



February 28, 2019

Via Electronic Mail

Ms. Cameron Quinn
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, D.C. 20528

Mr. John V. Kelly
Acting Inspector General
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Ms. Quinn and Mr. Kelly:

We write to bring your attention to an alarming increase in the number of infants being held in Immigration and Customs Enforcement (ICE) custody. As of today, there are at least nine infants under one year of age detained in the South Texas Family Residential Center (STFRC) in Dilley, Texas, at least one of whom has been detained for more than 20 days.¹ We write to demand the simultaneous release of these infants and their mothers as authorized by the regulations at 8 C.F.R. § 1236.3(b)(2), 8 C.F.R. § 212.5(b) and 8 C.F.R. § 235.3(b)(2)(iii). ICE is required to meet basic standards of care for minor non-citizens in its custody.² It repeatedly has demonstrated an inability to do so.

We have grave concerns about the lack of specialized medical care available in Dilley for this vulnerable population. Advocacy groups have long documented the limited access to adequate medical care in family detention centers including the STFRC.³ Concerns include lengthy delays in receiving medical attention

¹ The infants, and their accompanying family members, are receiving legal services from the Dilley Pro Bono Project (DPBP), formerly the CARA Pro Bono Project, during their detention in the STFRC. The DPBP is an initiative of the American Immigration Lawyers Association (AILA), the American Immigration Council, Catholic Legal Immigration Network, Inc. (CLINIC), and other partners.

² See *Flores v. Reno*, Case No. CV 85-4544-RJK (Px), Stipulated Settlement Agreement, January 17, 1997, and *Flores v. Reno*, Case No. CV 85-4544-RJK (Px), Stipulation Extending Settlement Agreement and for Other Purposes; and Order Thereon, December 7, 2001 (collectively, "[Flores Settlement](#)") (providing guidance on the care and custody of minor non-citizens in government custody). See also *Flores v. Sessions*, No. 85-cv-04544-DMG-AGR, 2017 WL 6060252 (C.D. Cal. June 27, 2017 (Order Re Plaintiffs' Motion to Enforce and Appoint a Special Monitor)).

³ See, e.g., Administrative complaint filed by American Immigration Council, American Immigration Lawyers Association, Catholic Legal Immigration Network, Inc., et al., to Megan Mack, DHS Officer for Civil Rights and Liberties, and John Roth, DHS Inspector Gen. (July 30, 2015), <https://www.aila.org/advo-media/press-releases/2015/deplorable-medical-treatment-at-fam-detention-ctrs/public-version-of-complaint-to-crcl>.

and lack of appropriate follow-up treatment. Medical and mental health experts, including DHS-ICE's Advisory Committee on Family Residential Centers (ACFRC), have also admonished the detention of young children, even for brief periods of time.⁴

Physicians for Human Rights (PHR) has also advocated against the detention of children, including infants, in immigration detention centers. In an expert affidavit, which accompanies this complaint, PHR states, "PHR is alarmed about the inherent health risks for infants in detention, as infants have specific health needs which detention centers are ill-equipped to meet. The Department of Homeland Security's medical and psychiatric experts have extensively documented the significant threats of harm to children from detention, after visits to U.S. Immigration and Customs Enforcement family detention centers."⁵

Additionally, even in healthy children, the American Academy of Pediatrics recommends regularly scheduled well-child visits in the first year of a child's life.⁶ Infants are especially vulnerable to serious illnesses, pain, disability, and even death from preventable infections and diseases.⁷ For this reason, the Academy has formulated a strict vaccination schedule at such well-visits. Yet ICE has failed to demonstrate its ability to provide regular preventive care which could detect potentially serious complications that could arise while in detention.

Dilley is located over one hour by car from San Antonio, the nearest major metropolitan center with facilities equipped to provide specialized medical services. Some mothers report to their legal service providers in Dilley that their babies are not feeding well due to sudden changes in formula. Child health advocates recommend that to safely switch to a different formula, the process should be gradual and monitored by a pediatrician in order to avoid interruptions to the baby's feeding and digestion.⁸ This is virtually impossible from detention. Some of the mothers report that their babies have lost weight since arriving at the detention center. Other mothers report that their infants are sick or have exhibited behavioral and sleep challenges during their detention in the STFRC.

We urge your office to intervene immediately on behalf of this uniquely vulnerable population to demand the release of these families from custody to permit them to continue fighting their cases outside of detention. Further, we ask that you review any written decisions by the Department of Homeland Security

⁴ Report of the ICE Advisory Committee on Family Residential Centers, October 7, 2016, <https://www.ice.gov/sites/default/files/documents/Report/2016/acfrc-report-final-102016.pdf>, *see also* Physicians for Human Rights, The Impact of Immigration Detention on Migrant Mental Health, PHR Issue Brief (October 2018), https://s3.amazonaws.com/PHR_other/factsheets/PHR_Asylum_Issue_Brief_Immigration_Detention_Impact_on_Mental_Health.pdf.

⁵ Physicians for Human Rights, Letter to Sec. Kirstjen Nielsen Regarding the Detention of Infants (February 2019).

⁶ American Academy of Pediatrics, Recommendations for Preventive Pediatric Health Care (March 2019), https://www.aap.org/en-us/Documents/periodicity_schedule.pdf.

⁷ Centers for Disease Control and Prevention, Infant Immunizations FAQs (September 18, 2017), <https://www.cdc.gov/vaccines/parents/parent-questions.html>

⁸ Kids Health, Formula Feedings FAQs: Some Common Concerns (February 2015), <https://kidshealth.org/en/parents/formulafeed-concerns.html>.

to detain the infants, any records documentating medical issues or complications the infants have experienced during their detention, and to review medical services available to infants detained in the STRFC and other Family Residential Centers, including the qualifications of the medical personnel and the hours of their availability.

Please let us know if you require any additional information. Thank you in advance for your prompt attention to this urgent matter.

AMERICAN IMMIGRATION COUNCIL

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

CATHOLIC LEGAL IMMIGRATION NETWORK, INC.



Through evidence,
change is possible.

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The Honorable Kirstjen Nielsen
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Dear Secretary Nielsen,

Physicians for Human Rights (PHR) experts have conducted clinical evaluations of children and families seeking asylum for more than 25 years, including evaluations in family detention centers since 2015. PHR expresses grave concern over a reported increase in detained infant children in South Texas Family Residential Center in Dilley, Texas. Given the inherent harms and health risks of child detention, which are exacerbated in the case of infants and young children, PHR requests that the government exercise its full discretionary authority to secure the release of these families immediately. Detention is never in a child's best interest and violates minimum child protection standards.

PHR is alarmed about the inherent health risks for infants in detention, as infants have specific health needs which detention centers are ill-equipped to meet. The Department of Homeland Security's medical and psychiatric experts have extensively documented the significant threats of harm to children from detention, after visits to U.S. Immigration and Customs Enforcement family detention centers. They documented the case of a **16-month-old baby who lost a third of his body weight over 10 days from untreated diarrheal disease**, yet was never given IV fluids.¹ Family detention facilities do not have an adequate number of qualified health staff, including pediatricians, child and adolescent psychiatrists, and pediatric nurses, leaving the facilities understaffed and lacking necessary medical and mental health expertise.² For example, a **27-day-old infant who was born during his mother's journey was not examined by a physician until he had a seizure** due to undiagnosed bleeding of the brain.³ In another facility, numerous children were vaccinated with adult doses of vaccine as the providers were not familiar with labels on pediatric vaccines.⁴ The tragic deaths of eight-year-old Felipe Alonzo-Gomez and seven-year-old Jakelin Caal Maquin in U.S. Customs and Border Protection custody in December 2018 further demonstrate the extreme urgency of this matter.

PHR is also gravely concerned about the long term developmental and mental health impact of detention on infants. Numerous clinical studies have demonstrated that the mitigating factor of parental presence does not negate the damaging impact of detention on the physical and mental health of children.⁵ Further, research on the impact of Adverse Childhood Experiences

¹ Dr. Scott Allen and Dr. Pamela McPherson, Letter to the Senate Whistleblowing Caucus, July 17, 2018, accessed at: <https://www.whistleblower.org/sites/default/files/Original%20Docs%20Letter.pdf>.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Michael Dudley, Zachary Steel, Sarah Mares, and Louise Newman, "Children and Young People in Immigration Detention," *Current Opinion Psychiatry* 25, no. 4 (July 2012): 285-92, doi:10.1097/YCO.obo13e3283548676; K. Ehntholt, D. Trickey, J. Harris Hendriks, H. Chambers, M. Scott, W. Yule, and P. Tibbles, (2018), "Mental health of unaccompanied asylum-seeking adolescents previously held in British detention centres," *Clinical Child Psychology*



demonstrates that parental mental health—one of the adverse childhood experiences—has a significant impact on infant development, learning, and risk of mental health and health problems.⁶ The high prevalence of post-traumatic stress disorder, depression, trauma, and mental health issues among parents in detention, often exacerbated by the traumatic experience of detention and lack of adequate mental health care in detention settings, can impact a child's attachment, bonding, and development.⁷ **Infancy is a time of critical brain development.** A large body of research demonstrates that early childhood adversity and stress, such as conditions infants are exposed to in detention, can have significant detrimental impacts on the developing infant brain, with long-lasting and negative consequences on children's learning and behavior.⁸

The harmful impact of detention on young children has been demonstrated by numerous clinical studies. Structured psychiatric interviews with detained children showed that they had a tenfold increase in developing psychiatric disorders after detention.⁹ 486 interviews with 638 detained children and their parents in Australia showed that **39% of detained parents with infants reported they felt hopeless 'most or all of the time.'** Additionally, behavioral issues, appetite loss, sleep problems, developmental delays, irritability, anxiety, sadness and nightmares were common in children detained and found to be expected by parents.¹⁰ 60% of parents were concerned about their child's development, and **30% of children were described as 'always sad.'**¹¹ Research among children as young as 3 months old in UK immigration detention found that **sleep problems, somatic complaints, weight loss, anxiety, and behavioral difficulties were common;** the issues were of recent onset, indicating a link with detention.¹² In a study of 20 detained children as young as 11 months in Australia, 50% of children under five presented with delays in language and social development and/or emotional and behavioral dysregulation, while **30% of the infants showed marked**

and Psychiatry, 23(2), 238–257; R. Kronick, C. Rousseau, and J. Cleveland (2015), "Asylum-seeking children's experiences of detention in Canada: A qualitative study," *American Journal of Orthopsychiatry*, 85(3), 287,

⁶ Vincent J. Felitti, Robert Anda, et al, "Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study," *American Journal of Preventive Medicine* (1998) 14(4); Debora L. Oh, et al, "Systematic Review of Pediatric Health Outcomes Associated with Adverse Childhood Experiences," *Pediatrics*, January 2018, 141 (1 Meeting Abstract) 309; DOI: 10.1542/peds.141.1_MeetingAbstract.309.

⁷ Felice Le-Scherban, et al, "Intergenerational Associations of Parent Adverse Childhood Experiences and Child Health Outcomes," *Pediatrics*, June 2018, 141 (6) e20174274; DOI: 10.1542/peds.2017-4274.

⁸ Shonkoff, Jack P., Andrew S. Garner, Benjamin S. Siegel, Mary I. Dobbins, Marian F. Earls, Laura McGuinn, John Pascoe, David L. Wood, Committee on Psychosocial Aspects of Child and Family Health, and Committee on Early Childhood, Adoption, and Dependent Care. "The lifelong effects of early childhood adversity and toxic stress." *Pediatrics* 129, no. 1 (2012): e232-e246.

⁹ Zachary Steel, 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 Protracted 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.

¹⁰ Paxton, Georgia, Shidan Tosif, Hamish Graham, Andrea Smith, Colette Reveley, Jane Standish, Kate McCloskey et al. "Perspective: 'The forgotten children: national inquiry into children in immigration detention (2014)'" *Journal of paediatrics and child health* 51, no. 4 (2015): 365-368.

¹¹ *Ibid.*

¹² Lorek, Ann, Kimberly Ehntholt, Anne Nesbitt, Emmanuel Wey, Chipso 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 (2009): 573-585.



disturbance or distortion of their attachment to their parents.¹³ In the 12-month follow-up, **8 out of 10 preschool children displayed developmental or emotional disturbance.**¹⁴

Given the proven serious health and mental health harms of child detention, which are particularly dangerous in the case of infants and young children and can negatively impact their life trajectories, PHR urges the United States Department of Homeland Security to move to release these families without any further delay, and to develop protocols to guarantee asylum-seeking families with infant children alternatives to detention during the asylum process.

Respectfully,

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¹³ Mares, Sarah, and Jon Jureidini. "Psychiatric assessment of children and families in immigration detention—clinical, administrative and ethical issues." *Australian and New Zealand journal of public health* 28, no. 6 (2004): 520-526.

¹⁴ Ibid.