

FROM GUARDS TO GUARDIANS:

HEALTHY COMMUNITY ALTERNATIVES TO
IMMIGRATION DETENTION



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The Children's Defense Fund-Texas

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Section I: Introduction

Based on my conversations with mothers and children detained at Karnes, I can say with certainty that detention is inflicting emotional and other harms on these families, particularly the children, and that some of these effects will be long lasting, and very likely permanent . . . The healing process, in my view, cannot begin while mothers and young children are detained. . . Even a few weeks of detention has exacerbated the trauma experienced by these families and added a new layer of hardship that, with respect to the children in particular, may be irreversible.

— Luis H. Zayas, 2014

In 2014, Dr. Luis Zayas was invited by participants in a lawsuit (*Flores v. Reno*)¹ to interview 10 asylum-seeking families, both parents and children, who were at that time detained by Immigration and Customs Enforcement (ICE) in the Karnes Family Residential Center in Texas. Zayas, a licensed clinical social worker, psychologist, and researcher, brought his knowledge of child development and mental health and his own clinical observations of children and mothers to inform the lawsuit. He is also the dean of the faculty of social work at the University of Texas at Austin and professor of psychiatry and behavioral sciences at the Dell Medical School. He brought many years of experience as a researcher, clinician, teacher, and advocate to his work with detained families. Zayas' interviews yielded deeply disturbing observations. He found children and parents who were traumatized, frightened, depressed, and anxious. In just the ten families he interviewed in August of 2014, Zayas encountered children who had regressed in their behaviors, and others as young as 11 years old with suicidal ideation. His conclusions were unambiguous: detention of any length, under any conditions, especially for families fleeing trauma, causes further, irreversible harm to children.

Zayas' clinical observations of those families became an influential piece of evidence in ongoing *Flores* litigation over the legality of, and the constraints upon, holding children with their parents in detention as part of their asylum process. His conclusions confirmed the worst fears of the lawyers, advocates, and immigrant families who had long protested this practice as both unnecessary and harmful. The declaration has been a useful tool in the ongoing fight to stop the federal government from holding families in detention.

This report focuses on just one aspect of the many consequences of incarcerating families—the impact on children's and parents' mental health. Because mental health consequences can last a lifetime, and often redound upon other areas, such as physical health, educational and occupational achievement, and family dynamics, we need a full examination of how family detention harms children, and what policies the United States should adopt to safeguard the children's future. This report takes a close look at this issue and provides some recommendations.

¹See *Flores v. Reno*, (1997), p 972, for a fuller explanation of this litigation and Zayas's participation.

Why is Family Detention a Problem?

Family detention is one method used by the Department of Homeland Security (DHS), and its component agencies, Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP), to process the families who seek asylum in the United States. The method by which a person seeks asylum is as follows: individuals may do so at the border of, or within, the country in which

“Like all carceral systems, family detention is inherently abusive, traumatic, and dehumanizing.”

they wish to seek asylum, after which immigration law dictates how their claims will be evaluated. The first step for families who arrive at, or who are apprehended at or near the border, is to undergo a “credible fear” interview (CFI), or, in some cases, a “reasonable fear” interview (RFI).² If their fears are determined to be credible (or reasonable), they will be protected from immediate return to their home country and will be able to argue their case before an immigration judge who will then decide whether they are to be granted asylum.

For those asylum seekers who pass their CFI or RFI, ICE then either releases them into the community, or, in recent years, sends them to an immigrant detention center to await their court dates, or to be released after some period of detention, often after they are forced to pay exorbitant bonds.³ ICE does not incarcerate all families, and there appears to be no obvious methodology employed in deciding whom they release and whom they detain.⁴ Those who are released into the community usually have friends or family to whom they can go, though some rely upon community-based organizations which operate group homes or shelters for families. Those who are detained, on the other hand, are kept in prison-like conditions, with all the attendant restrictions upon their freedom.

Like all carceral systems, family detention is inherently abusive, traumatic, and dehumanizing. In a recent policy brief, the National Immigrant Justice Center (NIJC) described it as follows:

ICE holds tens of thousands of people daily in the equivalent of pretrial detention, without appointed counsel and often without access to bond hearings. ICE uses taxpayer dollars to jail and deport people who have lived in the United States for decades, including parents of U.S. citizens, and people who arrived recently seeking safety or a better life. They are held in one of more than 200 prisons, jails, and prison-like complexes rife with systemic racism and abuse. These facilities are largely operated by private companies and are remote and isolated.⁵

In 2015, in a letter protesting the practice of family detention, 140 signatory organizations and child welfare professionals wrote, “Detention centers are not established to care for or provide services to children for their welfare, but rather are designed to hold children in secure custody in order to execute federal immigration law enforcement purposes.” They condemned the well-documented abuses suffered by incarcerated children, stating that children at the Karnes and Dilley detention centers “are exposed to conditions that in any other setting, child care professionals would deem at best neglectful, and at worst abusive.”⁶

² A Credible Fear Interview (CFI) is an interview that takes place between an asylum officer and a person who has recently come to the United States without permission and is afraid to return to their home country, the interview is used to determine if one can apply for asylum protection. If an asylum applicant has been deported before, has an absentia order of deportation, or an aggravated felony conviction, they are subject to the Reasonable Fear Interview (RFI). See the UNHCR [“I am Thinking About Applying for Cancellation of Removal for Legal Permanent Residents”](#) report for more details.

³ See the [Freedom for Immigrants National Bond Fund](#) website for more information about bonds.

⁴ [“Locking Up Family Values, Again,”](#) Lutheran Immigration & Refugee Service and the Women’s Refugee Commission, Oct. 2014.

⁵ Altman, Heidi, and Marta Ascherio. [“Policy Brief: 5 Reasons to End Immigrant Detention.”](#) National Immigrant Justice Center, September 14, 2020.

⁶ [“Final Letter on Texas Licensing for Karnes and Dilley,”](#) Grassroots Leadership, October 13, 2015.

Even the federal government's own advisory committees have recommended against the use of family detention. The very first recommendation made by the advisory committee convened by the Department of Homeland Security in 2015-2016 stated "detention is generally neither appropriate nor necessary for families - and that detention or the separation of families for purposes of immigration enforcement or management, or detention is never in the best interest of children."⁷ The committee went on to recommend that DHS discontinue the general use of family detention, "reserving it for rare cases when necessary following an individualized assessment of the need to detain because of danger or flight risk that cannot be mitigated by conditions of release."⁸ Even in these rare cases, however, the committee urged DHS to remember that, "if such an assessment determines that continued custody is absolutely necessary, families should be detained for the shortest amount of time and in the least restrictive setting possible; all detention facilities should be licensed, nonsecure and family-friendly. If necessary to mitigate individualized flight risk or danger, every effort should be made to place families in community-based case-management programs that offer medical, mental health, legal, social, and other services and supports, so that families may live together within a community."⁹ Needless to say, in the four years subsequent to this report, DHS and ICE not only ignored these recommendations, but flouted them in the most brazen of ways.

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What is most enraging about this whole process is that it is entirely unnecessary. Immigrant detention, as the ACLU's Madhuri Grewal asserted in a recent Washington Post opinion piece, "used to be the exception, not the rule.

Under the law, we aren't supposed to incarcerate people to punish them for lacking immigration status — that is a civil matter — or to deter others from coming to the United States. But that's precisely what we now do, and on a massive scale."¹⁰ For a comprehensive history of family detention policies, and detention in the United States, we recommend reading a report published by Dora Schriro entitled, "Weeping in the Playtime of Others: The Obama Administration's Failed Reform of ICE Family Detention Practices."¹¹ For the purposes of this report, however, we will offer a short summary of the history and problems with family detention, and efforts to resolve those problems.

Family detention has been a part of U.S. immigration policy for decades, though it has contracted and expanded over time, based upon the administration in power and the immigration circumstances those administrations faced. While the Biden Administration has made laudable steps toward ending the practice of family detention at specific locations, these recent changes are not permanent, and there has been no federal commitment not to return to these practices at a future date. We must push for change that cannot be undone by an executive order from a future administration.

⁷ ["Report of the DHS Advisory Committee on Family Residential Centers,"](#) Department of Homeland Security (DHS) Advisory Committee on Family Residential Centers (ACFRC), September 30, 2016, p.2

⁸ ["DHS Advisory Committee on Family Residential Centers Report,"](#) ACFRC, p.2

⁹ ["DHS Advisory Committee on Family Residential Centers Report,"](#) ACFRC, p.2

¹⁰ Grewal, Madhuri. ["Biden can end the mass incarceration of immigrants,"](#) *The Washington Post*, December 11, 2020.

¹¹ Schriro, Dora. ["Weeping in the Playtime of Others: The Obama Administration's Failed Reform of ICE Family Detention Practices,"](#) *Journal on Migration and Human Security (JMHS)*, 2017, Volume 5, Number 2, 452-480.

There are currently three family detention centers in the United States, the total capacity of which is 3,758. Two of the centers are operated by contract with private prison corporations. The centers and their particulars are as follows:

- The Berks County Residential Center in Leesport, Pennsylvania, operated by Berks County, is currently licensed to incarcerate 96 individuals but has capacity to incarcerate nearly 200 individuals.
- The Karnes County Residential Center in Karnes City, Texas, operated by the GEO Group, has the capacity to incarcerate 1,158 individuals.
- The South Texas Family Residential Center in Dilley, Texas, operated by CoreCivic, has the capacity to incarcerate 2,400 individuals. It is the largest immigration detention center in the country.

There have been other family detention centers over the years (in Artesia, NM, and Hutto, TX), but these three have been most recently operational.¹²

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There are a host of problems with the current system of family detention, from fiscal irresponsibility to human rights abuses. Fiscally, the federal government wastes substantial funds on the contracts that ICE signs with private prison corporations. These contracts are usually long-term, whereby the federal government is obligated to pay “per bed” rather than “per head.” That is to say, if the contract is for X million per year, the government pays that X million whether the facilities are full or not. When the beds are empty, CoreCivic and Geo Group still collect payment, to the tune of millions of wasted taxpayer dollars. A recent NPR article highlighted this problem, stating that “For dozens of detention centers across the country with these ‘guaranteed minimums,’ ICE pays more than \$1 million a day for empty detention beds.”¹³

Another glaring problem with family detention is the well-documented history of human rights abuses. The range of abuses includes: medical maltreatment, lack of sufficient access to education, unnecessarily long periods of incarceration, family separations (fathers incarcerated separate from mothers and children), poor food and water quality, physical and sexual abuse, and more.¹⁴ These abuses have led to lawsuits, one of which, *Flores v. Reno*, ended in 1997 with a

settlement agreement that has dictated the length of time and conditions under which immigrant children may be held by government officials.¹⁵

The protections embedded in the *Flores* settlement are a floor, rather than a ceiling, and are important, as the settlement is the only set of rules that, at least on paper, keeps ICE from treating legally-present children as prisoners. The protections are as follows: First, the government is required to release children from immigration detention without unnecessary delay, in order of

¹² At the time of this writing, all families detained at Berks have been released, though ICE's contract with the county remains operational. DHS also announced that they would turn Karnes and Dilley into “rapid processing centers.”

¹³ Rose, Joel. “[Beyond The Border, Fewer Immigrants Being Locked Up But ICE Still Pays For Empty Beds](#),” NPR, April 1, 2021.

¹⁴ “[Featured Issue: Conditions in CBP Custody](#),” American Immigration Lawyers Association, March 11, 2021.

¹⁵ “[The Flores Settlement and Family Incarceration](#),” Human Rights First, October 2018.

preference beginning with parents and including other adult relatives as well as licensed programs willing to accept custody. Second, with respect to children for whom a suitable placement is not immediately available, the government is obligated to place children in the “least restrictive” setting appropriate to their age and any special needs. Lastly, the government is required to implement standards relating to the care and treatment of children in immigration detention, which include access to counsel, access to education and recreational activities, and other necessary protections.¹⁶

The scope of the settlement agreement reached in the Flores case is tested more often in the breach than in practice, and for more than 30 years advocates have returned time and again to the court to force the government to comply with its terms (typically through “motions to enforce” the original agreement). One such motion to enforce the Flores settlement generated the 2014 declaration from Zayas. Flores alone, however, is an insufficient tool with which to combat an immigration system that is deeply dysfunctional, and operates under a rubric that is, at odds with any ambition to treat asylum seekers in a humane manner.

Flores alone, however, is an insufficient tool with which to combat an immigration system that is deeply dysfunctional, and operates under a rubric that is, frankly, at odds with any ambition to treat asylum seekers in a humane manner.

The U.S. immigration system is in need of a massive reform, and the sheer magnitude of the changes that must be made can be overwhelming. An end to family detention is one concrete piece of the puzzle, however, and it is our hope that this policy brief and research summary will be useful tools in advocating for an end to family detention, and a more humane immigration system more broadly.

Description of the Report:

This report will advocate for an end to family detention in U.S. immigration policy with a particular focus on the mental health consequences for children and parents detained in ICE-operated family detention centers. The content is intended to augment the record established by Zayas in his 2014 Declaration submitted in the Flores vs. Reno lawsuit, the settlement agreement of which has dictated the rules and conditions for detaining children. In that Declaration, Zayas offered his clinical assessment of the effect of detention on the asylum-seeking families he interviewed in the Karnes detention center. In subsequent years, he and his team undertook a longer research study to see whether additional research findings supported his original clinical assessments. The research findings do support Zayas’ clinical findings, and are summarized here in Section III.

Authors:

The collaborators on this report are Cheasty Anderson, PhD, of the Children’s Defense Fund-Texas (CDF-TX) and Luis H. Zayas, PhD; Tatiana Londoño, MSSW; and Jamie Turcios-Villalta, BA, of the University of Texas at Austin.

Dr. Zayas is presently the Dean of the Steve Hicks School of Social Work at the University of Texas at Austin. He is also a professor of psychiatry and behavioral sciences at the Dell Medical School of the University of Texas. He specializes on minority and immigrant families and their children. Since 2006, he has focused his clinical and research attention on U.S. born and foreign-born

¹⁶ [Flores, et al. v. Reno, Case No. CV 85-4544-RJK \(Px\), Settlement Agreement](#), C.D. Cal, January 17, 1997.

children, undocumented children of undocumented immigrants, mostly from Mexico and Central America. He has served as an expert witness for several immigration court cases to provide clinical observations concerning the psychological and developmental impact of detention on immigrant children and their families. His 2014 Flores Settlement Declaration is widely recognized and a pivotal source for immigration advocates. Tatiana Londoño and Jamie Turcios-Villalta are research assistants at the Steve Hicks School of Social Work working with Zayas on this research project.

Dr. Anderson is the Director of Immigration Policy and Advocacy at CDF-TX. CDF-TX is a state office of the national Children's Defense Fund (CDF), a national child-focused advocacy organization that grew out of the Civil Rights Movement. Over the years, CDF has helped create state and federal policies that have significantly improved child well-being, from efforts to ensure access to education for children with disabilities to dramatic improvements in child health coverage. CDF is seen as the nation's leading child advocacy organization and it has become known for careful research on children's survival, protection, and development in all racial and income groups and for independent analyses of how federal and state policies affect children, their families, and their communities. CDF-TX became involved in the family detention fight in 2015, and has been a co-lead, alongside RAICES, of the national Family Detention Coalition (<https://www.familydetentioncoalition.org/>) since 2018.



Section II: Declaration of Dr. Luis Zayas¹⁷

Below are the pertinent sections from the Declaration provided by Luis Zayas to the Flores Counsel in 2014. Zayas reflected on his clinical observations of the families and children he interviewed who had been detained at the Karnes Family Detention Center, operated by ICE through a contract with Geo Group.

I. Summary of Findings and Opinions

Detention has had serious and long-lasting impacts on the psychological health and well-being of the families I interviewed at Karnes. This was evident even though the families I interviewed had been detained at Karnes for a relatively limited period of time—i.e., two to three weeks. In general, mothers and children showed high levels of anxiety—especially separation anxiety for the children—symptoms of depression, and feelings of despair. Children showed signs that detention had caused developmental regression, such as reversion to breastfeeding, and major psychiatric disorders, including suicidal ideation. Teenagers showed signs of depression and anxiety and, in some cases, major depressive disorders. The impacts of detention are exacerbated by the fact that families have already experienced serious trauma in their home countries and in the course of their journey to the United States. In my professional opinion, detention at Karnes puts children at risk of recurrent and distressing memories, nightmares, dissociative reactions, prolonged psychological distress, and negative alterations in cognition.

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II. Background of Evaluation

On August 19 and 20 of 2014, I met with ten families (mothers with children) detained at the Karnes County Residential Center in Karnes City, Texas in order to assess their mental health status and evaluate the impact that their detention was having upon their psychological, educational, and emotional development. Without divulging confidential or client-specific data, I am able to share the following information.

In all, I evaluated ten mothers, ranging in age from 24 years to 47 years, and their children, who ranged in age from 2 years to 17 years. Eight of the families were from El Salvador. One was from Guatemala and one was from Honduras. There were 23 children in these families; I interviewed or spoke with and asked some questions to 21 of the children, which includes all of the children who were able to speak. There were 13 males, ranging in age from 2 years to 17 years. The two 2-year-old children were breastfeeding, although one had apparently been weaned but reverted to breastfeeding after being placed in detention, according to his mother. There were 10 female children, ages 9 to 17 years.

In most instances, the families were first detained by U.S. officials near the border and subsequently transferred to the Karnes detention center. Those families with older children—adolescent boys

¹⁷ See [Flores v. Reno](#), (1997), p 972-1004.

and girls—were separated at Karnes such that the older children slept in other rooms with young people their age rather than sleeping near their parents. At the time of my interviews, most families had been in the Karnes detention center for two to three weeks but had entered the United States some time earlier. All families identified at least one family member who resided in the United States, in such places as Texas, Ohio, Maryland, Virginia, Colorado, and other locations, with whom they could stay if released from detention.

III. Findings

Without divulging confidential or client-specific information, I am able to describe the families' post-migration experiences that they encountered upon reaching the United States and, in most instances, their detention by U.S. border patrol agents and other law enforcement at the border and their processing by U.S. officials leading to their arrival and detention in Karnes.

In all cases, the families I interviewed fled severe violence (e.g., domestic violence, sexual abuse, extortion, abuse and threats from gangs) in their home countries in order to seek refuge in the United States. At the time that I interviewed them, all of the families had been held at the Karnes detention facility for between two to three weeks. Their fears were not allayed by CBP or ICE; on the contrary, the families I interviewed all exhibited signs of elevated levels of anxiety, depression, and despair. Most mothers described elation when they were apprehended by U.S. officials because they initially felt safe in their hands. However, thereafter, the mothers and adolescents told of verbally rough treatment by U.S. border officials, such as being spoken sternly to and told to move faster, and admonished when they did not. Families stated that they did not always understand the orders given as they were told in English or in limited Spanish by some U.S. officials.

All mothers and older children provided relatively uniform descriptions of the conditions in the *hieleras* (roughly translated as ice boxes) in which they were placed early in detention. The *hielera* is a large, very cold cell housing large groups of immigrants (women, girls, and younger children) that provides no privacy, including a toilet used by everyone that was exposed to the view of everyone in the cell. The *hielera* was also intensely cold. Most told of being held in this setting for 48 hours or so. After that stop, the immigrants told of going to another location in which they were given aluminum-foil-like blankets that did warm them.

From there, they were moved to Karnes detention facility. While some families reported initially receiving friendly and caring treatment by U.S. officials, they also described punitive and verbally abusive treatment. They described the employees of the detention facility as “mean,” “rude,” “bullies,” along with other negative terms. Staff at Karnes called for census counts three times a day and if a child, typically an adolescent, was found in her or his mother’s cell and not in the one assigned to the teenager, they were given some sort of demerit. This was the case with one teenage female who was separated from her mother and two younger female siblings and was often weepy and fearful of being separated from her family. When I met her, the girl had received two warnings and was told that a third time would bring upon her a serious penalty (one that neither her mother nor she could describe).

In each conversation I held with mothers and older children, the feelings of despair and uncertainty were quite evident and voiced by them. Among the younger children I detected high levels of anxiety, especially separation anxiety (fear of being away from their mother; fearful that parents/the mother would be moved and children not told; fear of losing their mother). The mothers showed mostly signs of depression with such vegetative signs as lack of sleep, loss of appetite and weight loss, and hopelessness. Some of the same symptoms were evident in the adolescents, especially girls.

Mothers and older children expressed varying levels of despair about their futures: how long they would be detained; what would be the conditions of their release; and whether they would ever see their families in the U.S. or back home again. Mothers exhibited anxiety about the health of their children, who they reported had lost weight, become listless, and in some cases had reverted to infantile behaviors. At least three mothers with young children were distraught in thinking that they brought their children from one nightmarish situation to another.

Among the children, I witnessed signs that detention had caused regression or arrests in their development and major psychiatric disorders, including suicidal ideation. One of the two infants I observed had regressed developmentally: although he had previously been weaned, he had reverted back to breastfeeding and needed to be held by his mother constantly. Older children showed separation anxiety and regressions in their behaviors (e.g., staying attached to their mothers, worrying if their mother did not return from an errand). Several children reported nightmares.

Teenagers who were detained showed, primarily, signs of depression and anxiety. At least three of the teenagers with whom I spoke showed signs of major depressive disorders. At least one teenage male I interviewed expressed suicidal ideation, telling me that he would rather take his life than to return to his hometown and face the gangs that had tried to recruit him. In my clinical experience, and supported by scientific literature, suicidal ideation is not uncommon among detained or incarcerated persons. Research shows that suicidal ideation and attempts most commonly emerge during even brief periods of incarceration, in the early days and weeks of the person's imprisonment. This young man at Karnes showed classic symptoms of major depression: anhedonia (i.e., marked loss of interest or pleasure); psychomotor retardation (i.e., slow cognitive, verbal, and physical responses and movements); fatigue; feelings of worthlessness; and diminished ability to concentrate. His depressed mood was evident to me through these signs as well as his flat affect and "lifelessness" in his eyes.

In addition, both mothers and children expressed concern about the impact of detention on their educational development. One mother related that she had asked to organize a school for the children with other mothers but was rebuffed. Inasmuch as they did not know how long they would be in detention, several older children who had educational aspirations to go to college expressed concern about their future education.

IV. Research Background

The scientific literature is very uniform in its findings about the impact of detention on children. Research¹⁸ shows that children who live in detention with their mothers often have more maladaptive social and emotional development, academic failure, and later criminal involvement compared to other children. Detention is a major childhood traumatic stressor, even under conditions of short or brief detentions.¹⁹ Findings show that the childhood trauma from maternal incarceration increases depressive symptoms among children.²⁰ Specifically, children 5 to 10 years and 11 to 14 years show increased risk for dropping out of high school, while the risks for children birth to 5 years and 11 to 16 years show high levels of depression and other internalizing behaviors (i.e., withdrawal, rumination) as well as externalizing behaviors (i.e., aggression, defiance and oppositionalism, fighting, vandalism, cruelty). Such externalizing behaviors in children often

¹⁸ Byrne, M.W., Goshin, L., & Blanchard-Lewis, B. "[Maternal separation during the reentry years for 100 infants raised in a prison nursery](#)," *Family Court Review*, 2012; Nesmith, A., & Ruhland, E. "[Children of incarcerated parents: Challenges and resiliency, in their own words](#)," *Children and Youth Services Review*, 2008, 30, 1119-1130.

¹⁹ Foster, H., & Hagan, J. "[Maternal and paternal imprisonment in the stress process](#)," *Social Science Research*, 2013, 42, 650-669.

²⁰ Abram, K.M., Zwecker, N.A., Welty, L.J., Hershsfeld, M.A., Dulcan, M.K., & Teplin, L.A. "[Comorbidity and continuity of psychiatric disorders in youth after detention: A prospective longitudinal study](#)," *Journal of the American Medical Association*, 2014.

mask clinical depressive symptoms and suicidality (often seen in aggressive, provocative behavior toward persons in authority, often police and law enforcement, that can lead to fatal encounters, commonly known as “suicide by cop”). However, there are more than the external indicators of the effects of detention—even short periods—on children that should give us great reason for concern and worry. Rather, adverse childhood experiences, such as trauma and detention, have detrimental effects on children’s brain growth and neural development. Research in the neurobiology of trauma and brain development shows that as childhood adversity increases, the likelihood of psychopathology also increases.²¹

As a result of the ongoing stress, despair, and uncertainty of detention, children’s brain development is compromised, impairing not just their intellectual and cognitive development but also contributing to the development of chronic illnesses which can last into adulthood.²² The deprivation common in institutionalized children and the threats they face are similar to those of trauma as defined in the Diagnostic and Statistical Manual of Mental Disorders²³ that include recurrent and distressing memories, nightmares, dissociative reactions, prolonged psychological distress, avoidance of people or other reminders of the trauma, and negative alterations in cognition such as not being able to remember important events or aspects of the traumatic events.

V. Clinical Conclusions

Taking this scientific background into consideration and combining it with the impressions I gathered in my interviews with mothers and children in the Karnes facility, I can unequivocally state that the children in the Karnes facility are facing some of the most adverse childhood conditions of any children I have ever interviewed or evaluated. Untold harm is being inflicted on these children by

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the trauma of detention. What it is more, is that the children at Karnes are experiencing *trauma upon trauma upon trauma*. That is, they not only suffered the trauma of having their lives threatened and disrupted by fleeing their native countries but they also experienced, witnessed, and heard of violent, traumatic events in their crossing through Mexico. On top of these serial and often long-term traumatic experiences, the children are exposed to the deprivation and constant threat of living in a facility in which they have no sense of their future and no sense of their parents as having any power. Complicating the children’s development are the disrupted family roles and dynamics in which children see their mothers treated very poorly by staff and witness their

mothers’ vulnerability and helplessness. Children need the security and protection of their parents and the conditions of detention militate against mothers’ capacity to provide that kind of comfort for their children.

²¹ McLaughlin, K.A., Sheridan, M.A., & Lambert, H.K. “[Childhood adversity and neural development: Deprivation and threat as distinct dimensions of early experience.](#)” *Neuroscience and Biobehavioral Reviews*, 2014, 47, 578-591.

²² Evans, G. W., & Kim, P. “[Childhood poverty, chronic stress, self-regulation, and coping.](#)” *Child Development Perspectives*, 2013, 7(1), 43-48.

²³ “[Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition \(DSM-5\).](#)” *American Psychiatric Association*, 2013.

Based on my professional background and expertise, my knowledge of the scientific literature on child development and psychopathology and parenting and family functioning, and based on my conversations with mothers and children detained at Karnes, I can say with certainty that detention is inflicting emotional and other harms on these families, particularly the children, and that some of these effects will be long lasting, and very likely permanent as adduced by the scientific literature. The healing process, in my view, cannot begin while mothers and young children are detained. Indeed, my interviews led me to conclude that even a few weeks of detention has exacerbated the trauma experienced by these families and added a new layer of hardship that, with respect to the children in particular, may be irreversible.

Children need the security and protection of their parents and the conditions of detention militate against mothers' capacity to provide that kind of comfort for their children.





Section III: Current Research Findings

Children's Experiences in Immigration Detention and Post-Release Psychosocial Well-being

Contributors: Luis H. Zayas, Tatiana Londoño, Jamie Turcios-Villalta

The declaration written in 2014 by Zayas was pivotal in understanding the negative implications of detention on migrant families at the Karnes Family Detention Center. Seven years later, we continue to see relentless attacks on migrant families who are legally seeking safety at our borders. Recent administrations have further expanded these harsh efforts through the implementation of the Zero Tolerance Policy, the Migrant Protections Protocol (also known as “Remain in Mexico”), the expulsion of asylum-seeking children and families because of the pandemic, and the pervasive use of criminal prosecutions for people seeking protections.

Over the past seven years, Zayas’s team has continued working with migrant families and is currently in the last stages of producing a longer-term study on the impact of immigration detention on asylum-seeking children and their parents. Their goal is to find out whether additional empirical research will support Zayas’ 2014 clinical observations. In the near future, his team will publish their findings in peer-reviewed academic journals and books, but given the moment we are in, with reforms being urged upon the Biden administration, this report offers a summary of those research findings to be used, in concert with his 2014 declaration, as an advocacy tool to fight for the immediate and permanent end to family detention in the United States.

Zayas’ research team is conducting a study on the psychological and emotional well-being of recently detained immigrant children, funded by the National Institute of Child Health and Human Development. The team interviews both parents and children (ages ranging from seven to 14) to inquire about the family’s journey and experiences in detention centers across the nation, as well as the child’s current well-being in the U.S. To date, the researchers have interviewed 68 families, focusing on similarities and differences in experiences and perceptions of maltreatment and the consequent well-being of children. The preliminary findings from this study support the clinical impressions that Zayas reported in his 2014 declaration. The findings reveal that children experienced various forms of maltreatment, such as verbal abuse, threats, neglectful and unbearable conditions in detention, and forced separation from parents and other family members. These experiences of maltreatment led to feelings of uncertainty, fear, hopelessness, mistrust, and anxiety.

The findings also indicate that the consequences of this maltreatment are long lasting. The way we are treating families seeking asylum is impairing their ability to adapt to life in the U.S. Sadly, these findings also suggest that families will have an even more difficult time participating in the complex legal proceedings that will determine whether they have the right to remain in the country. Detention, therefore, not only harms children’s health and well-being, but increases the risk they’ll be unfairly returned to the harm they fled in their home country because the trauma they suffer places them at a disadvantage vis-a-vis their ability to participate in or manage an immigration hearing.

The way we are treating families seeking asylum is impairing their ability to adapt into life in the U.S. Sadly, these findings also suggest that families will have an even more difficult time participating in the complex legal proceedings that will determine whether they have the right to remain in the country.

Experiences during Apprehension

While the purpose of the report is to highlight the challenges that families experience while in Immigration Customs Enforcement (ICE) custody, it is equally important to recognize the mistreatment that occurs during apprehension at the U.S-Mexico border with Customs and Border Patrol (CBP), another branch of the Department of Homeland Security. Both agencies lack transparency and accountability,²⁴ and most families cannot differentiate their experiences between ICE and CBP. However, it is clear that migrant children and their parents recount equally traumatizing and discriminatory experiences under CBP and ICE custody.

In general, many children and parents, mostly mothers, believed the worst was behind them once they had reached the US border and entered into the custody of ICE or CBP. However, for most parents and children being detained was one of the most difficult moments of the entire experience. Children described thinking they had finally reached safety, but instead, they described being stripped of their belongings and feeling afraid of the border patrol officers. For many children, it felt as if they were being taken to jail after giving up the very little they already had.

Additionally, children recount feelings of uncertainty and fear as border patrol officers drove them to unknown locations. One 8-year-old child remembers being in a car filled with crying children and women, including her own mother. Nearly 97% of families were taken to CBP holding centers known as *hieleras* (iceboxes) and *perreras* (kennels). Families spent one to four nights, sometimes longer, in the holding centers where they experienced unbearable conditions. Almost all the children shared not being allowed to shower, lack of privacy, being given only one full meal a day, and feeling extremely cold. While in a *perrera*, one 10-year-old child felt like their heart would not stop beating and their body wouldn't stop shaking.

Experiences in Detention

The information collected from families supports the long history of neglect and abuse migrants experience while in ICE custody. Across the data, parents and children experienced psychological abuse, overcrowding, poor sanitary conditions, poor sleeping conditions, insufficient food, and medical neglect. Approximately 96% of families shared experiences of maltreatment during apprehension and detention by immigration officers or private prison employees. Some of the mothers recalled asking for food to feed their children and the officers saying they had “to starve.”

An estimated 98% of children experienced hunger while in detention. For example, children said that they would try to make their food last longer by sharing it with other children. In other cases, parents would give their portions to their children because the food was never enough. The combination of these inhumane conditions made children feel hopeless, as if “everything was going to go wrong.” Children often mentioned that their time in the detention centers felt like “years” and made them feel very “bad,” describing feelings of helplessness and distress. Children also often slept on the knees of their mothers because there wasn't enough room to lie down. In one child's case, she slept on a piece of cardboard placed on top of rocks while she was under a bridge near a port of entry. She spent approximately three nights under the bridge due to overcrowding in the detention centers.

²⁴ Drake, Shaw. “[CBP Wants to Destroy Records of Misconduct. We Can't Let Them.](#)” *American Civil Liberties Union*, September 30, 2020.

Case 1: Alex, 13 years old

During Detention:

Alex, a thirteen year old boy from Central America crossed a dry river bank along the U.S-Mexico border with his mother and brother. They had made it to the city of El Paso, TX when border patrol apprehended them. Alex and his family were taken to a makeshift detention facility under the bridge. Alex recounts his experience there and begins to cry. The facility was not a building but gated areas filled with thousands of people. Alex noted that there were not sufficient supplies or staff to support all of them. The first night was the most difficult for Alex and his family. They slept standing because it was too crowded to lie down. He describes difficulty sleeping because of the cold desert nights. The gloves, hats, and jackets his mother had packed for them were thrown in the trash by the officers and they had nothing to keep them warm. The next morning they stood in line to receive food. Alex only received a sandwich and juice box because the officers said he was too old for cookies. The next few days were filled with waiting for their number to be called. Alex collected pieces of cardboard to place over the rocks and aluminium blankets to sleep with. He remembers being sad and anxious because they were unsure when they would be released. His mother wanted to return to their home country. *"I told her no. We are already here and we had to hold on."* They continued to wait for their number to be called. They had misheard the number and someone had taken their spot when they returned. Their cardboard beds and aluminium blankets were also taken by other families. However, their number was called a few hours later. Alex thought they were going to be released to their family, but they were taken to *la hielera* instead. They spent the entire day in the extremely cold facility. Alex and his family were later taken to a detention center. Alex and his little brother told their mom that they didn't deserve to be there. They slept with wet clothes and were not allowed to shower throughout those days. Families around them were crying for help. Alex and his family were taken to 5 different detention centers before being released.

After Release:

Adapting to life in the United States was very difficult for Alex and his family. They had initially settled in with their grandmother in the midwest. His mother describes feeling really sad seeing her children not adapting to life in the United States. Alex and his brother went through a period of extreme sadness where they would not leave the bedroom, sleep all day, and not eat. His mother decided to move them closer to their cousins. Alex enjoyed their new neighborhood because they had a pool. They also go to the park with their aunt. Alex mentions that he is waiting to get his vaccines and is looking forward to starting school. Alex's mother notes that they are still transitioning, but she looks forward to their new life in the United States.

Family Separation

Another poignant topic in the interviews is the matter of family separation. About half of the families experienced family separation during the spring and summer of 2018 when the Zero Tolerance policy was implemented by the Trump Administration.²⁵ Families describe the distressing and chaotic events that happened during that time. All 24 families that were separated reported

²⁵ More than 5000 people were subject to family separation during Zero Tolerance, and many more were separated before and after that period. See the Young Center for Immigrant Children's Rights "[Family Separation Is Not Over](#)" report for more details.

that US officers lied about being separated, being sent to various locations, not knowing where the other was, and having little to no communication with each other. Many mothers and children still do not understand why they were separated. Border patrol officers frequently separated family units to different holding facilities based on age of children and parents' genders. Fathers were sent to one facility while mothers and children to another. The separation results in trauma, but also in technical difficulties in navigating the complex immigration system. Families in these cases, for example, might have to complete credible fear interviews and immigration court hearings without each other. Family separation also makes it increasingly difficult to locate detained family members, especially in those instances where ICE incorrectly inputs individuals' names in the database.

In one mother's case, one morning, officials came to get the child because the mother was going to meet with a judge. Neither of them wanted to be separated, but they had no choice. The mother said that they lied about bringing him back. She received no information about where her son was or when they would see each other again. Day after day she asked about where he was. Officials would tell her they were going to send her back to her country and keep the child. She recalls crying a great deal during this time and mentions difficult phone calls with her son in which he reported not eating and being hit by other kids. She recounted how she and her child missed each other. Her child, who was also interviewed, said, "They separated me from my mom. It was a police officer who pulled me by my shirt and took me away. They made me cry. At this new location, I did nothing, just lay down. I didn't play with other kids. I didn't eat. I got sick from my stomach." These experiences in detention affected the family, and more importantly this child. This was the case for most of the children who experienced family separation. Family separation continues despite the reversal of one of the most disturbing immigration policies in U.S. history.

Release from Detention

Release from detention does not correspond with any step in the asylum process. It could happen at the same time as a positive ruling, or there could still be years of court hearings to come before any official verdict is rendered. And, according to the families interviewed, being released from detention did not alleviate the pressures they felt in detention. Families described being left in unfamiliar locations with no information or ability to contact family in the U.S. The lack of support provided during release further complicates their ability to acclimate into the U.S and adjust their status. After being released, most of the children wanted to return to their home country or felt nostalgic about their life in their home country. Children felt that the experiences in detention changed their perspectives of what the U.S. was supposed to be for them—in most cases, a safe haven from the dangers in their home country. Instead, they felt isolated and struggled to make friends in their neighborhoods and at school. Some children mentioned feeling fearful in their neighborhoods. For example, children felt fear when they would see a police officer or police car in their neighborhood because it scared them and reminded them of ICE and border patrol officers. Children also frequently cried during school because they didn't want to stay, fearing they would not see their parents again. One 9-year-old boy couldn't get on a bus because he felt like they were going to take him away. The child is now trying to focus on school and move forward from his experience, but he is struggling to do so.

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Case 2: Laura, 8 years old

During Detention:

When crossing the border, Laura described being “captured” by officers who threw them all in a car without explanation of where they were going. Laura explained that everyone with her was terrified, with many of the women in the group crying, including Laura’s mother. As Laura saw her mother crying, she calmed down in an attempt to calm down her mother. From there, the group was taken to a facility—suddenly, Laura was separated from her father. While being processed into the facility, the guards pressured, screamed at, and scared Laura with questions regarding her relationship to the male who accompanied her. She repeatedly told them it was her father. Despite her cry for help to be reunited with her father, the guards did not believe her and would threaten her to tell the truth, saying, “stop lying and tell us who he really is.” Once processed she was taken into detention where she slept on a mat and was covered with an aluminum blanket that did not protect her from the cold. She felt very hungry and her mother even started to cry just from seeing how hungry her child was. Another mother saw and offered her own food. When moved to ICE detention, the mother was able to talk to the father using her phone and convinced him not to be coerced to sign papers that would deport all of them back to Honduras, as the guards were attempting to do. The child felt watched in the restroom, as there were cameras in there that she felt were watching her. She spent most of her time, like others in detention, crying and scared. Eventually, the mother and daughter were able to leave detention, with their father being released a couple of weeks later.

After Release:

Life in the U.S. for this family has been hard, because once they made it to the uncle’s house, the mother’s sister-in-law made her and her family feel really uncomfortable. Her sister-in-law did not make them feel welcomed and was not happy to have them there. The family then decided to move to another apartment. However, paying for rent has been really difficult for this family, and the mother continues to struggle to feed herself and her children. She says that if she would have known how hard things would be, she would have remained in Honduras. When Laura first enrolled in school in the U.S., she found it very difficult because she did not know any English; however, she is now starting to make friends. Still, she tells us that she enjoyed her life in Honduras, because here in the U.S., she fears that someone will kidnap her or other students while at school. She mentions that she feels this way because after being detained, she has a constant fear of being taken. Additionally, she says it is because in Honduras, she could walk home with her friends and now she has to get home by herself. Laura mentions that she keeps these struggles and feelings of fear to herself, because she does not want to “burden” her mother.

Repercussions of Detention

Approximately three-fourths of the interviewed children reported experiencing similar psychological repercussions after detention. The most common experiences were nightmares of detention and migration, feeling fearful, not wanting to talk about it or saying they didn't remember, changes in family dynamics, and social isolation. In terms of their mental health, the experiences in detention led to children and their parents showing high levels of anxiety—especially separation anxiety for the children because of fear of being away or losing his/her parent—symptoms of depression, and feelings of despair. Children showed signs that detention had caused developmental regression or arrests, such as reversion to infantile behaviors. In the data provided by children and parents, this was often reflected by wanting to be held by their mother constantly and wanting to be cradled. Older children showed separation anxiety in their behaviors (e.g., staying attached to their mothers, worrying that his/her parent would not return after separation in detention). Detention also had an effect on parents' mental health that affected their parenting skills and parent-child dynamics, which in turn negatively affected their child's mental health. Parents who had been in detention showed symptoms of depression such as lack of sleep, loss of appetite and weight loss, and hopelessness. Mothers also exhibited anxiety about the health of their children.

Release from detention did not end the negative effects of being detained. For many, the effects described earlier lingered, leading to difficulties settling in. For others, leaving detention was a relief and an opportunity to start over. Children also indicated feeling hope, growing closer to family, feeling safe, and feeling motivated with school and goals for their future. As one 13-year-old child said, "One misses their own country, but I say that we have to be strong because right now other people who want to cross can't and I say we have to thank God that we already passed the border." Similarly, another child, merely 8 years old, in response to his mom wanting to go back to her home country, said, "I told her no, that we were already here and we had to endure. We already suffered, so why are we going to leave now."

Despite this hope and motivation, parents and their children still felt concerned about the impact of detention on their educational development and aspirations. Most families in the study also indicated concerns about their future in the U.S. and whether the uncertainty and sense of helplessness would truly ever leave them.

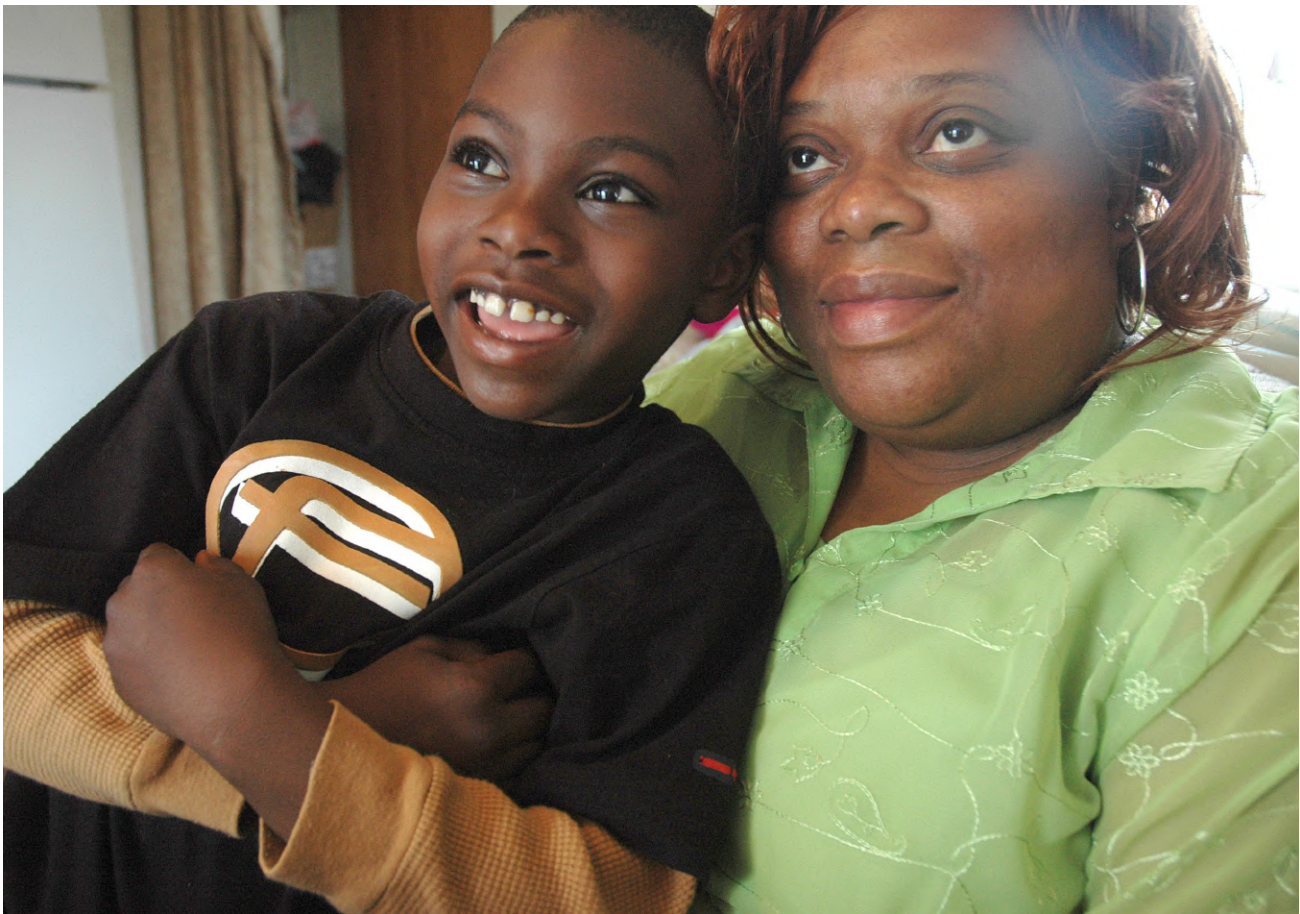
Research Conclusion

The early findings that Zayas and his team report highlight that family detention is severely traumatizing and needs to be eliminated. The uncertainty, fear, and apprehension while in detention negatively affects both children and parents and will have lifelong repercussions on their well-being. We conclude that the psychological traumas experienced by these parents and children

We conclude that the psychological traumas experienced by these parents and children will require years of mental health services to alleviate. Moreover, the ongoing stress, despair, and uncertainty of detention—for even a relatively brief period of time—specifically compromises the children's intellectual and cognitive development and contributes to the development of chronic illness in ways that may be irreversible if left untreated.

will require years of mental health services to alleviate. Moreover, the ongoing stress, despair, and uncertainty of detention—for even a relatively brief period of time—specifically compromises the children’s intellectual and cognitive development and contributes to the development of chronic illness in ways that may be irreversible if left untreated. Detained children and the threats they face are similar to the effects of other forms of trauma, and can result in recurrent, distressing memories or nightmares. Prolonged psychological distress can affect a person’s thinking, connection to reality, and their sense of self (possibly dissociative reactions). It is worth noting that impairment of these skills limits a person’s ability to engage with and navigate the complex, adversarial process of seeking protection under U.S. immigration laws. These conclusions are supported by medical and psychiatric research.

It is imperative to focus attention on the impact of these experiences. We must also highlight the strengths that emerged when attempting to survive, such as families having hope for their futures despite their experiences of cumulative trauma. The current punitive approach to asylum seekers undermines the rights of families and poses unnecessary harm to the well-being of children. It is time to restructure the environment migrant children face when first arriving in this country. As one 8-year-old child said, “In detention, I would’ve liked toys to play with and clothes and bathrooms and shoes, something like that.” Sometimes it can be that simple for kids to feel safer and to feel more welcomed. Of course, we can and should do much more than that; we can implement alternatives to detention or eliminate detention of asylees all together. More importantly, we hope this research informs future immigration enforcement and detention practices and policies.





Section IV: Policy Implications and Recommendations

We find ourselves now in the early months of the Biden/Harris presidency. This administration is juggling the need to right so many wrongs, to repair the violence the Trump administration inflicted upon our immigration system and those individuals who seek to make their home here. It is right that the first priorities should be family reunification, an end to family separation (both technically and functionally), ending MPP, and other critical actions.

But we cannot satisfy ourselves with simply undoing these Trump-era policies. The federal government must seize this moment to redress not only the wrongs of the past four years, but also those that date from previous administrations. We must take deliberate and speedy action to fix the deep, structural flaws in our immigration system that existed prior to the Trump administration, including the senseless, expensive, unnecessary, and inhumane policy of Family Detention. We celebrate President Biden's recent direction to end the use of private prisons, but note that his order did not extend to immigration detention.²⁶ Similarly, Secretary Mayorkas' recent announcement that the Department of Homeland Security is moving toward ending long-term detention for asylum-seekers was glad news, but as this is neither an immediate change nor a comprehensive rejection of that practice, it is therefore insufficient.²⁷ We must ensure that these policy recommendations are comprehensive, and then encode them in statute. And we must recognize and offer redress for the deep mental health harms our systems have inflicted upon those seeking asylum within our borders. There is no time to waste.

Our laws and systems must ensure that we will, first and foremost, do no harm to those who seek safety and shelter within our borders. There are many advocates and organizations offering up ideas of how to improve our processes, and this report does not pretend to replicate or improve upon that body of work. Instead, we lift up their strategies as being compatible with the goal outlined here—to end our government's abominable practice of inflicting trauma upon traumatized children and families. One excellent example is a 2020 report by the Young Center, *"Reimagining Children's Migration Proceedings,"* which proposes a framework for a new system, built around the needs and capacities of children.²⁸ Another is a 2019 report by the National Immigrant Justice Center (NIJC) entitled, *"A Better Way: Community-Based Programming as an Alternative to Immigrant Incarceration."* This excellent report outlines both the why and how of community-based alternatives to detention. These are just two among many resources available to help guide the construction of a migration system that complies with the commitment to human rights inscribed within the United States Constitution, the Universal Declaration of Human

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²⁶ Madhani, Aamer. ["Biden Orders Justice Dept. to End Use of Private Prisons."](#) AP NEWS, Jan. 26, 2021.

²⁷ Jordan, Miriam, and Kanno-Youngs, Zolan. ["The Biden Administration Plans to Reduce the Amount of Time Migrant Families Are Detained."](#) *The New York Times*, March 1, 2021.

²⁸ ["Reimagining Children's Immigration Proceedings,"](#) Young Center for Immigrant Children's Rights, October 2020.

Rights, and the International Covenant on Civil and Political Rights.²⁹ As a global leader, the United States should do all in its power to live up to the goals and commitments embedded in these instruments.

Fortunately, we can take immediate and straightforward action today to make the migration process less harmful, less traumatizing, and safer for children and their families. And in taking these steps, we must commit to placing the rights and needs of children at the forefront of policies and protocols, as outlined in the Young Center report. First, we can bolster and rely upon community-based alternatives to immigration detention and invest in case management and transitional support for asylees and those in the process of seeking asylum. Second, the federal government can divest from private prison corporations and cancel long-term contracts for immigrant detention. And third, the federal government can prioritize and fully fund mental health and other support systems that can help asylum families settle, heal, and acclimate to their new life.

Key Policy Recommendations:

- 1. Community-Based Alternatives to Detention**
- 2. Stop Government Contracts with Private Prison Corporations**
- 3. Mental Health Support and Case Management**

Community-Based Alternatives to Detention

Community-based alternatives to immigration detention are a safer, more humane, and less expensive way to accommodate families in the process of seeking asylum.³⁰ They are also demonstrably effective, as evidenced by data coming from other countries, as well as pilot programs here in the United States. The NIJC report is particularly useful here, with its careful comparative research, as well as synthesis of other studies and policy recommendations. The report is worth reading in its entirety, but in summary, it calls for the adoption of programming that adheres to the following recommendations:

1. Alternatives-to-detention programming should always constitute a true alternative to detention, not an alternative to release.
2. Participating asylum seekers and migrants must be treated with dignity, humanity, and respect.
3. Participants should be provided case management support based on individualized needs assessments. This support should include the provision of clear information regarding participants' rights and obligations with regard to immigration processing and the consequences of non-compliance.
4. Participants should receive referrals to community-supported services, including legal services, social services, and medical and mental health support.
5. Any restrictions and compliance obligations placed on participants must be the least onerous possible. In short, immigrants are most likely to engage and comply with their immigration proceedings if they feel they have been through a humane, fair, and efficient process that was explained to them throughout and not while at constant risk of detention and forced removal.³¹

²⁹ ["The Constitution of the United States: A Transcription. National Archives"](#), United States National Archives and Records Administration, Feb. 28, 2017; ["Universal Declaration of Human Rights," The United Nations](#), 1948; ["International Covenant on Civil and Political Rights," Treaty Series](#), vol. 999, The United Nations General Assembly, Dec. 1966, p. 171.

³⁰ We use here the term "community-based alternatives to detention" as separate from "alternatives to detention (ATDs)." The private prison industry has largely co-opted the term 'ATDs,' which began in community organizing efforts, but now describes a host of programs that are not actual alternatives to detention, such as the Intensive Supervision Appearance Program (ISAP), that function as an alternative form of detention. See [freedomforimmigrants.org](#) website, ["Alternatives to Detention,"](#) for more discussion.

³¹ Secor, David, et al. ["Report: A Better Way: Community-Based Programming as an Alternative to Immigrant Incarceration."](#) National Immigrant Justice Center (NIJC), April 22, 2019.

These are evidence-based recommendations, and constitute, as far as immigrant rights advocates and mental health specialists are concerned, the path forward for the United States's migration management protocols. These policy recommendations and best practices come with the ancillary benefit of also being less expensive than the detention model.

The current system is adversarial in nature to those who seek asylum in the United States, and this is not only unnecessary, it is also harmful. Asylum seekers, it cannot be said enough, are seeking refuge in this country from life-endangering circumstances in their home country that were so grave as to make the difficult, dangerous, and expensive journey to the U.S. border seem like a better alternative. They are motivated to be able to remain in the country, and, given sufficient information and support, will generally do all they can to comply with the bureaucratic process. Treating migrants as criminals, teaching them that the government is something to fear, rather than somewhere to turn for guidance and assistance, is counter-productive to the end goal of assimilating asylees as full members of the American society.

Stop Government Contracts with Private Prison Corporations

The federal government relies almost exclusively upon contracts with the private prison corporations CoreCivic and Geo Group for the incarceration of asylum-seeking migrant families. These long-term contracts are expensive, and they lock the federal government into budget obligations that may outlast the temporary “need” for the service provided. Private prison corporations are driven by financial incentives, and, as publicly traded companies, are beholden to shareholders. They actively lobby on behalf of policies that would increase reliance upon detention, and routinely win long-term contracts that pay a high per prisoner/per day cost, in some cases whether the beds are full or empty.³²

Fortunately, there are far more successful and humane protocols available to be adopted, and even the more expensive of these options costs approximately 15% the cost of incarceration. As the NIJC report summarizes, “Numerous studies of dozens of alternatives-to-detention programs around the world have found community-based programming to maintain average compliance rates of 90 percent or higher, while costing up to 80 percent less than detention.”³³ This holds true for case studies within the United States as well.³⁴ ICE's 2018 budget, for example, allocated \$319.37 per detainee, per day, to hold an individual in detention.³⁵ Compare that with the cost of a 2015 program run by Lutheran Immigration and Refugee Services (LIRS), where for \$50 a day, 10 families received housing, orientations on compliance, access to legal representation, and wrap-around case management.³⁶ This LIRS pilot program embodied the gold standard in migration management, and at one sixth the price we currently pay private prison corporations to house detained migrants with none of these supports or services.

We do not have to rely on this expensive, abusive, and unnecessary detention model when well-established non-profit and community-based organizations are already working in the community

³² Rose, Joel. [Beyond The Border, Fewer Immigrants Being Locked Up But ICE Still Pays For Empty Beds](#). NPR, April 1, 2021.

³³ Secor, “A Better Way,” 2019.

³⁴ For more on compliance rates, please see: Edwards, Alice. [Legal and Protection Policy Research Series: “Back to Basics: The Right to Liberty and Security of Person and ‘Alternatives to Detention’ of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants.”](#) United Nations High Commission for Refugees, 2011, page 82.

³⁵ Walker, Michelle. [“Proven Alternatives to Mass Incarceration of Families.”](#) Human Rights First, June 27, 2018.

³⁶ “[Family Placement Alternatives: Promoting with Compassion and Stability through Case Management Services](#),” Lutheran Immigration and Refugee Service (LIRS), 2015; “[The Real Alternatives to Detention](#),” American Immigration Lawyers Association (AILA), Women's Refugee Commission, Lutheran Immigration and Refugee Service (LIRS), National Immigrant Justice Center (NIJC), and Migration and Refugee Services, June 18, 2019.

with practices that best serve migrant populations, including access to translators, familiarity with the community, and resource availability. There are hundreds of community-based organizations around the country who do this work already (because, as noted above, ICE does not detain all asylum families). The federal government could spend a fraction of their current budget on funding and supporting these organizations with grants to continue and expand their work, and achieve better, more humane results.

There is, categorically, no benefit to contracting with private prison corporations for the detention of migrant families. The practice must not continue, when the alternatives are more appealing for anybody without financial or ideological incentives to continue incarcerating migrant families. The federal government must cancel its contracts with private prison corporations and cease detaining families who seek asylum.

Mental Health Support and Case Management

Formerly detained asylum seekers have suffered various types of trauma while in detention (e.g., deprivation and mistreatments, such as time in *hieleras* and *perreras*; limited communication with family members and even their own attorneys; threats and punitive treatment by guards; family separation; inadequate food; and substandard education and medical care). Those stresses and traumas compound the traumas they have already suffered in their home countries and during their journey to the U.S. border. Because we have inflicted, as Zayas said, “damage that may be irreversible” upon families who, in full compliance with the law, came to the U.S. seeking safety, it is incumbent upon the federal government to provide access to counseling support to all former and current detainees. The U.S. government has an obligation to repair the harms that detention has wrought on children and families. It is an ethical and moral imperative. To truly be the humane society we aspire to be, the U.S. government cannot simply focus on detention-related damage but also the suffering that predated detention.

Key Components of Mental Health Support and Case Management:

1. Prevent further trauma
2. Immediate intervention
3. Provision of mental health services

In order to address the many needs of children and parents previously detained, the Department of Homeland Security and the Department of Health and Human Services must commit to systematically providing mental health treatments for children and parents, and extensive psychoeducational services to parents. But such a policy should not confuse infrequent or sporadic counseling with a rotating cast of practitioners with a robust program of culturally relevant, trauma-informed care.

What follows is a step-by-step explanation of how to provide effective mental health care, how to systematize that mental health provision, and how to make that system sustainable.

It goes without saying that the authors of this report reject entirely the idea that any asylum seeker should be detained by ICE. However, given the current reality, the recommendations below reflect both what we hope will happen (immediate release and funding of community-based alternatives to detention) and what is currently happening (asylum seekers detained by ICE).

Prevention. Any policy recommendation associated with detention must start at the point of contact with CBP and/or ICE. *Hieleras*, *perreras*, and rough treatment and verbal slurs have no place in new immigration policies and practices. By taking a preventive perspective, the approach must be to safeguard the health and well-being of persons taken into a protective custody

environment. After immediate screening by CBP, children and parents should be transferred to welcoming centers staffed by social workers, case managers, nurses, physicians, and dentists who greet the families and begin medical and dental evaluations. These welcome centers should not be staffed by nor operated by CBP. No doubt many migrants will arrive with scratches, scabies, head lice, and small wounds. But some will present with serious medical conditions such as asthma and diabetes or serious injuries. Some will test positive for COVID and other infectious diseases. Treatments must begin immediately. Nutritious foods; clean, warm clothes; and family-centered rooms with beds should await them.

With appropriate physical care, children and parents can then respond to mental health first-aid that can begin to relieve their psychological pain. Candor and transparency will engender trust of caregivers and open them to psychological care. Families should be told where they are, what will be done, and told honestly how long they can expect to remain in this orientation time. Modest but essential intervention at this point can help set the stage for the future seeking of, and receiving, mental health care that will be needed to address the loss, grief, trauma, and stresses that migrants endured during their journeys.

Immediate Intervention. After a long migration, most parents and children will be suffering from normal human reactions to stress, loss, exhaustion, and trauma that lead to symptoms of anxiety and depression. In children, behavioral changes, such as acting out or withdrawal, are often signs of anxiety and depression. In order to provide immediate assistance and address any evident or emerging psychological concerns, each person who submits an asylum claim should receive a standard intake screening by a qualified health provider who is fully independent of CBP, ICE, or a prison company and their subcontractors.³⁷ From the intake worker, referrals for community-based medical and psychological services can be generated, in cases that require more attention. In all cases, the system should prioritize the immediate release of immigrant families, once they are through CBP processing, to community-based settings where families can be referred to low-cost legal services, mental health services, and or any other services necessary during post-transition. In all cases, health records should be treated as confidential and privileged with the kinds of protections that are encompassed by HIPAA.³⁸

Zayas's current ongoing research results support those earlier clinical observations. Families reported experiences of pervasive toxic stress, fear, uncertainty, despair, and apprehension regardless of their duration in detention.

Families in detention centers should, first and foremost, be protected from further trauma by ensuring that no violence or abuse occurs within the detention centers. There should also be independent oversight of the conditions and handling of families by CBP, ICE, and private prison employees and subcontractors in the detention center, with an ombudsperson present to address reported abuses or inadequate service provision from anyone during processing and detention.

³⁷ This screening is for the purpose of identifying who might benefit from some mental health support, but not to make a diagnosis that could prejudice an asylum application. We want to be very careful in how this process is undertaken so as to protect people from instances such as those covered here: Dreier, Hannah. "[Trust and Consequences](#)," *The Washington Post*, February 15, 2020.; Nilsen, Ella. "[Kids who cross the border meet with therapists and social workers. What they say can be used against them](#)," *Vox*, Updated June 19, 2018.

³⁸ HIPAA is the Health Insurance Portability and Accountability Act of 1996. See [HIPAA - Health Information Privacy](#) website for more information.

Mental Health Services. This policy recommendation is specific to the goal of helping formerly detained children and parents address the mental health damages they suffered in detention, and prior to detention. Mental health services cannot simply be thought of as being necessary only while in detention or another facility as the family awaits contact from their loved ones in the U.S. Such a policy must take a longitudinal view: start upon their arrival, provide triaging and immediate services, plan for the families' destination, and provide support to insure that they are served by schools, clinics, hospitals, social service agencies, and churches, among other community groups. This includes access to individual counseling for the children and the parents, family counseling, group counseling, and couples counseling, as well as access to various types of trauma-informed interventions and activities. Those interventions and activities could include group activities and counseling strategies that foster resilience and post-traumatic growth using proven, validated strategies.

Immigrant families should also be provided wrap-around case management to support the unique needs of each family. This includes, but is not limited to, access to healthcare services, childcare services, language interpreters, legal services, faith-based support, and education. A coherent case management model must also provide for the transfer of clinical files to a new medical home as asylum seekers leave detention and move out into community-based settings. This provides for continuity of care, without which, mental health treatments are less successful.

Effective mental health services provided upon entry, through early detention, to settlement in a community need not be expensive. The panoply of professionals can be supported by including trained paraprofessional and community health workers (sometimes known as *promotores* in Hispanic communities) who can provide practical but empathic support that augments the work of clinicians. The proposed system should also ensure that the practitioners have the proper professional training and certifications. Clinicians working with detained families, either inside detention centers or out in the community, should have training in child psychology or psychiatry, demonstrate cultural-competence, and integrate a trauma-informed lens in their interventions. Professionals and paraprofessionals working on this frontline also need clear guidance on their ethical obligations to ensure families give informed consent. Policies and procedures must be in place to protect the information they provide from getting into the hands of government officials who may not have an appreciation of the confidentiality of health data and medical records. Many asylum-seeking families have fled governments and authorities that cannot be trusted. That mistrust will carry over as they navigate the immigration system. And lastly, to prevent workforce turnover and burnout caused by constant exposure to secondary trauma (the effects of which are well-documented), clinicians working with families should be paid a professional wage, and should be provided access to mental health care themselves.



Section V: Conclusion

For decades, the logo of the Children's Defense Fund has been an old fisherman's prayer, written in child's handwriting, that says, "Dear Lord, be good to me. The sea is so wide and my boat is so small." This striking imagery is an apt metaphor for the plight of asylum-seeking migrant families. The children and parents who arrive at our border have been buffeted by tragedies beyond many Americans' comprehension and have little defense or protection against the various forms of violence that pushed them to flee. In response to this human suffering, our current system incarcerates and frightens asylum-seekers and inflicts further trauma upon them through mechanisms such as abuse, medical neglect, and family separation. This is unacceptable.

Zayas' 2014 Flores declaration was a pivotal moment in our collective understanding of trauma for detained children and parents. It was one of the first public statements by a mental health professional detailing the atrocities caused by ICE detention. His clinical observations indicated that children in immigration detention were living through some of the worst adverse childhood experiences. These traumatic experiences in detention inflicted long-lasting, and possibly permanent, harm to both the psychological and physical health of these children and their families. Importantly, Zayas highlights that even a short period of time in detention adds a significant amount of trauma that can be irreversible.

Zayas's current ongoing research results support those earlier clinical observations. Families reported experiences of pervasive toxic stress, fear, uncertainty, despair, and apprehension regardless of their duration in detention. Children endured and witnessed horrific verbal abuse, neglect, and threats while in detention that often led to the development of trauma-related symptoms such as sleeplessness, recurring nightmares, separation anxiety, and symptoms related to suicidality, depression, and generalized anxiety. As noted by Zayas's research team, these experiences compromise a child's intellectual and cognitive development and can lead to irreparable chronic illness. Put simply, over the long term, trauma can shorten these children's and their families' lives, and in the short term, adversely affect their ability to have a fair hearing in immigration court.

The research highlights the fundamental need for these children to feel safer and more welcomed when arriving to the U.S. and the drastic changes needed to protect their health and emotional well-being.

In response to this understanding, supported now by data, we must change our system and rebuild it. A rebuilt migration system must comply with the domestic and international commitments we have made to human rights, and also center the rights and needs of children. As outlined above, the steps we must take are: 1) end the practice of immigrant detention and invest in community-based alternatives to detention; 2) cease contracting with for-profit private prison corporations to carry out ICE detention; and 3) prioritize mental health care, case management, and other wrap-around services

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for asylum-seeking families from the first moment of their arrival. Proper concern for the mental health of asylum-seeking families is as critical to their safety, well-being, and successful migration as is access to medical care, legal services, education, and other supportive services. The policy recommendations above outline a way to end this cycle of harm and shift to a model that prioritizes the human rights of those seeking asylum in the United States.

We are heartened by the recent indications from the Department of Homeland Security that Secretary Mayorkas is moving to end long-term immigrant detention as a policy. However, after a four-year cycle in which the federal government made it harder to seek asylum and systematically violated the rights afforded those migrants who sought asylum, it is abundantly clear that these policies must stop shifting with the political winds. We must instead encode new and better policies in statute, not just in regulations. We must affirm in law that we honor the human rights of all migrants, that we choose not only to do no harm, but to help heal the harms suffered by those in the terrifying and perilous position of having to flee their home country and build a new life.



Bibliography

- Abram, K.M., Zwecker, N.A., Welty, L.J., Hershfeld, M.A., Dulcan, M.K., & Teplin, L.A. "[Comorbidity and continuity of psychiatric disorders in youth after detention: A prospective longitudinal study](#)," Journal of the American Medical Association, 2014.
- American Immigration Lawyers Association. "[Featured Issue: Conditions in CBP Custody](#)." March 11, 2021.
- American Immigration Lawyers Association (AILA), Women's Refugee Commission, Lutheran Immigration and Refugee Service (LIRS), National Immigrant Justice Center (NIJC), and Migration and Refugee Services, "[The Real Alternatives to Detention](#)." June 18, 2019.
- American Psychiatric Association. "[Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition \(DSM-5\)](#)," American Psychiatric Association Publishing, 2013.
- Altman, Heidi, and Marta Ascherio. "[Policy Brief: 5 Reasons to End Immigrant Detention](#)." National Immigrant Justice Center, September 14, 2020.
- Byrne, M.W., Goshin, L., & Blanchard-Lewis, B. "[Maternal separation during the reentry years for 100 infants raised in a prison nursery](#)," Family Court Review, 2012.
- Department of Homeland Security (DHS) Advisory Committee on Family Residential Centers. "[Report of the DHS Advisory Committee on Family Residential Centers](#)." September 30, 2016.
- Drake, Shaw. "[CBP Wants to Destroy Records of Misconduct. We Can't Let Them](#)." American Civil Liberties Union, September 30, 2020.
- Dreier, Hannah. "[Trust and Consequences](#)," The Washington Post, February 15, 2020.
- Edwards, Alice. [Legal and Protection Policy Research Series: "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants](#)." United Nations High Commission for Refugees, 2011.
- Evans, G. W., & Kim, P. "[Childhood poverty, chronic stress, self-regulation, and coping](#)." Child Development Perspectives, 2013.
- Freedom for Immigrants. "[Alternatives to Detention](#)." Updated April 25, 2021.
- Freedom for Immigrants. "[Freedom for Immigrants National Bond Fund](#)." Updated April 22, 2021.
- Foster, H., & Hagan, J. "[Maternal and paternal imprisonment in the stress process](#)." Social Science Research, 2013.
- Grassroots Leadership. "[Final Letter on Texas Licensing for Karnes and Dilley](#)." October 13, 2015.
- Grewal, Madhuri. "[Biden can end the mass incarceration of immigrants](#)," The Washington Post, December 11, 2020.
- Human Rights First. "[The Flores Settlement and Family Incarceration](#)." October 2018.
- Lutheran Immigration & Refugee Service and the Women's Refugee Commission. "[Locking Up Family Values, Again](#)." October 2014.

Lutheran Immigration and Refugee Service (LIRS), "[Family Placement Alternatives: Promoting with Compassion and Stability through Case Management Services.](#)" 2015.

McLaughlin, K.A., Sheridan, M.A., & Lambert, H.K. "[Childhood adversity and neural development: Deprivation and threat as distinct dimensions of early experience.](#)" Neuroscience and Biobehavioral Reviews, 2014.

Nesmith, A., & Ruhland, E. " [Children of incarcerated parents: Challenges and resiliency, in their own words.](#)" Children and Youth Services Review, 2008.

Nilsen, Ella. "[Kids who cross the border meet with therapists and social workers. What they say can be used against them.](#)" Vox, Updated June 19, 2018.

Rose, Joel. [Beyond The Border, Fewer Immigrants Being Locked Up But ICE Still Pays For Empty Beds.](#) NPR, April 1, 2021.

Secor, David, et al. "[Report: A Better Way: Community-Based Programming as an Alternative to Immigrant Incarceration.](#)" National Immigrant Justice Center (NIJC), 22 February 15, 2020.

Schiro, Dora. "[Weeping in the Playtime of Others: The Obama Administration's, Failed Reform of ICE Family Detention Practices.](#)" Journal on Migration and Human Security (JMHS), 2017.

The United Nations. "[Universal Declaration of Human Rights.](#)" 1948.

The United Nations General Assembly. "[International Covenant on Civil and Political Rights.](#)" Treaty Series, vol. 999, December 1966.

The United Nations High Commissioner for Refugees. "[I am Thinking About Applying for Cancellation of Removal for Legal Permanent Residents.](#)" May 2013.

United States Department of Health & Human Services, "[HIPAA - Health Information Privacy](#)", Accessed April 28, 2021.

United States National Archives and Records Administration. "[The Constitution of the United States: A Transcription. National Archives.](#)" February 28, 2017.

Walker, Michelle. "[Proven Alternatives to Mass Incarceration of Families.](#)" Human Rights First, June 27, 2018.

Young Center for Immigrant Children's Rights. "[Family Separation Is Not Over,](#)" June 25, 2020.





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