



Freedom Network USA

November 6, 2018

Debbie Seguin
Assistant Director, Office of Policy
U.S. Immigration and Customs Enforcement
Department of Homeland Security
VIA regulations.gov

RE: DHS Docket No. ICEB-2018-0002, Comments in Response to Proposed Rulemaking: Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children

Dear Assistant Director Seguin:

On behalf of Freedom Network USA, I am submitting this response to the Department of Homeland Security's (DHS) and the Department of Health and Human Services (HHS) Notice of Proposed Rulemaking (hereinafter "proposed rule") published in the Federal Register on September 7, 2018.

Freedom Network USA, established in 2001, is the nation's largest coalition of service providers and advocates working directly with human trafficking survivors. Our members include former prosecutors, civil attorneys, criminal attorneys, immigration attorneys, and social service providers who have assisted thousands of trafficking survivors. Together, our 57 members¹ provide services to over 2,000 trafficking survivors across the US each year, approximately 10% of whom are minors². We are committed to the human rights based approach to human trafficking, which places a trafficked person's priorities at the center of anti-trafficking work. The model relies on voluntary, non-judgmental assistance with an emphasis on self-determination to best meet an individual's short and long-term needs.

Based upon our extensive, collective experience and expertise in working to support trafficking survivors, immigrants, women and girls, and those most at risk of abuse and exploitation, we strongly oppose the proposed rule. Indefinite detention of families is a cruel response that will exacerbate the trauma that survivors of violence have already endured without increasing protections for either the immigrants or the rest of the US.

1. The Proposed Rule Is Based on Misunderstanding of the Reasons for Migration

The country conditions in Guatemala, Honduras and El Salvador (known as the "Northern Triangle Countries") continue to deteriorate. In particular, the rates of sexual and gender-based

¹ Learn more about the Freedom Network USA at <https://freedomnetworkusa.org/about/> and our members at <https://freedomnetworkusa.org/current-members/>

² Freedom Network USA 2018 Member Report, <https://freedomnetworkusa.org/app/uploads/2018/04/FRN-Member-Report-Digital-FINAL.pdf>

violence in these three countries is alarming.³ Honduras has the highest rate of femicide per capita in the world.⁴ At least 62 women per month are killed in Guatemala, a country roughly the size of Tennessee.⁵ In El Salvador, a woman was murdered every 16 hours in 2015.⁶

When safe, legal routes of escape are not available, these families logically follow irregular and unsafe paths. Many suffer violence and exploitation during the journey. Others rely on the promises of human traffickers and end up in conditions of labor and sex trafficking in Mexico or the US. The Freedom Network USA has identified Central America as a primary source region for trafficking victims present in the US for nearly a decade. In our first FNUSA Member Report, published in 2014, we noted that 24% of the clients served by our members from 2010 to 2012 were from Central America.⁷ In our 2016 Member Report, 30% of the trafficking survivors served were from Central America.⁸ And in our 2018 Member Report, 24% of the trafficking survivors were from Central America.⁹

Therefore, it comes as no surprise to us that there has been a five-fold increase in asylum seekers from the region between 2012 to 2015.¹⁰ The families and individuals arriving at the border are fleeing unimaginable violence at the hands of intimate partners, criminal gangs, police or other authorities.¹¹ They have no choice but to flee their home countries, because the government institutions not only fail to protect them, but are often complicit in the violence and terror. There is no safety to be found within the region, and so they logically seek a safer life outside of their borders.

2. Family Detention and Family Separation Cause Additional Harm

Freedom Network USA members are committed to a trauma-informed approach to our programs and services. We understand the impacts of trauma on individuals, communities, and nations.

³ Kids in Need of Defense, Latin America Working Group, Women’s Refugee Commission, “Sexual and Gender Based Violence (SGBV) & Migration Fact Sheet, July 2018, <https://supportkind.org/wp-content/uploads/2018/08/SGBV-Fact-sheet.-July-2018.pdf>

⁴ *Id.* See also JuJu Chang, Et al. “Men Can do Anything they Want to Women in Honduras: Inside One of the Most Dangerous Places on Earth to be a Woman” ABC News, May 3, 2017, <http://abcnews.go.com/International/men-women-honduras-inside-dangerousplaces-earth-woman/story?id=47135328>

⁵ “At Least 62 Women Killed every Month in Guatemala: Report”, Telesur, November 3, 2017, <https://www.telesurtv.net/english/news/At-Least-62-Women-Killed-Every-Month-in-Guatemala-Report-20171103-0028.html>

⁶ Kids in Need of Defense, *Neither Security nor Justice: Sexual and Gender Based Violence in El Salvador, Honduras, and Guatemala*, May 4, 2017, <https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice-SGBV-Gang-Report-FINAL.pdf>

⁷ Freedom Network USA 2014 Member Report <https://freedomnetworkusa.org/app/uploads/2017/01/Member-Report-2014.pdf>

⁸ Freedom Network USA 2016 Member Report <https://freedomnetworkusa.org/app/uploads/2016/12/Member-Report-2015-Electronic-Version.pdf>

⁹ Freedom Network USA 2018 Member Report, <https://freedomnetworkusa.org/app/uploads/2018/04/FRN-Member-Report-Digital-FINAL.pdf>

¹⁰ Rocio Cara Labrador and Danielle Renwick. Council on Foreign Relations. “Central America’s Violent Northern Triangle (June 26, 2018), available at <https://www.cfr.org/backgrounder/central-americas-violent-northern-triangle>

¹¹ Kids in Need of Defense, Latin America Working Group, Women’s Refugee Commission, “Sexual and Gender Based Violence (SGBV) & Migration Fact Sheet, July 2018, available at: <https://supportkind.org/wp-content/uploads/2018/08/SGBV-Fact-sheet.-July-2018.pdf>

Therefore, we are appalled that the US government proposes to disregard the impact of prolonged detention on these families who have already experienced trauma at the individual, community, and generational levels.

Evidence from the medical community abounds showing that detention is harmful. The American College of Physicians¹² and American Psychological Association¹³ have detailed the harms caused by the detention of survivors of trauma. APA President Jessica Henderson Daniel, Ph.D. noted, “Research has shown that immigrant detainees are particularly vulnerable to psychological stress. Furthermore, the longer the detention period, the greater the risk of depression and other mental health symptoms for immigrants who were previously exposed to interpersonal trauma.”¹⁴

For children, these harms are especially acute, as they occur during critical phases of physical and emotional development. The American Academy of Pediatrics (AAP) has noted that detention of children can lead to long-term health consequences:

Qualitative reports about detained unaccompanied immigrant children in the United States found high rates of posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems. Additionally, expert consensus has concluded that even brief detention can cause psychological trauma and induce long-term mental health risks for children.¹⁵

Adults, however, are not immune to the harms of detention, even when they are detained along with their children.¹⁶ Detention is ALWAYS harmful, even when families are together and is even more harmful when families are separated. The US, therefore must use effective, less harmful mechanisms to accomplish its goals.

In addition to these psychological harms, detention results in limited to no access to other critical services including legal, medical, and mental health services, educational opportunities, and community and spiritual support. Legal representation is critical in ensuring that immigrants understand their legal options and are able to prepare complete applications for relief. Medical care in family detention centers has been found to be inadequate in many cases, and can exacerbate existing medical conditions. The mental health needs of traumatized families and children are discussed above, and require appropriate care in a healing environment. Children

¹² The American College of Physicians. “The Health Impact of Family Detentions in Immigration Cases” (July 3, 2018), https://www.acponline.org/acp_policy/policies/family_detention_position_statement_2018.pdf

¹³ American Psychological Association. “Statement of APA President Regarding Administration’s Proposal to Detain Child Migrants Longer Than Legally Allowed” (Sept 6, 2018), <https://www.apa.org/news/press/releases/2018/09/detain-child-migrants.aspx>

¹⁴ *Id.*

¹⁵ Julie M. Linton et al. “Detention of Immigrant Children” Policy Statement of the American Academy of Pediatrics (2017), available at <http://pediatrics.aappublications.org/content/139/5/e20170483>

¹⁶ *Id.* At 6. The authors write “For instance, detained adult asylum seekers suffered from musculoskeletal, gastrointestinal, respiratory, and neurologic symptoms. They also commonly experienced anxiety, depression, posttraumatic stress disorder, difficulty with relationships, and self-harming behavior. Detention itself undermines parental authority and capacity to respond to their children’s needs; this difficulty is complicated by parental mental health problems. Although data are limited regarding the effects of a short detention time on the health of children, there is no evidence indicating that any time in detention is safe for children.”

must be provided with appropriate educational opportunities, which are rarely available in detention facilities. Finally, the community and spiritual support needs of these families fleeing violence and exploitation cannot be overstated. Families need to be able to create their own safe and supportive communities by finding the individuals, resources, and institutions that are responsive to their needs. None of this can be accomplished when families are detained.

Finally, the US government has proven to be unable to ensure even minimal standards of safety and compliance for Family Detention Centers.¹⁷ Therefore, DHS' plan to 'self-license' these facilities is wholly inappropriate and lacks the necessary oversight and review needed to ensure compliance. An assessment by DHS' own advisory committee found that, "DHS's immigration enforcement practices should operationalize the presumption that detention is generally neither appropriate nor necessary for families – and that detention or the separation of families for purposes of immigration enforcement or management, or detention is never in the best interest of children."¹⁸

3. Less Harmful, More Effective Options Exist

The Family Case Management Program was developed by the US government to provide oversight and support to families seeking asylum in the US. The US government's own analysis of the program found that it was very successful in ensuring that families attended their immigration proceedings and was also far less harmful to families while also costing the US government less money than family detention.¹⁹

For these and other reasons, Freedom Network USA implores DHS and HHS to withdraw the proposed rule and to advance policies and guidance that protect the health, safety, and best interests of survivors and their families.

I can be reached at jean@freedomnetworkusa.org if you have any questions or need any further information or explanation.

Sincerely,



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Executive Director
Freedom Network USA

¹⁷ Lutheran Immigration and Refugee Services and Women's Refugee Commission. "Locking Up Family Values, Again" (Family Detention Report October 2014), available at:

<https://www.womensrefugeecommission.org/images/zdocs/Fam-Detention-Again-Full-Report.pdf>

¹⁸ Immigration and Customs Enforcement, *Report of the DHS Advisory Committee on Family Residential Centers, 2016*, available at: <https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf>

¹⁹ See Women's Refugee Commission. "Backgrounder: Family Case Management Program", available at: <https://www.womensrefugeecommission.org/rights/resources/1653-family-case-management-program>