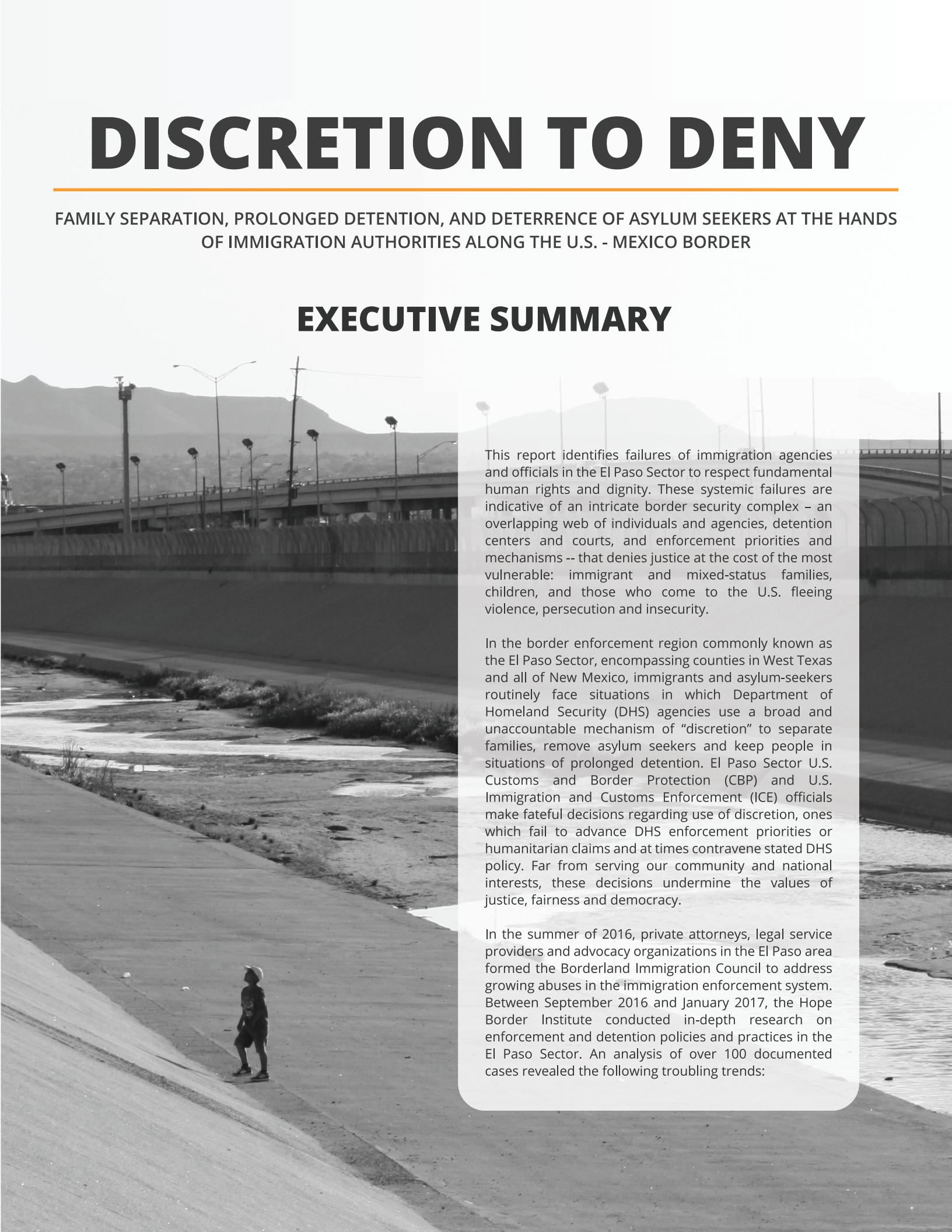


DISCRETION TO DENY

FAMILY SEPARATION, PROLONGED DETENTION, AND DETERRENCE OF ASYLUM SEEKERS AT THE HANDS OF IMMIGRATION AUTHORITIES ALONG THE U.S. - MEXICO BORDER

EXECUTIVE SUMMARY



This report identifies failures of immigration agencies and officials in the El Paso Sector to respect fundamental human rights and dignity. These systemic failures are indicative of an intricate border security complex – an overlapping web of individuals and agencies, detention centers and courts, and enforcement priorities and mechanisms -- that denies justice at the cost of the most vulnerable: immigrant and mixed-status families, children, and those who come to the U.S. fleeing violence, persecution and insecurity.

In the border enforcement region commonly known as the El Paso Sector, encompassing counties in West Texas and all of New Mexico, immigrants and asylum-seekers routinely face situations in which Department of Homeland Security (DHS) agencies use a broad and unaccountable mechanism of “discretion” to separate families, remove asylum seekers and keep people in situations of prolonged detention. El Paso Sector U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) officials make fateful decisions regarding use of discretion, ones which fail to advance DHS enforcement priorities or humanitarian claims and at times contravene stated DHS policy. Far from serving our community and national interests, these decisions undermine the values of justice, fairness and democracy.

In the summer of 2016, private attorneys, legal service providers and advocacy organizations in the El Paso area formed the Borderland Immigration Council to address growing abuses in the immigration enforcement system. Between September 2016 and January 2017, the Hope Border Institute conducted in-depth research on enforcement and detention policies and practices in the El Paso Sector. An analysis of over 100 documented cases revealed the following troubling trends:

Enforcement & Family Separation

CBP and ICE routinely separate families at ports of entry and through detention and enforcement. Minors are torn from parents and caregivers, forcing children into state custody or foster care. Adult male caregivers and other male family members are systematically isolated from family units through detention and deportation. This family separation results in detrimental impacts on legitimate asylum claims as well as the mental, material and physical well-being of children and other family members.

Systematic Deterrence of Asylum Seekers

CBP and ICE practices deter and dissuade asylum seekers at all points of the asylum process, from intimidation and harassment of individuals arriving at ports of entry and agents' failure to screen for credible fear, to the use of prolonged detention and the abuse of asylum seekers while in custody. These practices, intended to break the spirits of asylum seekers, lead to the deportation of people seeking refuge, often to situations of extreme danger.

Unaccountable, Arbitrary Denial of Stays of Removal

ICE increasingly denies even the most urgent humanitarian requests for stays of removal with little to no explanation, even to attorneys. This results in the deportation of individuals with longstanding ties to communities, parents of minor children dependant on their care, and individuals whose prior requests for stays of removal were approved. This new practice has serious negative effects not only on those deported, but also on the communities and lives and livelihoods of family members they leave behind.

Unaccountable, Arbitrary Denial of Parole

The arbitrary nature of parole denials in the El Paso Sector represents a distinct deviation from previous leadership. Parole denials include those with established family ties and community sponsors, those responsible for family members with urgent medical situations, and parents of minor children. ICE provides minimal or no justification for these denials, holding immigrants and asylum seekers in detention, hindering their cases and causing mental and physical strain.

Violations of Due Process and Barriers to Counsel for Detained Migrants

Numerous obstacles to effective legal representation, including access to legal representatives, amount to a serious crisis of due process for individuals in immigration proceedings. Patterns identified in the El Paso sector include impediments to attorney-client meetings and confidentiality, the execution of deportation orders without notification to legal counsel; and other practices that inhibit due process.

These findings are not isolated events, but represent systematic and pervasive practices which deter asylum seekers and criminalize immigrants in the El Paso Sector. Furthermore, these documented cases, most dating from after December 2015, are representative of broader trends in immigrant detention and the treatment of asylum seekers across the United States. We reference reports and documentation presented by human rights, advocacy and faith-based organizations identifying many of these same patterns and practices throughout the country.

We join the many advocates in the United States and around the world in the call to end private immigrant detention and to treat

asylum seekers with respect and dignity. Given the devastating human consequences this report depicts, we recommend the following:

Effective Transparency and Accountability

CBP and ICE should implement effective vehicles of transparency and accountability in the areas of asylum, detention and prosecutorial discretion.

Limit Use and Duration of Immigrant Detention

Detention should not be used as a punitive measure and only as necessary to ensure public safety and appearance in court. ICE and EOIR should prioritize alternatives to detention and utilize prosecutorial discretion to release detainees in accordance with DHS memos, to prioritize humane enforcement and detention that respects dignity and rights.

End Deterrence & Mass Detention of Asylum Seekers

CBP and ICE must offer asylum seekers the protections afforded to them by US and international law. Asylum seekers should not be processed as border crossers and detention should not be used as a deterrent for those who seek protection and refuge in the United States.

Humane Enforcement of Removal

ICE should utilize prosecutorial discretion to grant stays of removal to prioritize humane enforcement in a way that respects basic dignity and rights and should ensure that legal counsel and deportees are advised of impending deportation.

End Family Separation

DHS agencies tasked with immigration enforcement should prioritize child wellbeing and family unity in all decision making, including in asylum, detention and enforcement processes.

Guarantee Access to Counsel and Respect Due Process

ICE and private detention contractors should implement measures to improve and ensure detainees' access to counsel and due process.

This report illustrates policies, practices, patterns and a culture of abuse particular to the El Paso Sector, in which local officials exploit the opaque domain of discretion and in so doing deny fundamental human rights. This situation has become more acute since the arrival of ICE Field Office Director Corey Price. El Paso-based CBP and ICE leadership, along with EOIR, have the power to address these systematic abuses. In doing so, they can protect the most fundamental rights of migrants and asylum-seekers while upholding the law, promoting justice and preserving the integrity of the immigration system in the El Paso sector.