

Fact Sheet: The Impact of Family Detention on Children

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Family detention is the practice of holding immigrant families, including children, in prison-like detention centers with their parents. It is a global issue condemned by respected human rights and professional organizations both within the United States and beyond its borders.¹

- The United Nations Convention on the Rights of the Child (UNCRC), which came into force in 1990, stipulates that detention of children should be used “only as a measure of last resort.”² Nevertheless, over 60 countries practice detention that includes children or families with children.³
- These include Western, English-speaking nations such as Britain, Australia, Canada, and the United States.
- Expert consensus indicates that immigrant detention is an acutely stressful and potentially traumatic experience for children, even when they are not separated from caregivers and even when the period of detention is short.⁴
 - o Children react to detention with extreme distress, fear, helplessness, and a deterioration of functioning.⁵

¹ See policy statement issued on behalf of the American Academy of Pediatrics: Linton, J. M., Griffin, M., & Shapiro, A. J. (2017). Detention of immigrant children. *Pediatrics*, e20170483.

² The document governs acceptable standards for the treatment of children. It makes clear that freedom from arbitrary arrest and detention, special protections for asylum-seekers, and humane and appropriate treatment in detention are fundamental rights of children. The UNCRC has been ratified by 196 nations, including every member of the United Nations except the United States. Even in the absence of official ratification, however, American court proceedings have upheld the tenets of the treaty. The American Association of Pediatrics has looked to it as an important legal instrument. Linton, J. M., Griffin, M., & Shapiro, A. J. (2017). Detention of immigrant children. *Pediatrics*, e20170483. The document itself can be accessed at www.ohchr.org/Documents/ProfessionalInterest/crc.pdf

³ Fazel, M., Karunakara, U., & Newnham, E. A. (2014). Detention, denial, and death: migration hazards for refugee children. *The Lancet Global Health*, 2(6), e313–e314;

⁴ Lorek A, Ehntholt K, Nesbitt A, et al. (2009). The mental and physical health difficulties of children held within a British immigration detention center: a pilot study. *Child Abuse Negl.* 33(9):573–585; Kronick R, Rousseau C, Cleveland J.(2015). Asylum-seeking children’s experiences of detention in Canada: a qualitative study. *Am J Orthopsychiatry.* 85(3):287–294; Mares S, Jureidini J. (2004). Psychiatric assessment of children and families in immigration detention—clinical, administrative and ethical issues. *Aust N Z J Public Health.* 28(6):520–526; Dudley M, Steel Z, Mares S, Newman L. (2012). Children and young people in immigration detention. *Curr Opin Psychiatry.* 25(4):285–292.

⁵ Kronick R, Rousseau C, Cleveland J. (2015). Asylum-seeking children’s experiences of detention in Canada: a qualitative study. *Am J Orthopsychiatry.* 85(3):287–294;

- Children in detention settings often bear witness to their parents' despair, and frequently come to perceive their caregivers as powerless, anxious, and without a capacity to be protective.⁶
- Investigators regularly document separation anxiety, disruptive conduct, bed wetting, and sleep disturbances such as nightmares, night terrors and sleep-walking among children in detention.⁷
- Smaller children often display regression in language development, social withdrawal, impaired cognitive development, and other developmental delays.⁸
- Overall, increased rates of severe depression, PTSD, psychotic disorders, deliberate self-harm and suicidal behavior predominate, including symptoms of severe distress such as mutism and voluntary starvation.⁹
- These negative outcomes affect broad domains of functioning and are likely to impair physical and academic development.¹⁰

Research:

A substantial body of scientific literature indicates that immigrant detention poses a severe risk to the mental health of minors, whether they are detained with or without their parents.

- An investigation into the mental health of immigrant children detained in Australia (where asylum-seeking families are detained until they are granted visas or removed) found substantial evidence of serious harm.¹¹
 - Most preschool children underwent significant developmental delays and regression, attachment disorders and emotional and/or behavioral disturbances.
 - All children over the age of five displayed evidence of multiple psychiatric disorders, most commonly major depression and PTSD, but also separation anxiety disorder and oppositional defiant disorder. Investigators documented widespread reports of suicidal ideation and self-harm, including attempted hanging, lip-sewing, ingesting shampoo, cutting, and hunger strikes.
 - Children in this study also experienced problems with bed-wetting, sleeping, eating and unexplained pain.

⁶ Kronick et al. (2015).

⁷ K. Robjant, R. Hassan, C. Katona. (2009). Mental health implications of detaining asylum seekers: systematic review. *The British Journal of Psychiatry*, 194: 306-312

⁸ Robjant et al (2009). Dudley et al. (2012).

⁹ Robjant et al (2009). Green J, Eagar K. (2010). The health of people in immigration detention centres. *Med J Australia* 2010.

¹⁰ Fazel et al. (2014). See also Fazel M, Stein A. (2003). Mental health of refugee children: comparative study. *BMJ*. 327(7407):134pmid:12869455.

¹¹ Contrary to the UNHCR, many countries do not have a legal time limit for detention, leaving some children incarcerated for indeterminate periods. Human Rights and Equal Opportunity Commission. (2004) *A last resort? National Inquiry into Children in Immigration Detention*. Sydney: Human Rights and Equal Opportunity Commission.

- A Canadian study of detained families conducted in 2015 noted that children displayed significant anxiety, marked symptoms of posttraumatic stress, and in some cases selective mutism.¹²
 - These symptoms were not always relieved by release from detention, but in some cases persisted for months, impacting children’s social functioning, schooling, and overall development.¹³
- In Britain, the charity Medical Justice found almost universal emotional and behavioral disturbance among older detained children, with frequent self-harm, and developmental regression in younger children.¹⁴
- In the United States, reports on the impact of detention on immigrant children have mirrored the findings of international studies.¹⁵
 - Advocacy groups have long documented high rates of psychopathology among detained children, including posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems.¹⁶
 - In a 2015 lawsuit seeking to reform immigrant family detention facilities, Human Rights First submitted an amicus brief documenting jail-like conditions in ICE facilities, and persistent psychopathology among adult and child inmates.¹⁷
 - Pediatrician Alan Shapiro, who met with families in ICE detention that August, noted that after only a few weeks in detention, children exhibited “symptoms of behavioral regression ... , oppositional-defiant disorder, depression, anxiety, and increased aggression.” Children had begun fighting, acting out, threatening suicide, refusing to eat, and having trouble sleeping.
 - Psychologist Luis Zayas also surveyed families and noted that mothers were depressed, anxious, and constantly concerned about their children’s well-being. One previously weaned infant, for instance, had reverted to breastfeeding. Zayas noted that at least three mothers expressed distress at the thought “that they brought their children from one nightmarish situation to another.”
 - Shapiro and Zayas concluded that ICE family detention “leads to isolation, helplessness, hopelessness, and serious long-term medical and mental health consequences” for children.¹⁸

¹² Kronick et al. (2015)

¹³ Kronick et al. (2015).

¹⁴ Burnett, J., Carter, J., Evershed, J., Kohli, M. B., Powell, C., & de Wilde, G. (2010). State Sponsored Cruelty’: Children in immigration detention. *Medical Justice*.

¹⁵ Baily, C. D., Henderson, S. W., Ricks, A. S., Taub, A. R., & Verdeli, H. (2011). The psychosocial context and mental health needs of unaccompanied children in United States immigration proceedings. *Grad Stud J Psychol*, 13, 4-11.

¹⁶ *Ibid.*

¹⁷ <http://www.humanrightsfirst.org/sites/default/files/HRRFloresAmicusBrief.pdf>

¹⁸ *Ibid.*

- Research strongly suggests that the relationship between immigration detention and mental disorders is a causal one. Detention creates new mental disorders and exacerbates existing ones.¹⁹
 - Longer periods in detention correlate with worsening mental state, suicide attempts, and physical symptoms.²⁰
 - Even brief detention can cause psychological trauma and induce long-term mental health risks for children.²¹
 - The American Association of Pediatrics notes that “there is no evidence indicating that any time in detention is safe for children.”²²

Why is detention harmful to children?

Detention settings possess numerous characteristics likely to produce harm in children. This is true whether children are detained with or without their parents.²³

- Factors that contribute to the physical and psychological harm of children in detention include the following:
 - Uncertainty
 - Children are often unable to understand the circumstances of their detainment. They do not know why they are being detained or how long their confinement might last.
 - Disruption of Parent-Child Bonds
 - The experience of detention undermines parental authority and the caregiver’s capacity to respond to children’s needs.²⁴
 - Difficulties are complicated by the mental health problems commonly found in adult refugees subject to immigrant detention.²⁵
 - An extensive literature points to a strong link between the wellbeing of caregivers and the wellbeing of children, both of which are undermined in detention settings.²⁶
 - Criminalizing, punitive, and humiliating practices

¹⁹ Robjant K, Hassam R, Katona C. (2009). Mental health implications of detaining asylum seekers: systematic review. *Br J Psychiatry*. 194:306–312.; Coffey GJ, Kaplan I, Sampson RC, Tucci MM. (2010). The meaning and mental health consequences of long-term immigration detention for people seeking asylum. *Soc Sci Med*. 70:2070–2079.

²⁰ Green et al. (2010).

²¹ Society for Community Research and Action Division 27 of the American Psychological Association. (2016) Policy statement on the incarceration of undocumented migrant families. *Am J Community Psychol*. 57(1–2):255–263.

²²Linton et al. (2017).

²³ <http://www.humanrightsfirst.org/sites/default/files/HRFFloresAmicusBrief.pdf>

²⁴ Linton et al. (2017).

²⁵ *Ibid.*

²⁶ Mars, B., Collishaw, S., Smith, D., Thapar, A., Potter, R., Sellers, R., ... & Thapar, A. (2012). Offspring of parents with recurrent depression: which features of parent depression index risk for offspring psychopathology?. *Journal of affective disorders*, 136(1-2), 44-53; Kowalenko, N. M., Mares, S. P., Newman, L. K., Sved, W. A., Powrie, R. M., & van Doesum, K. T. (2013). Family matters: infants, toddlers and preschoolers of parents affected by mental illness. *The Medical journal of Australia*, 199(3 Suppl), S14.

- Researchers note that detention itself is essentially punitive. Though technically administration, the conditions of detention – prison uniforms, shackles -- convey a sense of criminalization.
 - In a 2003 survey of ICE detention, 70% of individuals reported being handcuffed, shackled, or both upon arrival in the United States.²⁷
 - A 2005 study of asylum seekers in American detention found that the overwhelming majority were detained in penal or jail-like facilities deemed “inappropriate” by the authors.²⁸
 - After 2006, reports emerged that families detained in the T. Don Hutto Residential Center, a former medium security prison, lived and slept in locked prison cells with open-air toilets. Children as young as eight months wore prison uniforms and jumpsuits. The movement of all individuals was highly restricted and inmates were threatened with family separation if children cried or played too loudly.²⁹
- The absence of privacy, constant surveillance, imposed dependence, and resulting sense of helplessness are an exercise in “deprivation and powerlessness.”³⁰
- Activities that are normally associated with comfort and reassurance such as eating, sleeping, and bathing become embedded with restrictions and rules.³¹
 - Exposure to violence
 - Documents obtained through the Freedom of Information revealed 809 official complaints lodged between 2009 and 2012 by detainees for physical abuse, excessive use of force, inadequate conditions, racial profiling, sexual abuse, improper searches, inappropriate touching, and withholding of medical treatment.³²
 - Among those cases in which a formal decision was issued, 97 percent resulted in “No Action Taken.”³³
 - Substandard Conditions

²⁷ Physicians for Human Rights (U.S.), & Bellevue/NYU Program for Survivors of Torture. (2003). *From persecution to prison: The health consequences of detention for asylum seekers: a report*. Boston: Physicians for Human Rights.

²⁸ United States Commission on International Religious Freedom. Assessing the U.S. Government's Detention of Asylum Seekers: Further Attention Needed to Fully Implement Reforms. Special Report. April 2013. Accessible at www.uscirf.gov/sites/default/files/resources/ERS-detention%20reforms%20report%20April%202013.pdf

²⁹ Madhu Grewal. (July 15, 2014) Family Detention 101. Detention Watch Network. Accessible at [www.grassrootsleadership.org/sites/default/files/uploads/Family Detention Backgrounder.pdf](http://www.grassrootsleadership.org/sites/default/files/uploads/Family%20Detention%20Backgrounder.pdf)

³⁰ Kronick et al. (2015).

³¹ *Ibid.*

³² Daniel E. Martínez, Ph.D., Guillermo Cantor, Ph.D. and Walter Ewing, Ph.D. (May 4, 2014.). No Action Taken: Lack of CBP Accountability in Responding to Complaints of Abuse. Washington, DC: American Immigration Council; Available at: www.americanimmigrationcouncil.org/research/no-action-taken-lack-cbp-accountability-responding-complaints-abuse

³³ *Ibid.*

- Reports by advocacy organizations have cataloged egregious conditions in many immigrant detention centers, including those in the United States.
 - A December, 2015 report by the American Immigration Council documented conditions in Rio Grande Valley Customs and Border Patrol facilities that included significant overcrowding, insufficient food and water, a history of extremely cold temperatures, constant light exposure, lack of bathing facilities, confiscation of belongings, and lack of bedding (e.g., sleeping on cement floors).³⁴
- Neglect of healthcare
 - Visits to American family detention centers by pediatric and mental health advocates in 2015 and 2016 revealed inadequate or inappropriate immunizations, delayed medical care, inadequate education services, and limited mental health services.³⁵
 - Doctors reported that “numerous children” were accidentally inoculated with adult doses of a vaccine at one site.³⁶
 - Several children at the family facility in Karnes City, Tex., (which was formerly a medium-security prison) suffered “severe” injuries, including lacerations and fractures of their fingers, when their hands got caught in a spring-loaded closure of heavy steel doors.³⁷
 - A 2016 review of available reports concerning immigrants who died while in custody (169 individuals since 2003) showed that documented medical negligence was commonplace.³⁸
- Retraumatization

³⁴ Cantor G. (2015) *Hieleras (Iceboxes) in the Rio Grande Valley Sector*. Washington, DC: American Immigration Council. Available at: www.immigrationpolicy.org/special-reports/hieleras-iceboxes-rio-grande-valley-sector. Photographic and other evidence submitted to the Ninth Circuit Court in a 2015 lawsuit resulted in a ruling alleviating conditions in some Tucson facilities. An appeal filed by the plaintiffs in March, 2017, argued that arguing that, under the Constitution, detainees are entitled to beds, trained medical personnel, and showers. American Immigration Council. *Challenging Unconstitutional Conditions in CBP Detention Facilities; Doe v. Johnson*, No. 15-00250 (D. Ariz. filed June 8, 2015). <https://www.americanimmigrationcouncil.org/litigation/challenging-unconstitutional-conditions-cbp-detention-facilities>

³⁵ American Immigration Council, American Immigration Lawyers Association, Catholic Legal Immigration Network, Refugee and Immigrant Center for Education and Legal Services. Letter to Department of Homeland Security Office of Civil Rights and Civil Liberties re: ICE’s continued failure to provide adequate medical care to mothers and children detained at the South Texas Family Residential Center. Available at: www.aila.org/File/DownloadEmbeddedFile/66149.; See also Brief for the American Academy of Child and Adolescent Psychiatry (AACAP) and the National Association of Social Workers (NASW) as amici curiae supporting appellees and in support of affirmance of district court judgement *Flores et al v Lynch* 15-56434 9th Circuit Feb 23 2016 AILA Doc No 16032961. Available at: www.humanrightsfirst.org/sites/default/files/HRFFloresAmicusBrief.pdf. Human Rights First. Long-term detention of mothers and children in Pennsylvania. Available at: www.humanrightsfirst.org/sites/default/files/HRF-Long-Term-Detention-Brief.pdf.

³⁶ Miriam Jordan (July 18, 2018). *Whistle-Blowers Say Detaining Migrant Families ‘Poses High Risk of Harm.’* New York Times.

³⁷ *Ibid.*

³⁸ The American Civil Liberties Union. *Detention Watch Network, National Immigrant Justice Center.* (Feb. 2016). *Fatal Neglect: How ICE Ignores Deaths in Detention*; Tory Johnson, American Immigration Council. (Nov. 1, 2016). *The Death Toll of Immigration Detention.*

- The majority of individuals held in immigrant detention are refugees.³⁹
 - Since the surge in arrivals that began in 2014, more than 95% of undocumented children have arrived from the Northern Triangle countries of Central America (Guatemala, Honduras, and El Salvador), where violence, poverty, and a lack of state protections have prompted an enormous out-migration.⁴⁰
 - A set of interviews conducted with detained children in 2014 established that 58% had fear sufficient to warrant protection under international law.⁴¹
- In another survey, 77% of child migrants stated that violence was the primary cause for fleeing.⁴²
- Detention settings extend the uncertainty and fear associated with past persecution and are strongly associated retraumatization.⁴³

Current Family Detention in the United States

- The Immigration and Customs Enforcement agency currently operates three facilities for family detention, with a combined capacity of 3,326. These are:
 - The South Texas Family Residential Center in Dilley, Texas
 - The Karnes County Residential Center (KCRC) in Karnes City, Texas
 - The Berks County Residential Center in Leesport, Pennsylvania
- Individuals are held in these facilities because they do not to possess proper immigration documents. Their detention is administrative, not penal.
 - The practice began in 1980, and resulted in periods of indefinite detention for both adults and minors.⁴⁴
- A 1997 legal decision known as the Flores Agreement requires that immigrant children be released from custody without delay, preferably to parents or relatives, and that when this

³⁹ Madhu Grewal. Family Detention 101. Detention Watch Network. Accessible at [grassrootsleadership.org/sites/default/files/uploads/Family Detention Backgrounder.pdf](http://grassrootsleadership.org/sites/default/files/uploads/Family%20Detention%20Backgrounder.pdf)

⁴⁰ Linton et al 2017.

⁴¹ Goldberg, P. (2014). Children on the run: Unaccompanied children leaving Central America and Mexico and the need for international protection. *New York: United Nations High Commissioner for Refugees.*

⁴² Jones, J., & Podkul, J. (2012). Forced from home: the lost boys and girls of Central America. *New York, NY: Women Refugee Commission.*

⁴³ International Detention Coalition. Immigration detention submission to the Special Rapporteur on the Human Rights of Migrants, 2012. <http://idcoalition.org/idc-submission-to-the-special-rapporteur-concerning-his-report-on-the-issue-of-immigration-detention/>.

⁴⁴ The practice of immigrant detention has antecedents in earlier policies in the United States. In the late nineteenth and early twentieth century, for instance, some immigrants on Ellis Island were temporarily detained while awaiting hearings or undergoing medical treatment. Modern detention practices have their own roots in a later period. For more on Ellis Island see Fairchild, AL (2003). *Science at the borders: immigrant medical inspection and the shaping of the modern industrial labor force.* JHU Press.

- is not possible they be placed in the “least restrictive” setting appropriate to their needs – that is, a non-secure facility licensed by a child welfare entity.⁴⁵
- None of the three existing family detention facilities currently operating in the United States are licensed by a child welfare entity; all of them are “secure.”⁴⁶
 - On June 20, 2018, President Donald Trump signed an executive order halting his administration’s “Zero Tolerance” policy on immigration, which had separated child migrants from their parents or caregivers at the nation’s southwestern border.
 - By removing children from detention facilities, the policy had enabled the indefinite detention of adult immigrants without contravening *Flores*.
 - The June 20th executive order halted most forms of child separation, but it sought to increase forms of family detention.
 - The order, for instance, charged the Secretary of Defense with taking “all legally available measures” to provide and construct facilities “for the housing and care of alien families.”⁴⁷
 - The ruling also ordered the Attorney General to file a challenge to *Flores* intended to permit the federal government to detain children along with their families for the duration of immigration proceedings.⁴⁸
 - On June 25th, the Department of Homeland Security formally requested that the military provide space at a base for up to 12,000 beds to be used for family detention.
 - 2,000 of these beds were to be available within the next 45 days.
 - The Associated Press reported later that day that Fort Bliss had been chosen to house migrant families.
 - On July, personnel at Fort Bliss began to erect temporary tent-like shelters to house immigrant families, under the expectation that the site would reach a capacity of 12,000 beds.⁴⁹

⁴⁵ *Flores v. Meese - Stipulated Settlement Agreement Plus Extension of Settlement*. A copy of this settlement can be accessed at www.aclu.org/legal-document/flores-v-meese-stipulated-settlement-agreement-plus-extension-settlement. The allowable period of child detention is usually interpreted as twenty days.

⁴⁶ Katie Shepherd (June 21, 2018). Here Is the Latest on President Trump’s Family Separation Policy. American Immigration Council. <http://immigrationimpact.com/2018/06/21/latest-trumps-family-separation-policy/> Accessed July 18, 2018.

⁴⁷ “Affording Congress an Opportunity to Address Family Separation”. The White House. Available at www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/

⁴⁸ A federal judge rejected this challenge. (July 9th, 2019). Judge Rejects Trump Request for Long-Term Detention of Immigrant Children. *Reuters*.

⁴⁹ Madlin Mekelburg. (July 3, 2018). Fort Bliss to set up tents to house immigrant children and parents after 4th of July. *El Paso Times*.