

Family Incarceration Continues to Endanger Children, Impede Access to Legal Information & Waste Government Resources

The Trump Administration continues to incarcerate families in immigration jails and to push to hold them there for even longer. In fiscal year 2018, more than 45,000 parents and children were held in family detention facilities, and the administration recently requested a huge funding increase to expand capacity from 2,500 to 10,000 beds. It is also seeking to eliminate, through both regulations and legislation, the minimal protections for families set out by the Flores Settlement Agreement—including limits on how long children can be held in detention.

Over the last two months, Human Rights First conducted research on the Trump Administration’s incarceration of asylum seeking and other migrant families and children. With a delegation that included pediatricians affiliated with the American Academy of Pediatrics (AAP), researchers visited the country’s two largest Immigration and Customs Enforcement (ICE) family detention facilities, both located in Texas, on February 26 and 27, 2019. At the time of our visits, ICE was detaining babies younger than 12-months-old and ten pregnant women.

	South Texas Family Residential Center (Dilley)	Karnes County Residential Center (Karnes)
Location:	Dilley, Texas	Karnes City, Texas
Operated By:	CoreCivic	GEO Group
Facility Capacity:	2,400	830
FY 2018 Population:	33,500	12,000-16,000
Population on day of tour (Feb. 2019):	1,548 (700 mothers, 848 children)	511 (approx. 50% fathers, 50% sons)
Demographics:	Mothers with sons and daughters (ages: 5mo. – 17yrs)	Fathers with sons (ages: 11mo. - 17yrs)

Researchers spoke with ICE representatives, attorneys who represent asylum seekers, local advocates, and scores of incarcerated mothers and fathers. This report is based on those interviews, observations of the facilities, and outside investigations.

Our core findings are that detention harms children, interferes with legal representation, and wastes government resources.

Congress should ensure that the protections that safeguard families and children from longer-term detentions are upheld and reject requests from the administration to further expand family detention. A Department of Homeland Security (DHS) advisory committee recommended that family detention be discontinued altogether, as it “is never in the best interest of children.” ICE should follow that recommendation and instead employ community-based case management support for families instead of detention.

Dangers to Children’s Health

The American Academy of Pediatrics (AAP) has warned that no amount of time in detention “is safe for a child” and that family detention centers do not meet basic standards for the care of children.

Human Rights First has previously outlined many of the grave harms associated with family incarceration including the risk to the health of incarcerated children. Even though these facilities have teachers, libraries, and playgrounds, children and families still suffer in immigration detention.

Pediatricians touring Dilley and Karnes identified numerous sick children who had not received medical attention. Dr. Colleen Kraft, a leading pediatrician and the immediate past-president of the AAP, identified at least 10 children who needed to be seen urgently by medical staff at the Dilley facility.

- ☑ One young boy had boils on his arms and legs and his face was covered with a painful and highly contagious infection called impetigo.
- ☑ A toddler who had been ill for days, was lethargic and showed signs of dehydration. Her mother reported that she had gone to the clinic the day before and was told to come back later. As Dr. Kraft noted: “Dehydration can be extremely dangerous in a child and delaying care for even a day can have serious, even deadly, consequences.”
- ☑ Several mothers reported that their children had suffered from diarrhea and/or fever since entering the facility.

Detained mothers at Dilley reported that they had been turned away by onsite clinic staff at night when they tried to seek medical care for children suffering from fevers and other complaints, told their children’s conditions were not emergencies, and instructed to return later. Fever can be a symptom of a variety of potentially serious medical conditions in children, particularly in children who may not have been fully vaccinated while in flight from persecution in their home countries.

In May 2018, a one-year-old Guatemalan girl, Yazmin Juarez, died from a respiratory infection shortly after she was released from Dilley. During her three weeks in the detention facility, staff allegedly misdiagnosed her and failed to prescribe the correct medication. The deaths of two other children while in Customs and Border Protection (CBP) custody also exposed inadequacies in medical treatment before families arrive to ICE detention. Both seven-year-old Jakelin Caal Maquin and eight-year-old Felipe Alonzo-Gomez experienced delays in medical care while their symptoms developed; following their deaths CBP stated it was “reviewing its policies with a particular focus upon care and custody of children under 10.”

The incarceration of infants raises serious concerns. During our tour, babies as young as five months old were detained at Dilley, and a Karnes staff member told Human Rights First that she had cared for an 11-month-old baby the day before the delegation’s visit. Some babies were still breast-feeding, others were being bottle-fed. This “alarming increase” in infants incarcerated in the facilities prompted immigration advocacy groups—including the American Immigration Council, American Immigration Lawyers Association, the Catholic Legal Immigration Network, Inc., and Physicians for Human Rights—to file a complaint urging DHS to release them. Although at least 15 babies and their mothers were released from Dilley following the February 28 complaint, ICE has not announced any policy change to prevent the future incarceration of toddlers. Infant children in detention, who are surrounded by hundreds of other children and adults, are at particular risk of infection with communicable diseases because they may not be fully vaccinated. In the past year, over 200 cases of mumps were reported among immigration detainees—a marked increase from the prior two years when no cases were detected. Staff at Karnes also confirmed that a family was under quarantine for suspected influenza. But some immunizations, like the one for measles, mumps, and rubella, are not routinely provided for children under 12 months of age and the Centers for Disease Control has not recommended it for infants under six months. Mumps, influenza, and other infectious diseases can have particularly serious health consequences in young children.

Pregnant women are now detained at Dilley. Facility staff reported that ten pregnant women were being held at Dilley at the time of the Human Rights First visit. In December 2017, in a shift from prior policy, the Trump Administration ended the presumption of releasing pregnant detainees by overturning an existing directive that “absent extraordinary circumstances or the requirement of mandatory detention, pregnant women will generally not be detained by ICE.” The AAP, the American College of Obstetricians and Gynecologists, and the American Academy of Family Physicians have expressed serious concern that detaining pregnant individuals “puts the health of women and adolescents and their pregnancies at great risk” because access to the high levels of care needed during pregnancy are not available in detention facilities.

Attorneys representing parents held at Dilley and Karnes told Human Rights First that detained parents have repeatedly reported that **facility medical staff decline to replace foreign prescription medicines, which U.S. immigration officers routinely confiscate, with their U.S. equivalents.** A mother at Dilley reported that her four-year-old son was suffering from fever and stomachache and that he would not eat. She said that medical staff provided him with him a saline-based feeding solution and told her “he won’t die,” but refused to provide the boy with the U.S. analog of the prescription medication he had previously been taking and which had been taken by U.S. immigration officials when they were detained.

Increasing Harm to Children as Family Incarceration Becomes Prolonged

The AAP has stated that, “**even short periods of detention can cause psychological trauma and long-term mental health risks for children.**” ICE told Human Rights First that families held in these facilities were generally detained for less than two weeks, and usually released within the 20-day detention limitation for secure, unlicensed facilities under *Flores*. A study of detention centers in Canada where the median length of stay was less than two weeks found that “any incarceration, even under relatively safe conditions, is damaging for immigrant children, especially those with high levels of previous trauma exposure.” The American Medical Association has said that even after release, “the physical and psychological distress of detention can continue, particularly for children.” Following the tours of Dilley and Karnes, Dr. Kraft noted that the effects of detention on children manifest in “regressive behavior, decreased eating, sleep problems, clinginess, withdrawal, self-injurious behavior, and aggression.” Many of the children and families held in these facilities have suffered traumas in their home countries, as well as in their journeys to reach the United States. Dr. Joyce Mauk, President of the Texas Pediatric Society, who accompanied Human Rights First on the tours, stated that detention can harm children’s physical and mental health even further, “at a time when they have already undergone significant trauma.”

Prolonged detention exacerbates negative impacts for children’s mental and physical health, placing children at even greater risk of long-term harm. Researchers in Australia found that “the longer children are in detention the more likely it is that they will suffer mental harm,” including “anxiety, distress, bed-wetting, suicidal ideation and self-destructive behavior including attempted and actual self-harm[,] . . . depression and PTSD [Post-Traumatic Stress Disorder].” In 2016, Human Rights First found that the long-term detention of families at the Berks family detention center—in this case, over six months—resulted in serious negative consequences, including suicidal gestures and ideation, anxiety, sleeplessness, behavioral regressions, and lack of appetite.

These damaging effects continue to be seen in children incarcerated with their parents, particularly when they are detained for long periods. In December 2018, members of Congress wrote to ICE to express concern about Cristy, a 15-year-old girl detained with her mother at Dilley for over six months, who was experiencing ongoing suicidal ideations while detained and had attempted suicide on at least one occasion. Over the last year, some families who had previously been separated at the border by DHS were reunited at Dilley and Karnes and detained (separated and together) for many months. These children reportedly exhibited symptoms of significant psychological distress including lack of appetite, weight-loss, withdrawal, sleep disturbance, and suicidality; one

asylum seeking father from Honduras reported that a psychologist suggested medicating his 8-year-old son to treat his apparent depression. While most families that Human Rights First met at Dilley and Karnes had been detained less than two weeks, Human Rights First met several families who had been detained for longer and whose children were suffering from the detention. For instance:

- ☑ A man at Karnes who had been detained with his son for more than one month reported to Human Rights First that his son was refusing to eat at times, was waking up frequently during the night, had difficulty concentrating in school, and was suffering from anxiety. He reported that his son had been repeatedly asking why they are detained and when they will be released.
- ☑ A woman detained at Dilley for over one month reported that her teenage daughter was not eating well and was losing weight. The woman said that she was suffering from anxiety and depression after weeks in detention without release in sight and shared her concern about the psychological impact on her daughter of seeing her mother in distress.

Damage to Parent-Child Bonds

Detention damages families by forcing parents to give up their parental roles and “undermining parental authority.” Facility rules prevent parents from making every day decisions about the health and behavior of their children. The psychological impact of incarceration on parents also disrupts normal parent-child relationships.

- ☑ At Dilley, children over 12 months must be weaned from baby formula. Abrupt disruptions in bottle feeding for children already experiencing the trauma of detention can exacerbate pre-existing trauma. One mother at Dilley reported that facility staff had denied formula for her 18-month-old baby, even though the child was experiencing diarrhea from drinking milk and the mother wanted to continue her daughter on formula.
- ☑ Another mother recently transferred to the Dilley facility with her 8-year-old son told Human Rights First that she was reprimanded for allowing her son to run within one of the facility yards. She explained that her son is an energetic boy, that she is capable of monitoring his safety while playing, and that it pained her to see him prevented from acting like any other child. Indeed, on arrival at Dilley the delegation noted that while many children were outside, they were clinging to their mothers—leaving the outdoor play area largely empty.
- ☑ Multiple women at Dilley expressed concern about a mother who is depressed to the extent that she frequently does not get out of bed during the day and does not take her children out to play or for other activities. One woman who has been detained for two weeks at Dilley with her daughter explained that while an individual purporting to have training in psychology visits residents weekly, the questions asked about general well-being were “superficial.” She reported that these visits did not provide support for women and children suffering from anxiety and depression after weeks of detention.

Barriers to Legal Assistance and Critical Information on Immigration Court Obligations

The Dilley Pro Bono Project and RAICES, legal services organizations that provide free legal representation to detained families at Dilley and Karnes, respectively, spoke at length with Human Rights First researchers outside of the facilities about the myriad obstacles detained families face in accessing legal help.

Many families reported that they were confused or unaware of legal representation or legal information potentially available to them at the Karnes and Dilley facilities. Legal information and representation are essential to assuring that those eligible for asylum or other relief receive protection and that parents understand their post-release obligations. Legal service providers reported that guards have prevented their clients as well as

unrepresented parents looking for legal consultations from reaching the legal visitation area—falsely insisting that appointments are required for walk-in services or arbitrarily turning people away from a waiting area when the lawyers appeared to be too busy. At Karnes, RAICES expressed concern that ICE officers are not conveying accurate information about available legal services to detained families. Several fathers, including one who had been detained at Karnes for ten days, reported to Human Rights First that they were not aware of the RAICES pro bono consultations nor of the twice-weekly Department of Justice funded legal orientation presentations. RAICES staff also reported that detained parents had told them CBP and ICE officers had discouraged them from seeking legal representation or seeking asylum and disparaged the quality of pro bono lawyers.

Detained parents Human Rights First interviewed were unaware of or confused by their immigration court obligations. While ICE officers had instructed them to attend post-release check-in appointments, some parents did not understand these meetings with ICE are separate and apart from immigration court hearings—a mistake that could lead an immigration judge to enter an *in absentia* deportation order against a family who misses a hearing. Human Rights First has highlighted the need for ICE to explain to asylum seekers, in a language they fully understand, what their immigration court appearance requirements are; the differences between various appointments, and; the locations of the relevant offices and procedures to follow if the individual changes address. While the Dilley Pro Bono Project and RAICES already provide information about attending ICE check-ins, asylum filing deadlines, and immigration court obligations, they are limited in the number of individuals they can reach on a daily basis because ICE officials have declined to provide additional space to meet the demand for large pre-release group orientations.

Use of Punitive Ankle “Shackles” Rather than Case Management

ICE has discretion to release families on recognizance, parole, bond, or using alternatives to detention (ATD) including the use of an ankle bracelet—which many parents call a “shackle”—for GPS monitoring. In June 2017, the Trump Administration ended the Family Case Management Program ATD that relied on community monitoring by social workers that assisted families to find attorneys, despite the program’s 99% compliance rate with ICE check-ins and immigration court obligations. ICE’s Advisory Committee on Family Residential Centers has published a non-exhaustive list of factors that should be taken into account before enrolling a family in an ATD, including: “supervision history, community and family ties, criminal history, immigration history, financial self-sufficiency, and medical considerations.” Yet attorneys representing families held at these facilities report that ICE appears to disregard many of these individual factors and base its decisions on whether an ankle bracelet is available or not. One ICE Assistant Field Office Director on the tour mentioned “supply” of ankle shackles as a principal factor in determining whether a family is released on an ATD with a monitor and only later acknowledged that the most “vulnerable” families would be fitted with monitors when supply was low.

Waste of Government Funds

The Trump administration engages in a costly waste of resources by continuing to incarcerate families at high rates rather than releasing them on bond, parole-based supervision, or diverting funds currently used for detention to expand community-based case management programs. Family detention costs taxpayers over \$300 per person, per day. In contrast, the cancelled Family Case Management Program, which provided referrals for education, legal services, and other resources while ensuring that families met their ICE and immigration court hearing attendance obligations, cost only \$12 per person, per day. Other alternative programs cost as little as 30 cents to \$8.04 per person, per day. These alternatives to detention are not only more humane, but also much more cost-effective. Despite these cost savings, President Trump’s Fiscal Year 2020 budget has requested finding to quadruple ICE’s capacity to incarcerate families – at a likely cost of over one billion dollars.

Recommendations

- ☑ **End family incarceration.** The Trump Administration and DHS should end the use of detention facilities to incarcerate families. Given the wealth of medical and mental health research, which confirms that even stays of less than two weeks in detention are harmful to children and families, as well as ongoing due process concerns resulting from DHS's choice to detain families, the agency should follow the recommendation of its advisory committee that family detention be discontinued altogether.

 - Congress can end this misguided and unnecessary policy by refusing to fund family detention beds.
- ☑ **Utilize existing mechanisms to release families on parole or recognizance or, if needed, community-based alternatives to detention.** The vast majority of families seeking protection in the United States have relatives with whom they can live while awaiting the outcome of their immigration case. Where additional support is needed—such as housing, mental health services, or appearance support—ICE should refer families to community-based programs, which have proven successful in ensuring immigrants' appearance for court proceedings and other monitoring obligations. DHS's advisory committee recommended expanding community-based programs instead of using detention. ICE shuttered the Family Case Management Program in 2017 despite its success in supporting families released from detention—with 99% attendance for ICE check-ins and appointments and 100% court hearing attendance. Rather than automatically placing electronic monitoring devices on parents, ICE should avoid using these intrusive and stigmatizing devices except in rare cases when an individualized assessment using a validated instrument shows that less restrictive measures cannot ensure appearance. The use of such measures must be regularly reviewed, including by a court.

 - Congress should direct ICE to prioritize the available spectrum of release mechanisms over the detention of families, allocate specific funding provided for alternatives to detention to contract organizations with longstanding community ties to re-implement the Family Case Management Program or a similar case support program, and direct ICE to preference the use of case management support over of ankle monitors when a family is released on a form of supervision.
- ☑ **Improve access to counsel and legal information.** For as long as DHS continues to detain families, the government should support legal orientation programs to provide information that will ensure appearance at hearings and inform families of their legal rights and obligations. DHS should also incorporate know your rights presentations at the point of release or enrollment in alternatives to detention programs through experienced non-profit organizations. ICE should also ensure that legal service providers at the Dilley and Karnes family detention facilities have adequate space to meet with families prior to their release to impart crucial information about the immigration court process.

 - Congress should fund legal representation for families in immigration court proceedings as well as orientation programs, including the creation of pilot programs at migrant shelters and reception centers for individuals released directly from CBP custody, that inform families of their legal rights and responsibilities in immigration court.
- ☑ **Halt the issuance of licenses to family detention centers issued pursuant to child care regulations.** Given the evidence of the detrimental effects of any period of detention on already vulnerable children and parents, as well as the inadequate provision of health care to children in these facilities, the Texas Department of Family and Protective Services should deny ICE's request to license these jails as child care centers, leading to a closure of Dilley and Karnes as family detention centers. ICE should use existing mechanisms to release these families and refer them to community-based social service programs. Where ICE has determined that families require additional support to ensure appearance for court hearings or otherwise, community-based appearance support models should be used.