

Secretary Alejandro Mayorkas
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20016

Acting Director Patrick Lechleitner
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20024

Director Ur Jaddou
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, Maryland 20588

Re: Providing further transparency into ICE's Family Expedited Removal Management Program

Dear Secretary Mayorkas, Acting Director Lechleitner, Director Jaddou,

The undersigned 46 national and local organizations write to ask that DHS provide additional transparency into the impact and operation of a new program for asylum-seeking families. On May 10, 2023, U.S Immigration and Customs Enforcement (ICE) announced the creation of a new Family Expedited Removal Management (FERM) program.¹ Under the FERM program, certain family units released at the southwest border are placed onto what ICE describes as a form of alternatives to detention (ATD) programming and subject to a house curfew while they go through the credible fear interview process. When the FERM program began, it was limited to Baltimore, Newark, Chicago, and Washington, but ICE began a significant expansion of the program at the end of July.² By the end of September, FERM will be in place in 40 different locations.³ ICE has indicated that each FERM location may have between 50-125 people enrolled, suggesting the FERM program could eventually have a daily population anywhere from 2,000 to 5,000 people.

¹ U.S. Immigration and Customs Enforcement, *ICE announces new process for placing family units in expedited removal*, May 10, 2023,

<https://www.ice.gov/news/releases/ice-announces-new-process-placing-family-units-expedited-removal>.

² Hamed Aleaziz, *Biden's curfew program for families seeking asylum will expand to California*, *L.A. Times*, August 3, 2023, <https://www.latimes.com/politics/story/2023-08-03/biden-expand-home-curfew-asylum-families>; U.S.

Immigration and Customs Enforcement, *Statement regarding the Family Expedited Removal Management Program*, August 3, 2023,

<https://www.ice.gov/news/releases/statement-regarding-family-expedited-removal-management-program>.

³ Elliot Spagat, *US expands curfews for asylum-seeking families to 13 cities as an alternative to detention*, Associated Press,

<https://apnews.com/article/asylum-seekers-curfew-border-screening-biden-0ecec872be2799443feda68a834db8f95>.

Despite the potential scale of the FERM program, DHS has provided little public information about it. While we greatly appreciate that ICE has sought to engage with the nonprofit community prior to each FERM expansion, we understand that there has not been similar outreach to elected officials and other stakeholders within each community. More importantly, after the initial May 10 announcement, ICE has not provided a public list of the locations in which the FERM program is operating. As a result, the undersigned organizations, many of which operate in FERM program locations, have been forced to expend resources educating local stakeholders as to the existence and nature of the FERM program.

In the past, DHS has been forthcoming in producing data on new immigration programs. When DHS resumed the Migrant Protection Protocols under court order, the Office of Immigration Statistics provided monthly cohort data.⁴ Similarly, since the new asylum processing rule began in 2022, the Office of Immigration Statistics has also provided monthly cohort reports.⁵ Unfortunately, no such data is being produced for the FERM program.

ICE also does not provide public information as to the number of individuals enrolled in FERM, despite the fact that FERM enrollees are placed into ATD programs, nor the process by which family units subject to FERM are processed following negative credible fear determinations. As an example, ICE has indicated that one criteria for enrolling families is whether they are nationals of countries with regular removal flights, but ICE does not publish a list of countries which have regular removal flights. This deficit in information occurs despite the fact that ICE publishes biweekly data on all other ATD programming on its Detention Management webpage.⁶ USCIS has also not incorporated data on FERM in its semi-monthly statistics on credible and reasonable fear interviews, despite using that page in the past to publish data on new credible fear programs.⁷

Given this lack of public data on FERM, we request that DHS:

1. Publish and maintain online a standing list of all FERM program locations, including point of contacts for FERM enrollees at local ERO, USCIS Asylum Office, and ISAP offices;
2. Include data specific to the FERM program in ICE's biweekly detention statistics;

⁴ U.S. Department of Homeland Security, *Migrant Protection Protocols Cohort Reports*, <https://www.dhs.gov/immigration-statistics/special-reports/migrant-protection-protocols-report/>

⁵ U.S. Department of Homeland Security, *Asylum Processing Rule Cohort Reports*, <https://www.dhs.gov/immigration-statistics/special-reports/asylum-processing-rule-report>.

⁶ U.S. Immigration and Customs Enforcement, *Detention Management*, <https://www.ice.gov/detain/detention-management>.

⁷ U.S. Citizenship and Immigration Services, *Semi-Monthly Credible Fear and Reasonable Fear Receipts and Decisions*, <https://www.uscis.gov/tools/reports-and-studies/semi-monthly-credible-fear-and-reasonable-fear-receipts-and-decisions>.

3. Include data specific to the FERM program in USCIS's semi-monthly credible and reasonable fear statistics; and
4. Publish monthly cohort data on the FERM program through DHS's Office of Immigration Statistics, including data similar to prior cohort disaggregating FERM outcomes and removals by cohort, representation status, nationality, family status, and Indigenous nation.

As the FERM program continues to expand across the United States and the number of family units removed by ICE continues to increase, it is imperative of DHS to keep the public fully informed of the impact of the program on local communities and on the asylum seekers themselves and their ability to have a fair chance and due process as they present a claim for asylum. We welcome further engagement into efforts to expand transparency into this program.

Sincerely,

American Immigration Council

Acacia Center for Justice

Al Otro Lado

American Friends Service Committee (AFSC)

American Immigration Lawyers Association

Americans for Immigrant Justice

Asian Americans Advancing Justice | AAJC

Asylum Program of Arizona

Asylum Seeker Advocacy Project (ASAP)

Border Kindness

Bridges Faith Initiative

Capital Area Immigrants' Rights Coalition

CASA

Catholic Legal Immigration Network, Inc.

Center for Gender & Refugee Studies

Center for Law and Social Policy

Central American Resource Center of Northern CA - CARECEN SF

Church World Service

Columbia Law School Immigrants' Rights Clinic

Diocesan Migrant and Refugee Services Inc

ECDC

Florence Immigrant & Refugee Rights Project

Freedom for Immigrants

Haitian Bridge Alliance

Hope Border Institute

Human Rights First

Immigrant Defenders Law Center
Immigrant Legal Resource Center
Immigration Hub
International Refugee Assistance Project (IRAP)
Justice & Diversity Center of the Bar Association of San Francisco
Las Americas Immigrant Advocacy Center
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Lutheran Immigration and Refugee Service
Lutheran Social Services of the National Capital Area (LSSNCA)
National Immigrant Justice Center
National Immigration Project (NIPNLG)
NETWORK Lobby for Catholic Social Justice
Refugees International
Rocky Mountain Immigrant Advocacy Network
Save the Children
The National Immigration Forum
U.S. Committee for Refugees and Immigrants (USCRI)
Vera Institute of Justice
Witness at the Border
Women's Refugee Commission