



March 28, 2016

Megan Mack
Office of Civil Rights and Civil Liberties
Department of Homeland Security
Washington, DC 20528

John Roth
Office of Inspector General
Department of Homeland Security
Washington, DC 20528

Re: Ongoing Concerns regarding the Detention and Fast-Track Removal of Children and Mothers Experiencing Symptoms of Trauma

Dear Ms. Mack and Mr. Roth:

We submit this complaint to register our ongoing concern regarding the detention of traumatized mothers and children in Immigration and Customs Enforcement's (ICE) family detention centers. On June 30, 2015, the American Immigration Council, the American Immigration Lawyers Association and the Women's Refugee Commission submitted a complaint to the Office of Civil Rights and Civil Liberties (CRCL), which included evaluations by mental health professionals and sworn declarations documenting in detail the traumatic psycho-social effects of detention in the South Texas Family Residential Center (STFRC) in Dilley, Texas; the Karnes County Residential Center in Karnes City, Texas, the Berks Family Residential Center in Leesport, PA, and the now closed Artesia Family Residential Center in Artesia, NM.¹

The CARA Family Detention Pro Bono Project² submits this second complaint to further document our concerns with the detention of traumatized mothers and children.

¹ Letter from American Immigration Lawyers Association et al. to the U.S. Department of Homeland Security Office of Civil Rights and Civil Liberties regarding the psychological impact of family detention on mothers and children seeking asylum, June 30, 2013, <http://www.aila.org/advo-media/press-releases/2015/impact-family-detention-mental-health/complaint-crcl>.

² The CARA Family Detention Pro Bono Project is a partnership of four organizations: Catholic Legal Immigration Network, Inc. (CLINIC), American Immigration Lawyers Association (AILA), Refugee and Immigrant Center for Education and Legal Services (RAICES), and the American Immigration Council (Council). Since April 2015, CARA has provided legal counsel and representation to several thousand

The eight cases included herein continue to demonstrate that many detained families suffer from Post-traumatic Stress Disorder (PTSD), anxiety, depression or other emotional or cognitive disorders. They represent an extremely vulnerable population for which detention is rarely appropriate. Numerous studies show that the negative mental health consequences of detention are particularly acute for children, asylum seekers, and other vulnerable populations.³ Detention re-traumatizes survivors of violence⁴ and sharply limits access to legal counsel and mental health services.⁵ Experts confirm that detention poses risks to children's health that can be immediate and long-lasting.⁶

These cases also demonstrate the ways in which fast-track removal processes, to which the Department of Homeland Security (DHS) currently subjects all children and their mothers in family detention centers, are dangerously inadequate to ensure access to protections under U.S. law. These procedures are least appropriate for the most vulnerable: those suffering from the symptoms of Post-traumatic Stress Disorder, cognitive infirmities, or other mental health impairments.

The attached declarations and evaluations for eight mothers held in family detention centers demonstrate the particular difficulties that individuals suffering from the psychological consequences of trauma face. Many of the mental health evaluations contained in this complaint specifically document mothers' inability to share their stories with an asylum officer or an immigration judge in the first instance due to trauma symptoms.

DHS now deports the vast majority of noncitizens without ever bringing them before the immigration court. Fast-track removal processes like expedited removal and reinstatement of removal put deportation decisions directly in the hands of enforcement agents and often deny asylum seekers the chance to present valid claims in court. Many

children and mothers detained at the South Texas Family Residential Center (STFRC) in Dilley, Texas and the Karnes County Residential Center ("Karnes") in Karnes City, Texas.

³ See, e.g., Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention* (2014), https://www.humanrights.gov.au/sites/default/files/document/publication/forgotten_children_2014.pdf; Jon Burnett, et al., *State Sponsored Cruelty, Children in Immigration Detention*, Medical Justice (2010), <http://www.statewatch.org/news/2010/sep/uk-medical-justice-statesponsored-cruelty-report.pdf>; see also Guy J. Coffey, et al., *The Meaning and Mental Health Consequences of Long-Term Immigration Detention for People Seeking Asylum*, 70 Soc. Sci. & Med. 2070, A430 (2010); Masao Ichikawa, et al., *Effect of Post-Migration Detention on Mental Health Among Afghan Asylum Seekers in Japan*, 40 Austl. & N.Z.J. Psychiatry 341 (2006); Allen S. Keller, et al., *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers*, Physicians for Human Rights & The Bellevue/NYU Program for Survivors of Torture (2003), <http://physiciansforhumanrights.org/library/reports/from-persecution-to-prison.html> (describing the traumatic effects of detention on adults).

⁴ See Rachel Kronick, et al., *Asylum-Seeking Children's Experiences of Detention in Canada: A Qualitative Study*, 85 Am. J. Orthopsychiatry 287, A1788 (2015); see also *From Persecution to Prison* at 1638-39.

⁵ Craig Haney, *Conditions of Confinements for Detained Asylum Seekers Subject to Expedited Removal*, Rep. on Asylum Seekers in Expedited Removal, U.S. Commission on Int'l Religious Freedom 178 (Feb. 2005), <http://www.uscirf.gov/reports-briefs/special-reports/report-asylum-seekers-in-expedited-removal>.

⁶ Brief for the American Academy of Child and Adolescent Psychiatry (AACAP) and the National Association of Social Workers (NAWS) as *Amici Curiae* Supporting Appellees and in Support of Affirmance of District Court Judgement, *Flores et al. v. Lynch*, No. 15-56434 (9th Cir. Feb. 23, 2016).

factors contribute to the due process failures of expedited removal and reinstatement of removal, including: (1) these processes rely on initial screenings by Border Patrol officials that are often wholly inaccurate, ignore expressions of fear, and/or provide noncitizens with insufficient information about their rights and responsibilities; (2) threshold eligibility determinations for asylum and other protections take place rapidly in jail-like facilities many miles from major cities and pro bono legal and mental health resources; and (3) the government does not guarantee legal counsel, at its own expense if necessary, to ensure that all individuals subject to removal have a fair chance to present their claims.

Given these substantial due process concerns, we urge DHS to significantly curtail its use of expedited and reinstatement of removal, which currently account for more than 80 percent of DHS removals each year.⁷ For mothers detained with their children and suffering from the symptoms of trauma or cognitive impairment, these fundamentally unfair procedures are particularly detrimental. As evidenced by several of the cases discussed in this complaint, many extremely vulnerable individuals, including children, are deported without having a meaningful opportunity to present valid claims for relief.⁸

We urge your offices to immediately and thoroughly investigate the cases below. In addition, we renew our request for a complete investigation into the psychological and physiological impact of family detention on children and mothers. Such an investigation should pay particular attention to the capacity of mothers and children who are suffering from trauma and other psychological or cognitive disorders to have a meaningful opportunity to present their claims during the credible or reasonable fear process. We further urge that the information contained in this complaint be considered by the OIG as it begins its investigations into ICE detention facilities. While we recognize that increased access to meaningful mental and medical health services is crucial for the currently detained population, we are confident that even a vast improvement in access to such services would not address the plight of the most vulnerable mothers and children, including those whose cases are discussed in the complaint.

There remains no humane way to detain families. The costs of this flawed policy remain particularly unacceptable given that there are established alternatives, including case management, which could address the government's legitimate interests in tracking asylum seekers and ensuring their appearance at hearings without inflicting additional trauma.

Given the difficulty that mental health care providers face in accessing individuals in family detention, as well as the sensitive nature of these cases, the examples discussed

⁷ Office of Immigration Statistics, U.S. Department of Homeland Security, *Immigration Enforcement Actions: FY2013*, https://www.dhs.gov/sites/default/files/publications/ois_enforcement_ar_2013.pdf.

⁸ See UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras and Mexico* (October 2015): 1 (“Since 2008, UNHCR has recorded a nearly fivefold increase in asylum-seekers arriving to the United States from the Northern Triangle region of El Salvador, Guatemala, and Honduras. Over the same period, we have seen a thirteenfold increase in the number of requests for asylum from within Central America and Mexico – a staggering indicator of the surging violence shaking the region.”).

herein likely represent only a small fraction of those experiencing trauma in, and as a result of, family detention. They underscore that instead of being detained and subject to fast-track removal, the use of which is fully discretionary,⁹ families should be issued Notices to Appear (NTA) and placed into regular removal proceedings before the immigration court under Immigration and Nationality Act (INA) Section 240.¹⁰

The complaints included below are a sample of a much larger set of detained families in which one or more family members has manifested clear symptoms of Post-traumatic Stress Disorder, Major Depressive Disorder, or other mental health disorders. Despite clear indications of trauma, DHS continues to subject detained families to credible and reasonable fear interviews. Where a mother is too traumatized to explain the circumstances of her plight, the violence she has experienced and observed, or the reasons for her fear of return to her home country, she typically receives a negative credible fear determination, which is usually affirmed by an immigration judge. Through heroic advocacy efforts and continual follow up, some of these families have been saved from erroneous deportation, while others, unfortunately, have been returned to the harm from which they fled.

* * *

Complainant 1: “Sara¹¹.” Sara fled El Salvador with her three children, ages nine, ten, and twelve after receiving death threats from a powerful transnational criminal organization, the MS-13, in her home town. Sara was raped by the brother of an MS-13 member; when her rapist died shortly thereafter, his mother blamed Sara for his death and vowed to kill her. Her family has informed her that MS-13 members continue to look for and threaten to kill her. She fears that she and her children will be killed if they return.

Sara was unable to disclose the sexual assault and subsequent death threats during her credible fear interview due to the trauma she continued to experience. In her declaration, Sara explains:

I live in deep trauma. I’m scared of what could happen to me. I get nervous even thinking about it when I’m alone. I didn’t share this

⁹ Brief of Immigrants Rights Organizations as *Amici Curiae* in Support of Plaintiffs-Appellees and in Support of Affirmance of District Court Judgement, *Flores v. Lynch*, No. 15-56434 (9th Cir. Feb. 23, 2016) (explaining that detention is not required in summary removal proceedings and that prior to the summer of 2014, the Government processed claims of accompanied minors and their mothers without the use of summary proceedings), <http://www.aila.org/infonet/ca9-amicus-brief-in-flores>.

¹⁰ In regular removal proceedings, legal counsel is permitted to play an active role and immigration judges have authority to prescribe safeguards where necessary to protect an individual’s due process rights. See *Matter of M-A-M-*, 25 I&N Dec. 474 (BIA 2011) (holding that if an individual Respondent in immigration court proceedings manifest indicia of incompetency, the immigration judge must undertake an inquiry to determine whether the Respondent is competent for the purposes of immigration proceedings, and, if not, the immigration judge must evaluate appropriate safeguards).

¹¹ Pseudonyms have been used to maximize confidentiality for these families, many of whom are still actively pursuing their claims for protection in the United States. The CARA Project has provided CRCL and OIG with the names and alien registration numbers matched with the pseudonyms, along with sworn declarations and psychological evaluations for each individual, where conducted.

information with the asylum officer because of my fear. I don't want to ever have to think about this again. I get really scared talking about it. I just want it to all disappear.

Initially detained on February 10, Sara received a negative credible fear determination from the asylum office on February 17. Appearing before the immigration judge on February 24 for review of her negative determination – during which no attorney participation was allowed¹² – was so stressful for Sara that it triggered a severe migraine. Sara was only able to talk about the fact of her sexual assault and the death threats *after* the immigration judge affirmed the negative determination. When she was finally able to disclose these facts to her attorney, Sara experienced another debilitating migraine.

Aware of these new facts, her attorneys worked diligently to obtain an independent psychological evaluation to submit as a critical piece of evidence to support her request for reconsideration by the asylum office. No fewer than twelve requests to ICE to obtain clearance for this evaluation delayed the scheduling of this evaluation, and attorneys were forced to submit Sara's request for reconsideration before the evaluation could be obtained. Eventually, Dr. Ricardo Castaneda, a psychiatrist, was able to evaluate Sara and diagnosed her with three psychiatric and cognitive conditions, social phobia, learning disabilities, “dyslexia and Dycaculia that are indicative of cognitive impairment,” and PTSD. He specifically found that these “conditions significantly impaired her capacity to comprehend and fully answer questions posed to her by the asylum office and subsequently by the immigration court.” As Dr. Castaneda explained, Sara's ability to recount her story to the asylum officer and the immigration judge were impaired by her mental health conditions:

More relevant to her current situation, a review of her history and her mental status makes clear that her initial accounts of her story were significantly impeded by a state of severe social anxiety in the stressful context of the court, where she reports having felt utterly frozen by fear, unable to remember not only her history of sexual and physical abuse but also the death threats made to her by the mother of her former abuser. Such failure to remember traumatic events is consistent with the dissociative symptoms of PTSD.

On February 29, Sara submitted a request for reconsideration, including Dr. Castaneda's psychological evaluation, to the Asylum Office. This request was denied on March 21. Sara and her three children have now been detained for more than six weeks, initially at Dilley and now at the Berks detention center.

¹² This review took place in front of an immigration judge who, citing the Immigration Court Practice Manual, categorically prohibits the participation of attorneys during reviews of negative credible fear determinations. *See Imm. Court Practice Manual Chap. 7.4(d)(iv)(C)* (Feb. 2016). (“the alien is not represented at the credible fear review. Accordingly, persons acting on the alien's behalf are not entitled to make opening statements, call and question witnesses, conduct cross examinations, object to evidence, or make closing arguments.”).

Complainant 2: “Nessa.” Nessa and her eight-year-old daughter were detained on Christmas Eve 2015 after fleeing Guatemala to ensure her daughter’s safety. Nessa grew up in an abusive household where her father regularly beat her mother, and at the age of nine, two of Nessa’s teenage cousins started to sexually abuse her; the abuse continued until she was around twelve years old. Nessa was later abused and raped by her spouse and the father of her child.

Only after undergoing both a credible fear interview (on January 5, 2016) and review by an immigration judge of her negative credible fear determination (on January 13), which was ultimately affirmed, did Nessa finally feel able to share with CARA attorneys at the Dilley detention center what she had endured in Guatemala and her deep desire to protect her daughter from the abuse that she had suffered as a child. Dr. Allen Keller conducted a psychological evaluation of Nessa. Dr. Keller diagnosed Nessa with PTSD, explaining that:

Since these traumatic events, [Nessa] describes suffering significant symptoms of emotional distress. She continues to feel a profound sense of shame and humiliation because of these events. She reports continuing to be extremely fearful of men, and fearful of being raped again. She is also intensely focused on fear for the safety of her daughter. She tries to avoid thinking about what happened, and does find solace in prayer. Nevertheless, concern for her daughter’s safety is a constant trigger for her of these terrifying memories.

Although Nessa expressed a preference for a female asylum officer to immigration officials before the day of her interview, a male officer conducted her credible fear interview. It was not until midway through the interview that the officer asked whether she felt comfortable with a male officer and whether Nessa’s eight-year-old daughter, who knew nothing about her mother’s traumatic past, could stay in the room. As Dr. Keller explains, however, these conditions did not make it possible for her to share what she had endured:

It is my professional opinion that there is clinical evidence explaining why [Nessa] did not reveal critical details of her trauma history, notably a history of rape and sexual assault, during her Credible Fear Interview. Furthermore, as noted above, she was very uncomfortable talking about anything related to her sexual assault with me. As such it is unrealistic to expect that she would or should have revealed her rape and sexual assault during her Credible Fear Interview given the circumstances, including a male Asylum Officer.

Dr. Keller explains further:

Based on my professional experience of more than 25 years interviewing, evaluating and caring for survivors of severe trauma, including victims of sexual assault and rape, it is not uncommon, even under the best of

circumstances for individuals to not be immediately forthcoming about these details. It is my professional opinion that the circumstances of the interview were not only far from ideal, but were such that it is predictable that [Nessa] would not reveal this very private information during the credible fear interview.

Nessa submitted a request for reconsideration to the asylum office on January 17, including Dr. Keller's psychological evaluation diagnosing her with PTSD and explaining how her symptoms impeded earlier sharing of the trauma she had endured. Nessa's own sworn declaration, submitted with the request for reconsideration, explains:

I did not tell the asylum officer or the Immigration Judge about what happened to me when I was growing up or with my ex husband. I was embarrassed and ashamed to tell anyone about the abuse I have suffered. This is the first time I am telling anyone ever about this abuse. It's been very difficult for me.

The request for reconsideration also included a sworn affidavit from Professor Judith Herman, explaining the effects of incestuous abuse, along with articles addressing issues of rape, memory, trauma, and stress.¹³ Despite all this, USCIS denied Nessa's request for reconsideration on January 19. The very next day, January 20, Nessa and her daughter were deported.

Complainant 3: "Beatriz." Beatriz fled Guatemala to find safety for herself and her two children, ages two and eight, in the United States. She suffered an abusive childhood and later went on to endure severe domestic violence at the hands of the father of one of her children, including repeated rapes and one incident where she was burned with a hot iron.

Beatriz and her children were held at the Dilley detention center. During her credible fear interview on January 4, 2016, Beatriz was unable to disclose the information about her past abuse because of the trauma she had endured and the deep shame she felt whenever she recalled these experiences. Beatriz was able to relate the facts underlying her fears to her attorneys after the interview, and she submitted a declaration of these new, material facts to the immigration judge who was about to review the negative credible fear determination. The declaration detailed her childhood growing up in an abusive home and the subsequent domestic violence she suffered at the hands of her partner, which included repeated rapes. The immigration judge could see no reason why Beatriz would have failed to state these facts during the interview, found her not to be credible, and affirmed the asylum officer's decision on January 11.¹⁴

¹³ Oliver T. Wolf, *Stress and Memory in Humans: Twelve Years of Progress?* 1293 *Brian Research* 142-154 (2009); Jenkins et al, *Learning and Memory in Rape Victims with Posttraumatic Stress Disorder*, *Am. J. of Psychiatry* 155:2 (Feb. 1998).

¹⁴ Again, this review took place in front of an immigration judge who, citing the Immigration Court Practice Manual, categorically prohibits the participation of attorneys during reviews of negative credible fear determinations. *See supra* note 12.

Beatriz's attorneys then obtained an independent psychological evaluation by Dr. Allen Keller, who explains what happened during Beatriz's initial credible fear interview with an asylum officer and why she did not disclose the violence she had suffered in Guatemala:

When asked why, [Beatriz] stated that she was ashamed. She reports that "Something very bad came over me. I was feeling like I wanted to throw up." She reports that the officer, whom she describes as respectful and courteous, noticed that she was feeling very badly, and asked her if she wanted to stop and have a drink of water. She reports the officer, who noticed she continued to look bad, also told her that they could continue the interview on another day. [Beatriz] reports she told the officer she could continue because she just wanted to get the interview over with.

As Dr. Keller reports, Beatriz had never told anyone, not even her own mother, about the abuse she endured, and felt too afraid and ashamed to share these details with the asylum officer. Dr. Keller found that Beatriz suffers from symptoms of depression and "extremely severe" symptoms of PTSD. As Dr. Keller explains, Beatriz, like many others suffering from PTSD, exhibits one of the hallmark symptoms – avoidance:

Of particular note she describes extreme symptoms of avoidance, which is one of the central diagnostic criteria for PTSD. During our interview, she explained why she avoided and in fact was unable to reveal the traumatic events she had suffered during her credible fear interview. That she did not reveal central parts of her traumatic history is understandable and highly consistent with her diagnosis of PTSD.

Dr. Keller also verified that the scarring on Beatriz's body is consistent with her claim that she was burned with a hot iron during an abusive incident with her partner.

Beatriz submitted a request for reconsideration to the asylum office on January 15, which included Dr. Keller's evaluation, explaining Beatriz's diagnosis and symptoms. USCIS denied this request for reconsideration on January 19. Beatriz's legal representatives quickly filed a second request for reconsideration, but Beatriz and her children were deported the same day, January 20.

Complainant 4: "Yessica." Yessica fled Honduras with her fifteen-year-old son and fourteen-year old daughter to seek protection in the United States. In Honduras, a transnational criminal organization threatened and beat her son in an effort to convince him to join their organization. The same entity killed Yessica's uncle because he was critical of the gangs, cutting out his eyes and teeth when they murdered him. Yessica herself suffered sexual assault at the hands of the gangs and witnessed collaboration between the gangs and the police that put her at risk.

Yessica never had an opportunity to undergo a psychological evaluation while she was detained at Karnes from October 2, 2015 to November 3, 2015. Yessica's fifteen-year-old son, having been beaten and threatened by gangs, also manifested symptoms of trauma, waking up at the detention center in the middle of the night with nightmares. Her son and fourteen-year-old daughter also began to refuse to eat while they were detained. Yessica received a negative credible fear determination, which an immigration judge later affirmed. Although a private attorney not affiliated with the CARA Project attended Yessica's review, he never met with her prior to the hearing or prepared her in any way. On the same day that the immigration judge affirmed Yessica's negative determination, she almost threw herself off a balcony at the detention center. When she finally met with CARA staff just a day before she was deported, Yessica told them that she had heard voices in her head telling her to throw herself off the balcony so that she would be freed.

Although both Yessica and her son manifested symptoms of trauma, they were never treated for these symptoms; they also never received a psychological evaluation during their month-long detention at Karnes. They were deported back to Honduras on November 3, 2015.

Complainant 5: "Penelope." Penelope fled her native El Salvador after suffering domestic violence for eight years at the hands of her partner and receiving threats from a powerful transnational criminal organization. Penelope met her abusive partner when she was just eighteen years old, and for years she suffered physical, verbal, and emotional abuse. Her partner regularly hit, slapped, and punched her, and routinely told her she was "worthless." He even beat her when she was pregnant with his child, injuring her back. On one occasion, he beat her so badly that her head started bleeding, and since then she has had persistent migraines. On other occasions, Penelope's partner hit her so hard that she was knocked unconscious. He also raped her throughout the relationship.

Dr. Susanna Francies, a licensed clinical psychologist, conducted a psychological evaluation while Penelope was detained. She diagnosed Penelope with PTSD, chronic, with dissociative features, and reports that Penelope manifested the following symptoms:

[S]ignificant avoidance symptoms, such as trying to forget about a bad time, avoiding people and places that remind her of a traumatic event, trying not to think of upsetting events in the past, and blocking out memories.

Dr. Francies also reports that Penelope suffered "feelings of anxiety and shame," and never told anyone what happened to her. Dr. Francies explains that Penelope also suffers from dissociative symptoms of PTSD, which include:

[F]eeling like you are in a dream, 'spacing out,' and feeling like things aren't real. [Penelope] also reports: not feeling like your real self, having trouble remembering details of something bad that happened, and feeling like you are watching yourself from far away.

Dr. Francies explains that prior to her arrival in the United States, Penelope never explained the abuse she suffered, “as it was a source of shame.” Dr. Francies concludes that Penelope’s

[C]oping style may have helped [Penelope] to endure severe ongoing abuse, but it has interfered with her ability to advocate for herself in the form of disclosure of her trauma history. This is a common phenomenon among immigrant survivors of abuse, especially when sexual abuse is involved.

During her credible fear interview, Penelope did not feel comfortable disclosing the intimate details of her domestic violence history to the male asylum officer. In her declaration, she states that she did not understand some of the asylum officer’s questions and had a hard time explaining herself. Unrepresented at the immigration judge’s review of her negative credible fear determination, Penelope again found it difficult to explain herself. Penelope finally connected with CARA Project attorneys, who have since filed two requests for re-consideration with the asylum office, both of which were denied without any explanation.

Penelope and her six-year-old son were detained at Karnes from October 14 until their transfer to Berks on November 14. Only after attorneys filed a writ of habeas corpus on Penelope’s behalf were she and her son released from Berks on November 24, 2015. Penelope’s pro bono attorney is submitting a third request for reconsideration in the hope that Penelope will finally have the chance to disclose the story that she is ready and able to recount now that she is no longer in detention.

Complainant 6: “Melina.” Melina fled Guatemala with her one-year-old son. At the age of fourteen, a man in his thirties kidnapped Melina, held her in a room for a month, and raped her repeatedly. Neither Melina’s family nor the police were able to capture or stop her attacker, who is a known drug-trafficking criminal in the mountains of Guatemala where Melina was raised. Years later, she fled Guatemala suddenly after she encountered her attacker because she felt afraid to continue living in her country. At the time she fled, Melina had also been experiencing threats and extortion from members of a powerful transnational criminal organization, who threatened her life if she did not pay “renta” and shot at her small store.

Licensed clinical social worker Susan Wolfson conducted an evaluation of Melina while she was detained. She diagnosed Melina with PTSD as a result of the trauma she endured as a young girl. Ms. Wolfson recounts:

[Melina] said she felt nervous when thinking about what had happened to her, that she got severe headaches from talking about it, that the headaches often moved to an ache behind her right eye, and her right arm. She said she has difficulty sleeping and has nightmares of what happened to her. Whenever she remembers it or talks about it, it feels to her like she is reliving the experience all over again.

Melina and her young son were detained on November 20, 2015 and held at the Dilley detention center. Following Melina's first credible fear interview, the asylum officer rendered a negative credible fear determination. An immigration judge affirmed that decision without allowing any attorney participation¹⁵ or giving Melina an opportunity to explain what happened during the asylum interview. Melina describes her experience before the immigration judge as follows:

...I find it very difficult to talk about the rape and the abuse that I have suffered. It causes me pain whenever I think about it. When I went to my IJ Review last week, I was not able to focus on the questions. The same problems came up. I experienced these same exact symptoms during the hearing.

Although the immigration judge affirmed the negative decision, the asylum office later granted Melina's request for reconsideration, which included the psychological evaluation, and conducted a second credible fear interview. Melina was represented by an attorney at her second interview, where she was able to fully recount her story and her fear of return to Guatemala. After just over a month of detention in Dilley, Melina and her son were released on December 21, 2015.

Complainant 7: "Michaela." Michaela and her three-year-old son fled El Salvador and sought protection in the United States in the beginning of March 2016. During her childhood, Michaela, her mother, and her siblings were subjected to daily abuse at the hands of her father. As an adult, Michaela's husband regularly verbally abused her and started forcibly raping her in December 2015. Michaela also feared harm at the hands of a powerful transnational criminal gang in her neighborhood, and fled after her husband raped her for the third time in February 2016.

Michaela and her son have been detained at the Dilley detention center since approximately March 4, 2016. Michaela's credible fear interview on March 10 lasted less than one hour. During that interview, Michaela did not share the fact that her husband had repeatedly raped her. As she later explained in a sworn declaration:

I did not share this information with the asylum officer because I consider it a very intimate part of my life. I wish I never had to think about it again. I've never told anyone about this abuse. Talking about the abuse I have suffered makes me physically ill. I got a headache as I was speaking to my attorneys about this abuse. The asylum officer didn't ask me very many questions. She didn't seem very interested in what I had to say.

After the interview, which resulted in a negative determination, Michaela revealed to CARA Project staff that she had been raped by her husband. Before an immigration

¹⁵ Again, this review took place in front of an immigration judge who, citing the Immigration Court Practice Manual, categorically prohibits the participation of attorneys during reviews of negative credible fear determinations. See *supra* note 12.

judge reviewed her case on March 17, she submitted the above-referenced declaration explaining these experiences. The judge did not allow attorney participation in the credible fear review by the immigration judge, per the Immigration Court Practice Manual,¹⁶ and affirmed the negative determination despite Michaela's declaration explaining why she had not disclosed the abuse during her credible fear interview.

Following the immigration judge's affirmance of Michaela's negative credible fear determination, CARA attorneys filed a request for reconsideration with the asylum office on March 21. USCIS granted this request, and Michaela was re-interviewed on March 23. She is currently awaiting a second credible fear determination in her case. CARA staff members are in the process of attempting to secure a psychological evaluation for Michaela to corroborate her statements that her shame and trauma prevented her from fully disclosing the abuse she had suffered during the first interview. Given the short timeline for these cases, CARA staff cannot always be able to secure pro bono psychological evaluations, which often carry significant weight with the asylum office.

Complainant 8: "Cristina." Cristina fled Honduras with her nine-year-old and eleven-year-old children. In 2013, Cristina was accosted, kidnapped, and repeatedly raped by two men whom she believes to be members of a transnational criminal organization. In 2014, she suffered domestic violence at the hands of a romantic partner. She fled Honduras to escape further harm from all these men, to protect her son from recruitment into a gang, and to protect her daughter from violence in Honduras targeting young girls. A few days before fleeing Honduras, Cristina received a phone call from a gang member threatening to kill her and her children if she refused to submit to his demands for sex and for her to become his "woman."

Cristina and her children have been detained at the Dilley detention center since approximately March 7, 2016. Cristina's credible fear interview took place on March 11. During that interview, which resulted in a negative determination, she did not reveal all of the threats that she faced in Honduras. An immigration judge conducted a review of the negative determination on March 17, where Cristina also failed to disclose all of the circumstances that prompted her to flee Honduras. She explains, in a sworn declaration, why she was unable to tell her full story:

During my review with the Immigration Judge, I was extremely nervous. I still had a headache and felt very stressed, especially because I haven't slept. Like I said before, I did not feel comfortable sharing my entire story. I am afraid it will put my family's life in danger.

Cristina also explained that since being detained at Dilley, she has lost her appetite and is unable to sleep more than two hours a night. She explained, "Sometimes, it is difficult just to breathe and I have had a throbbing headache for

¹⁶ Again, this review took place in front of an immigration judge who, citing the Immigration Court Practice Manual, categorically prohibits the participation of attorneys during reviews of negative credible fear determinations. See *supra* note 12.

three days.” Cristina also shared that her nine-year-old and eleven-year-old children are not eating in the detention center.

Dr. Albana Dassori evaluated Cristina and diagnosed her with PTSD and Major Depressive Disorder. Dr. Dassori explained that:

[Cristina] endorses intrusive thoughts and nightmares about trauma, constant distrust, avoidance of situations that remind her of the trauma. She is constantly scanning her environment for safety and avoids talking about the traumas she experienced. Talking about them increases her sadness and makes her unable to control tears and negative thoughts.

Further, Dr. Dassori elaborated in her evaluation that:

Throughout her life, [Cristina] faced violent situations in which she felt helpless. It is this learned helplessness that may impact her interactions with persons in position of authority. In these situations, she is likely to feel overpowered, return to a subservient stance and become passive and confused.

Like many survivors of trauma, Cristina needed time to feel comfortable enough to fully disclose her past traumatic experiences and fears. On March 21, CARA attorneys submitted a request for reconsideration, which was quickly granted and resulted in the issuance of a Notice to Appear for this family. Without the assistance of counsel, which not all detained families are able to access; Cristina and her children would have been deported to Honduras and the harm from which they fled.

Previously Submitted Cases Highlighting the Same Challenges for Traumatized Families Subject to Detention and Fast-Track Processing of Fear-Based Claims

Between January and March 2016, CARA sent CRCL and OIG fourteen cases involving families from El Salvador, Guatemala, and Honduras. In each family, the mother had suffered threats and physical harm resulting in diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder, or Generalized Anxiety. We appreciate CRCL’s attention to these fourteen cases, which illustrate broader trends we observe in family detention centers on a daily basis. The fourteen cases are summarized below:

- A Salvadoran mother who survived child abuse and incest, and fled gang threats, seeking protection with her five-year-old son. She was detained at Dilley and then Berks for three months and diagnosed with PTSD and Major Depressive Disorder.
- A mother detained with her seven-year-old son who fled after receiving threats from the transnational criminal organization that shot her husband in El Salvador. She was diagnosed with PTSD and suffers from Generalized Anxiety. The family has been detained, first at Dilley and now at Berks, since December 15, 2015.

- A mother who was threatened with a gun by members of a transnational criminal organization and subsequently fled El Salvador with her six-year-old son. She was diagnosed with Major Depressive Disorder and PTSD. The family has been detained, first at Dilley and now at Berks, since December 17, 2015.
- A mother who suffered domestic violence in Honduras at the hands of her spouse, and fled after she was raped and shot in the hand by a well-known drug trafficker. She was diagnosed with PTSD and depression and detained with her two-year-old son for over two months.
- A mother who fled death threats and extortion by a transnational criminal organization in El Salvador. She was detained with her three-year-old son for almost three months and diagnosed with Major Depressive Disorder along with symptoms of PTSD and Generalized Anxiety.
- A mother who fled El Salvador with her two-year-old and eight-year-old daughters after suffering child abuse, incest, domestic abuse, and threats from a transnational criminal organization. The family was detained for almost three months, and the mother was diagnosed with PTSD and Major Depressive Disorder.
- A Honduran mother who was raped at knifepoint at the age of 12, and later targeted by a man who stalked her and threatened to kill her daughter if she did not marry him. The mother and her three-year-old daughter have been detained, first at Karnes and now at Berks, since December 21, 2015. More than three months later, they remain detained, and the mother has been diagnosed with PTSD.
- A Honduran mother who fled with her four-year-old child and has been detained since December 17, 2015. A well-known hit man threatened to kill her unless she married him, and she later faced threats because she witnessed her cousin's murder at the hands of a transnational criminal organization. She was diagnosed with PTSD and remains detained, initially at Karnes and now at Berks.
- A Honduran mother who fled with her nine-year-old and ten-year-old children. She was threatened by her estranged husband, who joined a powerful transnational criminal organization. The family has been detained for almost three months – initially at Karnes and now at Berks. The mother was diagnosed with PTSD.
- A Guatemalan mother whose primary language is Mam, who suffers from cognitive impairment and was diagnosed with PTSD and Generalized Anxiety. She and her eight-year-old son fled Guatemala after members of a transnational criminal organization repeatedly threatened and assaulted her. The family was held in detention at Dilley for more than seven weeks.

- A Salvadoran mother and her ten-year-old son fled after receiving threats from members of a transnational criminal organization. A mental health expert diagnosed the mother with PTSD. The family has been detained since February 17 and is currently held at Dilley and their request for reconsideration with the Asylum Office is pending.
- A Mexican mother and her two daughters, ages fifteen and four, fled after receiving threats from members of a transnational criminal organization, who attempted to kidnap the fifteen-year-old girl. The fifteen-year-old girl manifested symptoms of trauma, and counsel were actively working to secure a psychological evaluation when the family was apparently transferred from Dilley to Berks on March 25.
- A Guatemalan mother who sought protection in the United States after being raped by a man who stalked her for nearly four years. The mother and her fourteen-year-old daughter have been detained at the Karnes detention center since approximately February 20. The mother has been diagnosed with PTSD.
- A Salvadoran mother who fled with her three-year-old daughter after receiving death threats from members of a transnational criminal organization. The mother and daughter have been held at the Karnes detention center since approximately February 21. CARA attorneys recently submitted a second request for reconsideration, including a psychological evaluation diagnosing the mother with PTSD, but the request was quickly denied.

Conclusion

The eight cases highlighted above illustrate that the detention of traumatized mothers and their children cannot be carried out humanely. Additionally, these cases demonstrate that forcing traumatized mothers and their children to quickly undergo credible fear interviews in detention undermines asylum officers' ability to accurately assess fear of return and may lead to erroneous deportations. Three of the families whose cases are discussed above were deported before they ever had a meaningful opportunity to discuss their fear of return with an asylum officer or immigration judge.

The majority of the predominantly Central American families held in family detention centers have fled gang violence, domestic abuse, or other trauma, which often has lasting effects. As documented above, traumatized individuals living with PTSD, depression, or other disorders face real struggles in communicating and disclosing the suffering they have endured to asylum officers. Disclosing traumatic events requires trust and a certain level of comfort that cannot be achieved in detention. Consequently, traumatized individuals may be deprived of due process and, ultimately, protection under U.S. law. We urge your offices to conduct a full investigation into detention and fast-track removal of families struggling with mental health challenges.

Respectfully submitted,

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