

Debbie Seguin
Assistant Director
Office of Policy
U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street SW
Washington, DC 20536

Re: DHS Docket No. ICEB-2018-0002, RIN 0970-AC42 1653-AA75, Comments in Response to Proposed Rulemaking: Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children

Dear Assistant Director Seguin:

On behalf of members of the Congressional Hispanic Caucus (CHC), I submit this comment in strong opposition to the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking to amend regulations relating to the apprehension, processing, care, custody, and release of unaccompanied minors.

The CHC, composed of 31 members of Congress, has been following the issue of family separation, asylum-seeking families and the factors driving these vulnerable children, women and families to make the dangerous trek from Honduras, Guatemala and El Salvador to the United States, since the first humanitarian crisis in 2014. Many of our members represent the border communities that were the first to respond and assist these children and families as they arrived in the United States.

From a medical and mental health perspective, the changes proposed by DHS and the Department of Health and Human Services (HHS) to replace the standards of the Flores Settlement Agreement are neither safe nor humane. Legalizing prolonged and indefinite detention of families and eliminating the state licensing requirement will further compromise the treatment of migrant families. Under these proposed changes, inadequate conditions of confinement are inevitable, heightening the risk of foreseeable health harms to an already vulnerable group of children and families.

In addition, as DHS and HHS review provided public comments, we advise that you review the extensive public health studies which have found that many of those seeking asylum in the U.S. are fleeing epidemic levels of violence, including homicide and physical and sexual assault, and are in need of international protection and services. These individuals should have the

opportunity to pursue their asylum claims and indefinite detention for vulnerable populations is not the answer, which has been shown to have severe medical and mental health consequences.¹

Indefinite Detention of Children is Deeply Harmful

The main purpose of the proposed change to the Flores Settlement would allow for the indefinite detention of children with their families. Although separation of children from their parents is inherently harmful, so is child detention.

Current detention centers inappropriately house families in minimally adapted maximum security facilities with heavy duty locks and doors which are unsafe and inappropriate settings for young children. In current family detention facilities, families are typically placed in rooms that accommodate six people at a time where children share rooms with unrelated adults, including sleeping, dressing, and using the restroom with no door or privacy from adults.

Moreover, a number of clinical studies have demonstrated that parental presence does not offset the damaging impact of detention on the physical and mental health of children. A recent study found that detained children reported to have a tenfold increase in developing psychiatric disorders.² Additionally, studies of health difficulties of detained children found that most children reported symptoms of depression, sleep problems, loss of appetite, headaches and abdominal pains while being detained.³

More concerning, many detention facilities lack sufficient medical space to treat the health needs of children and families. There have been a number of cases where children were inadequately treated for concerning medical illnesses, which in one sad case may have resulted in the death of an 18-month-old child.^{4,5} Moreover, detention facilities and processing centers currently operate with children being constantly exposed to light, which causes sleep deprivation and other deleterious health effects.⁶

Detention Centers are Not Suitable for the Housing of Children

¹ Physicians for Human Rights, Punishment before Justice: Indefinite Detention in the US (June 1, 2011), <https://phr.org/resources/punishment-before-justice-indefinite-detention-in-the-us/>.

² Steel, Zachary, Shakeh Momartin, Catherine Bateman, Atena Hafshejani, Derrick M. Silove, Naleya Everson, Konya Roy, Michael Dudley, Louise Newman, Bijou Blick, and Sarah Mares. Psychiatric Status of Asylum Seeker Families Held for a Prolonged Period in a Remote Detention Centre in Australia. Australian and New Zealand Journal of Public Health 28, no. 6 (September 25, 2004): 527-36. doi:10.1111/j.1467-842x.2004.tb00042.x.

³ Lorek, Ann, Kimberly Ehntholt, Anne Nesbitt, Emmanuel Wey, Chipo Githinji, Eve Rossor, and Rush Wickramasinghe. The Mental and Physical Health Difficulties of Children Held within a British Immigration Detention Center: A Pilot Study. Child Abuse & Neglect 33, no. 9 (September 2009): 573-85. doi:10.1016/j.chiabu.2008.10.005.

⁴ <https://www.npr.org/2018/08/28/642738732/a-toddlers-death-adds-to-concerns-about-migrant-detention>

⁵ <https://www.humanrightsfirst.org/blog/immigration-detention-making-kids-sick>

⁶ Czeisler, C., Housing Immigrant Children — The Inhumanity of Constant Illumination (July 12, 2018) New England Journal of Medicine 379:e3, <https://www.nejm.org/doi/full/10.1056/NEJMp1808450?query=TOC>.

According to medical experts, DHS detention facilities are not appropriate places for children to be housed. In 2017, the American Academy of Pediatrics released a statement stating that immigrant children seeking safe haven in the United States should never be placed in detention facilities.⁷ The American Medical Association has also adopted a policy opposing family detention given the adverse health effects that detention has on both children and their parents.⁸ In 2018, the American College of Physicians released a statement stating that indefinitely holding children and their parents in detention centers could result in considerable adverse harm to the detained children and other family members that could follow them through their entire lives.⁹

Far less harmful and restrictive alternatives to detention are available that provide access to supportive familial, social and community networks and resources and are healthier settings for developing children. Access to health care and services, including education, is best provided by the community. Clinical studies have repeatedly demonstrated that a sense of belonging and connectedness in schools and neighborhoods is a strong supportive factor for positive health outcomes for immigrant children and refugee families.

Family Detention Centers Are Far More Costly than Alternatives to Detention

In the provided proposed rulemaking, DHS and HHS fail to adequately estimate the anticipated costs of these changes. As Members of Congress who are charged with allocating funds to your agencies, having these estimated costs are critical.

Based on the proposed changes, the Center for American Progress recently calculated the estimated cost to DHS using data provided by the agency and determined that the cost to DHS alone could be between \$2 billion to \$12.9 billion over a decade. On an annualized basis, these costs would come out to \$201 million per year to as high as \$1.3 billion per year.¹⁰

The reality is that there are far less costly and more humane alternatives to detention. In fact, DHS has enacted compassionate and cost-efficient programs in the past, like the Family Case Management program, which allowed asylum-seeking families to remain together and saw over 99 percent compliance for check-ins and appointments. There are far more humane options for asylum-seeking families that the administration should implement rather than force these costly and harmful policies on children and families.

Conclusion

⁷ Julie M. Linton, Marsha Griffin, Alan Shapiro, American Academy of Pediatrics, *Policy Statement: Detention of Immigrant Children*, Apr. 2017, <http://pediatrics.aappublications.org/content/early/2017/03/09/peds.2017-0483>.

⁸ American Medical Association, “AMA Adopts New Policies to Improve Health of Immigrants and Refugees,” June 12, 2017, <https://www.ama-assn.org/ama-adopts-new-policies-improve-health-immigrants-and-refugees>.

⁹ American College of Physicians, “The Health Impact of Family Detentions in Immigration Cases,” July 3, 2018, https://www.acponline.org/acp_policy/policies/family_detention_position_statement_2018.pdf.

¹⁰ <https://www.americanprogress.org/issues/immigration/reports/2018/10/19/459412/high-costs-proposed-flores-regulation/>

Based on our experience visiting our border communities, meeting with physicians, child welfare experts and the non-profit groups that provide assistance to these families, we ask that the Department of Homeland Security and the Department of Health and Human Services withdraw the current proposal, which would have devastating impacts on the health and welfare of children. We instead request that DHS and HHS continue to comply with the Flores Settlement Agreement and work to advance policies that safeguard the health, safety, and welfare of children and their families.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact the CHC to provide further information.

Joaquin Castro
Congressional Hispanic Caucus
First Vice-Chair