

January 4, 2016

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

The Honorable Loretta Lynch  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: Notification of disabilities of persons  
targeted in Central American refugee raids  
and request for immediate modifications

Dear Secretary Johnson and Attorney General Lynch:

We write to notify you personally that a substantial proportion of the Central American refugees targeted in Department of Homeland Security (DHS) raids that began yesterday, and a substantial proportion of those who are currently in removal proceedings before the Executive Office for Immigration Review (EOIR), are disabled, as that term is defined in the Rehabilitation Act of 1973. This letter is meant to notify you of their disabilities and to request reasonable modifications to the asylum process and removal proceedings and to the current enforcement operations.

**Notice of Disability Under Rehabilitation Act**

Based on available information, a substantial portion of the Central American refugees who were placed in removal proceedings on or after January 1, 2014, including those who are now being targeted in ICE raids, were exposed to profound and substantial trauma in their countries of origin. Since 2014, thousands of people from Central American families, including single mothers and toddlers, have come to the United States seeking refuge from gang- and gender-based violence in their countries of origin. Families have traveled hundreds of miles through dangerous conditions to bring children to safety. A very high proportion of the Central American mothers and children now targeted for ICE raids have survived sexual assault or other forms of extreme violence, have mourned the loss of close family members to particularized violence, and today suffer the inevitable consequences of exposure to this trauma. In many cases, the harmful health consequences of this prior trauma were made even worse by the conditions of confinement DHS imposed on these families, both at the U.S. border and in family detention facilities. A June 30, 2015 complaint submitted to DHS by the American Immigration Lawyers Association, American Immigration Council, and Women's Refugee Commission ("AILA Complaint") documents the significant detrimental impact of family detention on mothers and children who are asylum seekers and victims of trauma.

**A substantial proportion of the Central American parents and children who have sought refuge in the U.S. are suffering from severe symptoms of—and in many cases meet diagnostic criteria for—posttraumatic stress disorder, generalized anxiety, and depression.** Symptoms from these and other trauma-related conditions can substantially impair and limit major life activities, including negatively impacting and interfering with the ability of these families to meaningfully participate in asylum processing and immigration removal proceedings, federal programs subject to the Rehabilitation Act. As a result, a substantial number of the Central American refugees now targeted for ICE raids are disabled, as that term is defined in the Rehabilitation Act. 42 U.S.C. § 12102(1); 29 C.F.R. § 1630.2. The violent nature in which the current DHS raids are being conducted poses substantial risk for further harm and exacerbation of traumatic symptoms.

### **Providing Reasonable Accommodations to Central American Refugee Families**

Media reports indicate that Immigration and Customs Enforcement (ICE) has begun to conduct a series of raids to deport Central American families. These refugee families have fled particularized violence and persecution in their countries of origin and are seeking asylum and other humanitarian relief. Central American refugee families are currently subject to armed ICE officers forcing or coercing their way into homes, in some instances pulling adults and children out of bed before dawn. The violent manner in which ICE officers are conducting raids threatens to cause further harm to these disabled refugees. Mothers and children who witnessed and survived arrest, torture, and murder of family members, and attempts on their own lives, will be grossly re-traumatized by ICE raids. These refugees' ability to advocate for themselves in removal proceedings even after entry of a final order by, for example, moving to rescind *in absentia* orders or to reopen final orders of removal will be further impaired by ICE's actions, in violation of the Rehabilitation Act. These individuals now require reasonable modifications to DHS conduct of enforcement operations and EOIR adjudication of removal proceedings.

**In addition to providing notice of disability, we request immediate modification of EOIR and DHS policies and DHS's conduct of the raids now underway to ensure that these disabled refugees have meaningful access to their processing as asylum seekers and to their removal proceedings.** DHS, EOIR, and government contractors have routinely provided families with inadequate orientation to the U.S. immigration system, a system that is supposed to guarantee the opportunity to seek asylum and other humanitarian relief. These disabled parents and children should be provided with a fair and humane process. Consequently, we request reasonable accommodations to ensure that end, including:

(1) review of the underlying removal orders on which DHS raids are purportedly based, in order to confirm that the orders were not obtained in violation of the Rehabilitation Act, *see Franco-Gonzales v. Holder*, 767 F.Supp.2d 1034 (C.D.Cal. 2010) (Rehabilitation Act applies to removal proceedings and requires reasonable modifications for disabled respondents);

(2) immediate suspension of all raids against Central American families pending conclusion of this review;

(3) provision of counsel to disabled refugees unable to represent themselves in asylum processing and removal proceedings;

(4) service of a written request for an individual or family to surrender for removal *prior* to the government conducting a raid; and

(5) any further reasonable modifications to the asylum processing, removal proceedings, and enforcement operations required for these disabled refugee families, in accordance with the Rehabilitation Act.

Without these reasonable modifications, parents and children are unable to meaningfully participate in refugee processing or removal proceedings, including an inability to pursue motions to rescind *in absentia* orders or to reopen final orders following arrest in a raid. PTSD and other trauma-induced mental impairments inhibit survivors' ability to form a coherent narrative of traumatic memories, to concentrate, and to communicate. Conditions of stress exacerbate the effects of trauma on a survivor's ability to tell her family's story. Consequently, without the requested reasonable modifications, Central American refugee families are unable to meaningfully navigate complex immigration proceedings or coherently articulate past persecution and ongoing fear as required for asylum claims. The re-traumatizing experience of arrest by armed, uniformed ICE agents who enter private homes, often without a warrant or consent, means that the current raids further prevent these disabled refugees from meaningfully participating in removal proceedings by exacerbating these trauma-induced impairments.

The Rehabilitation Act prohibits government agencies from discriminating against individuals on account of qualifying disabilities. 29 U.S.C. § 794; 42 U.S.C. § 12102(1); 28 C.F.R. § 35.130. DHS regulations require that DHS agencies provide reasonable modification to disabled individuals, pursuant to the Act. 6 C.F.R. §§ 15.1-15.70. Failure to implement reasonable modifications accommodating the disabilities of these Central American refugees constitutes a violation of civil rights statutes protecting persons with disabilities, for which you, your agencies, and your subordinate officials may be liable. 29 U.S.C. § 794; 42 U.S.C. § 12102(1); 28 C.F.R. § 35.130; 6 C.F.R. §§ 15.1-15.70.

You already know or should know of the disabilities of the families now targeted for raids, based on the medical screenings that were performed or should have been performed upon DHS's initial arrest or detention of these families and children. These screenings, along with removal proceedings, should also make you aware of the barriers to meaningful participation in removal proceedings and programs for asylum and humanitarian relief that these disabilities have caused. Accordingly, we do not believe that either this notification of disability or the specific request for reasonable modifications is required by law. Nevertheless, so as to bring this matter directly and unambiguously to your attention, we provide this formal notice and request. Please contact Michael Wishnie at the Jerome N. Frank Legal Services Organization at Yale Law School, (203) 436-4780, [michael.wishnie@yale.edu](mailto:michael.wishnie@yale.edu), if you would like to discuss this matter further.

Sincerely,

Access Living of Metropolitan Chicago  
Adelante Alabama Worker Center  
Advancing Justice – Asian Law Caucus  
Advocacy for Justice and Peace Committee of the Sisters of St. Francis of Philadelphia  
The Advocates for Human Rights  
Alabama Coalition for Immigrant Justice  
American Civil Liberties Union of Maryland (ACLU-MD)  
American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)  
American Immigration Lawyers Association, Connecticut Chapter  
Amistad Catholic Worker (New Haven, Connecticut)  
Apostle Immigrant Services  
The Arc of the United States  
Arkansas United Community Coalition (AUCC, Arkansas Unido)  
Asian Americans Advancing Justice - Los Angeles  
Asian Law Alliance  
California Immigrant Youth Justice Alliance  
CASA de Maryland  
Catholic Legal Immigration Network, Inc.  
Center for Gender & Refugee Studies  
Center for Popular Democracy  
Central Ohio Worker Center - Columbus, Ohio  
Chicago Appleseed Fund for Justice  
Church World Service  
Cleveland Jobs with Justice  
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)  
Coalition of Residents and Immigrants in Solidarity  
Colombia Action/Connecticut  
Colorado Immigrant Rights Coalition  
Community Activism Law Alliance  
Congregations Organized for a New Connecticut (CONNECT)  
Connecticut Immigrant Rights Alliance  
Connecticut Legal Rights Project  
Connecticut Legal Services, Inc.  
Connecticut Working Families Party  
Conversations With Friends  
CT Students for a Dream  
Dallas AFL-CIO  
Disability Rights DC at University Legal Services  
El CENTRO de Igualdad y Derechos  
Equal Rights Advocates  
Equip for Equality  
Faith In New Jersey  
Families for Freedom  
Feministing.com

First Focus  
Franciscan Action Network  
Franciscans for Justice  
Franciscan Peace Center  
FWDYale  
Gamaliel Network  
Georgia Detention Watch  
Georgia Latino Alliance for Human Rights  
Grassroots Leadership  
Greater Birmingham Ministries  
Greater Hartford Legal Aid  
The Hat Project  
Hesperian Health Guides  
Holy Spirit Missionary Sisters, USA - Justice, Peace and Integrity of Creation  
ICE Free NJ  
Idaho Community Action Network (ICAN)  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Defense Project  
Immigrant Justice Advocacy Movement  
Immigrant Justice Corps  
Immigrant Law Center of Minnesota  
Immigrant Legal Resource Center  
The Immigration & Refugee Task Force of the Unitarian Society of New Haven  
Institute for Social and Cultural Practice and Research, Inc.  
Interfaith Movement for Immigrant Justice (IMIrJ)  
The International Institute of Connecticut (IICONN)  
Jobs With Justice  
Junta for Progressive Action  
Juntos  
Justice, Peace, and Integrity of Creation Office, Sisters of St. Francis, Oldenburg, Indiana  
Kids in Need of Defense (KIND, Inc.)  
Know Your IX  
La Luz Hispana  
Latin American Coalition  
Latino Advocacy Foundation of Fairfield County  
LatinoJustice PRLDEF  
Latino Victory Project  
Lawyers' Committee for Civil Rights of the San Francisco Bay Area  
League of United Latin American Citizens  
Legal Aid Justice Center, Falls Church, Virginia  
Legal Aid Society – Employment Law Center  
LGBTQ+ Youth Kickback  
Little Sisters of the Assumption, US Territory  
Lowcountry Immigration Coalition  
Make the Road Connecticut  
Make the Road New Jersey

Make the Road New York  
Make the Road Pennsylvania  
Manos Unidas de New Britain  
Maryland Immigrant Rights Coalition  
MEChA de Yale  
Mi Familia Vota  
Migrant Families Popular Assembly  
Migrant Justice  
National Center for Lesbian Rights  
National Council of Jewish Women  
National Day Laborer Organizing Network (NDLON)  
National Employment Law Project  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project of the National Lawyers Guild  
National Korean American Service and Education Consortium (NAKASEC)  
National Latina Institute for Reproductive Health  
Neighbors Link Stamford  
NETWORK, A National Catholic Social Justice Lobby  
New England Joint Board of UNITE HERE  
New Haven Legal Assistance Association  
New Haven Peoples Center  
New Haven Rising  
New Jersey Youth For Immigrant Liberation  
New Mexico Immigrant Law Center  
New Orleans Workers Center for Racial Justice  
New Sanctuary Coalition of New York  
New Sanctuary Movement of Philadelphia  
New York State Interfaith Network for Immigration Reform  
North Georgia Immigrant Justice  
Northern Manhattan Coalition for Immigrant Rights  
NWDC Resistance, Tacoma, Washington  
OneAmerica  
Organize Now  
Organized Communities Against Deportations, Chicago, Illinois  
Pax Christi USA  
People's Health Movement – United States  
Portland Immigrant Rights Coalition  
Provincial Council of the Clerics of St. Viator (Viatorians)  
Refugee and Immigrant Center for Education and Legal Services (RAICES)  
Service Employees International Union (SEIU)  
SEIU 32BJ  
SEIU United Service Workers West (SEIU-USWW)  
Senior & Disability Action  
Services, Immigrant Rights, and Education Network (SIREN)  
Sex Workers Project at the Urban Justice Center

Show Up for Racial Justice  
Sisters of the Living Word  
Sisters of Mercy South Central Community  
Sisters of St. Francis of the Neumann Communities  
Somos Mayfair  
St. Rose of Lima Roman Catholic Parish, New Haven, Connecticut  
Student Action with Farmworkers  
Tennessee Immigrant and Refugee Rights Coalition (TIRRC)  
Texas Appleseed Fund for Justice  
Texas Organizing Project  
Unidad Latina en Acción Connecticut  
Unidad Latina en Acción New Jersey  
United Action Connecticut  
United We Dream  
Urban Justice Center  
Virginia Coalition for Immigrant Rights  
Washington Defender Association's Immigration Project – Seattle, Washington  
The Washington Lawyers' Committee for Civil Rights and Urban Affairs  
We Belong Together  
WeCount! – Homestead, Florida  
Worker and Immigrant Rights Advocacy Clinic, Jerome N. Frank Legal Services  
Organization at Yale Law School  
Young Immigrants in Action

cc: Stevan Bunnell, General Counsel  
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