mill’ that is sending mothers and children back to their home countries to face serious harm without ever having given them a meaningful opportunity to present their claims.”

In addition, “the government has sacrificed the individualized consideration of asylum claims required by the statute, regulations, and Constitution, and imposed a more stringent—and unlawful—standard to deny meritorious claims presented by mothers and children detained at Artesia.”

Other breaches include limiting or cutting off communication with the outside world, withholding information, the use of complicated legal phraseology, and “a highly truncated process in which [detainees] are provided virtually no notice of when critical proceedings are scheduled to occur.” These conditions have caused “a dramatic drop in the number of families who are found eligible to apply for asylum...”

If the detainee is able to get a credible fear interview, the interviewers cut off the interviewee before she can adequately answer a question and ask trick questions or questions involving legal technicalities. They also misrepresent the detainees’ answers in their reports, for example, stating that an interviewee said she was “insulted” by gang members when she had actually said she was threatened.

According to the complaint, the United States is not the only nation on the continent where Salvadoran, Guatemalan and Honduran refugees are seeking asylum. “Over the past five years, the United Nations High Commissioner for Refugees (“UNHCR”) has documented a 712 percent increase in asylum applications from these countries filed in Mexico and in the other Central American countries.”

Already the effects of the expedited deportation policy are being seen: “It has been reported that since February alone, between five and ten children deported to Honduras by the United States have been killed.”

Nor is this the first time that the US government has bent the law to deny asylum seekers’ rights: “As with other disfavored groups in the past who have sought refuge in the United States, such as Haitians fleeing a brutal dictatorship in the 1980s and 1990s, or Salvadorans and Guatemalans fleeing persecution in the mid-1980s, the government has made a decision—in advance of individual hearings—that it will deny most of the asylum claims made by the recent Central American migrants.”

This exposes the role of Obama administration officials, particularly Johnson, in railroading asylum seekers out of the country. “Our message to this group is simple: we will send you back.” According to the lawsuit, the government has “categorically prejudged the claims...and decided—in advance—that these cases are not meritorious and that these women and children must be deported.”

These and other restrictions and roadblocks have had their intended effect: “According to USCIS statistics, the rate of positive credible fear findings nationwide was 77 percent from March 2013 to June 2014, just prior to Artesia’s opening. In stark contrast, the credible fear grant rate at Artesia during the first seven weeks that the facility was in operation was only 37.8 percent—about half the average pass rate.”



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