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ICE Urged To End Arbitrary Detention For Asylum Seekers

By **Nicole Narea**

Law360, New York (May 31, 2017, 3:12 PM EDT) -- More than 200 organizations and advocates urged U.S. Immigration and Customs Enforcement on Wednesday to halt arbitrary parole and bond denials to asylum seekers in detention, which they say have proliferated since President Donald Trump issued his executive orders on immigration.

In a letter addressed to ICE Director Thomas Homan and Claire Trickler-McNulty, 207 organizations, legal representatives and faith leaders sought to draw attention to a total of 805 documented cases of individuals denied or bond on an allegedly arbitrary basis at 37 immigration detention facilities since Trump's Jan. 25 immigration enforcement order and the U.S. Department of Homeland Security implementation memo released the following month.

The letter, authored by representatives of the nonprofit Community Initiatives for Visiting Immigrants in Confinement, was also signed by organizations such as the International Rescue Committee, the National Immigrant Justice Center, the Southern Poverty Law Center and the Detention Watch Network.

"We demand an immediate end to the arbitrary, prolonged and indiscriminate detention of asylum seekers," the letter states. "Denying parole or bond to families and individuals who are simply exercising their right to seek protection under international law and who in many cases have urgent humanitarian needs, including the right to family unity, is a gross injustice."

The letter asserts that the most recent uptick reflects a broader shift in law enforcement attitudes toward the practice of issuing parole and bonds, even after asylum seekers have been deemed to have credible fear of persecution or torture in their home countries showing that they have a viable asylum claim. The signers acknowledged the practice of prolonged detention to deter asylum seekers began under President Barack Obama's administration, but cited their attorneys working at the border who found that Trump's executive order and the related DHS implementation memo had an even more chilling effect on the use of parole and bonds.

Law enforcement may now only consider parole under a narrow set of circumstances, ending what U.S. Attorney General Jeff Sessions called in April the Obama administration's "catch and release" era. Further, Trump's policies have incited "increasingly exotic and inhumane schemes for long-term detention," such as sending immigrants, regardless of their nationality, to Mexico while they await U.S. removal proceedings, the letter claims.

Denise Gilman, an immigration attorney and law professor at the University of Texas, told Law360 that she had personally witnessed such practices at the T. Don Hutto Residential Center near Austin, claiming that ICE is uniformly denying release, even to women who pass a credible fear screening interview. She said many of the women at that facility are eligible to seek immigration court review of ICE's decision to deny release, but securing a hearing may take weeks or months and they may not be able to pay the high bonds that are often imposed as a condition of release by the court, causing detention times to shoot up.

Christina Fialho, executive director of Community Initiatives for Visiting Immigrants in Confinement, told Law360 of another such case at the Florence Correctional Center in Arizona where large groups

of Haitians who were previously granted ICE bonds were told by deportation officers that their ICE bonds were being revoked.

Previously, those in detention would have been released by ICE immediately after passing the screening interview, either on a low bond or on their own recognizance, Gilman recalled.

"It appears that these new detention policies are partly a result of the Trump administration's insistence on emphasizing detention over more humanitarian responses to women trauma survivors seeking protection in this country," Gilman said. "The policies also seem to be a means of ensuring that private detention beds remain full even though the numbers of border crossers have decreased."

The letter's signers claimed Wednesday that continuing to allow law enforcement to prolong detentions would have ugly long-term impacts on vulnerable populations seeking protection in the U.S.

"Current trends toward restricting parole and bond must be immediately reversed if the United States is to live up to its moral and legal obligations to those most at risk," they wrote.

ICE did not immediately respond to requests for comment.

--Editing by Katherine Rautenberg.

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