



American ideals. Universal values.



## **Ailing Justice: Texas**

### **Soaring Immigration Detention, Shrinking Due Process**

June 2018

ON HUMAN RIGHTS, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

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We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

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## Executive Summary

On April 6<sup>th</sup>, 2018, as a caravan of Central American refugees and migrants traveled north through Mexico, President Trump asserted in a memorandum that “more must be done” to “protect our country from the dangers of releasing detained aliens into our communities while their immigration claims are pending.” The memorandum directed immigration agencies to report steps to end release from detention and provide a “detailed list of all existing facilities, including military facilities, that could be used, modified, or repurposed to detain aliens for violations of immigration law at or near the borders of the United States.”<sup>1</sup>

On the same day, Attorney General Jeff Sessions unveiled a zero-tolerance policy to place into federal criminal custody all immigrants who cross the border between points of entry. Under this policy, the government would prosecute even those seeking refugee protection and separate children from their parents.<sup>2</sup>

The push by the president to detain more immigrants is not new. Shortly after entering office, he issued an executive order that called for an increase in detention capacity and funding.<sup>3</sup> It also called for an end to “catch and release,” the administration’s term for rules and policies that allow some immigrants to be released from detention while their cases are pending.

Among those who face criminal prosecution, family separation, and prolonged detention are a large number of asylum seekers. On May 22, 2018, the United Nations High Commissioner for Refugees noted “a significant increase in the number of people fleeing violence and persecution in the North of Central America” and called on the international community to address their protection needs.<sup>4</sup>

As detailed in this report, the U.S. government is detaining asylum seekers and other immigrants in ways that violate its commitments under refugee protection and human rights treaties.

Texas is Ground Zero for this effort to lock up more immigrants. The U.S. government has detained nearly 11,000 people per day in Texas’s immigration detention centers at the start of fiscal year 2018 and over 10,000 per day during fiscal year 2017, more than double the amount held in California or Georgia—the states with the second and third highest rates of immigration detention. Texas is home to the country’s two largest family detention centers, which together held an average of 2,103 mothers and children per day at the start of fiscal year 2018.<sup>5</sup> Texas will also host a new detention center (one of five that Immigration and Customs Enforcement (ICE) plans to build).<sup>6</sup> In addition, seeking new places to house immigrant children who are taken from their parents or who arrive unaccompanied, the Department of Health and Human Services will visit three Texas military bases to review their suitability: Fort Bliss in El Paso, Goodfellow Air Force Base in San Angelo, and Dyess Air Force Base in Abilene.<sup>7</sup>

In light of these developments, Human Rights First conducted extensive research on the detention of immigrants in Texas. In April and May 2018, researchers toured eight immigration detention centers in Texas: the IAH Secure Adult Detention Facility in Livingston, the Houston Contract Detention Facility in Houston, the Joe Corley Detention Facility in Conroe, the T. Don Hutto Residential Center in Taylor, the South Texas Detention Complex in Pearsall, the Laredo Detention Center in Laredo, the El Paso Processing Center in El Paso, and the West Texas Detention Facility in Sierra Blanca.<sup>8</sup> Human Rights First’s researchers have previously made numerous other visits to Texas detention facilities, including family detention facilities.

Seven of the eight facilities are run by four private contractors: CoreCivic, GEO Group, Management & Training Corporation, and LaSalle Corrections. Private corporations held 71 percent of the asylum seekers and immigrants detained in November 2017.<sup>9</sup> CoreCivic, Inc. and GEO Group, Inc., which together run a majority of the U.S.'s private prison contracts (including non-immigration facilities), had a combined revenue of over \$4 billion in fiscal year 2017.<sup>10</sup>

During the eight tours and additional detention center visits, Human Rights First researchers and a team of health and legal professionals spoke to 147 detained people, as well as ICE officers and facility representatives. Researchers also interviewed pro bono, nonprofit, and private attorneys across Texas, medical experts, and staff at faith-based and other community groups.

Key Findings:

- **Many immigrants in Texas, including asylum seekers, remain in unnecessary, lengthy, and prolonged detention—sometimes for well over one year.** Among those in prolonged detention: a Honduran grandmother with diabetes and hypertension detained for 18 months; a Mexican man detained for over two years, asylum seekers from Guinea and Cameroon detained for sixteen months, and; an award-winning Mexican journalist detained for nearly a year despite support from the National Press Club and the Committee to Protect Journalists. At the West Texas Detention Facility, women from China, Cameroon, Nigeria, and India have been detained for so long—as long as one year and eight months—that they have learned to speak Spanish nearly fluently.
- **At some Texas detention facilities, release on parole is essentially non-existent and bond amounts are set too high for many to afford, leaving asylum seekers and other immigrants in detention even when they meet release requirements.** ICE often fails to follow its own asylum parole directive, continuing to detain asylum seekers who pass screening interviews, sufficiently prove their identity, and do not present a security or flight risk. The El Paso ICE Field Office, which covers four major detention facilities, denied all 349 parole applications filed between February and September 2017.<sup>11</sup> It denied parole, for example, to an HIV-positive Venezuelan asylum seeker who had identity proof and a U.S. legal resident parole sponsor. A Honduran asylum seeker fleeing persecution based on his sexual orientation could not afford a \$7,500 bond and was detained in the Port Isabel facility and the South Texas Detention Complex for ten months, until the immigration court granted him asylum.
- **The Department of Homeland Security's (DHS) use of family separation causes significant trauma, as does the detention of families with children.** A Honduran asylum seeker at the T. Don Hutto Residential Center was separated from her one year and nine-month-old son after requesting asylum at a port of entry, and then waited two weeks before learning where he had been taken. The American Academy of Pediatrics has condemned the practice of family separation, saying it “can cause irreparable harm, disrupting a child’s brain architecture and affecting his or her short- and long-term health.”
- **Detention is a barrier to legal representation—a barrier exacerbated by the lack of funding, the remote location of Texas detention facilities, and the lack of confidential attorney-client visitation rooms, among other impediments.** Many immigrants in Texas detention—an estimated 90 percent in the Houston area and at least 72 percent statewide—do not have legal representation.

The problem persists even though representation leads to high appearance rates and successful asylum and other immigration grant rates. Texas attorneys reported long waits—from two to six hours—for client meetings, frequent transfers of detainees, limited confidentiality, and access impediments for legal assistants, law students, and interpreters. ICE officials and Texas attorneys also expressed concern about the Department of Justice’s (DOJ) temporary suspension of the Legal Orientation Program (LOP), which provides legal information to over 30,000 immigration detainees in Texas annually.<sup>12</sup> While the DOJ reversed the suspension in the face of bipartisan Congressional concern, the agency still plans to “review” the program.

- **Asylum seekers and other immigrants detained in Texas immigration facilities endure inhumane treatment and jail-like conditions.** Many detained immigrants, particularly non-English speakers, endure frequent racist comments, harassment, unjustified use of force, and other mistreatment from medical and correctional staff. Detainees at two facilities reported retaliation for filing grievances, including placement in solitary confinement, and responses including, “You can write to Trump.” A detainee from a Muslim majority country says he was called a “stupid Taliban terrorist” and a “Muslim terrorist” by officers and medical staff at the El Paso Processing Center. Detainees at five facilities complained of used underwear or other dirty clothing, which caused vaginal infections, urinary tract infections, and rashes. Several women also reported receiving insufficient sanitary napkins.

- **Women detained at the T. Don Hutto Residential Center reported sexual assault by facility officers.** Sexual assault at the facility was first reported in 2007 and, recently,

Laura Monterrosa said she was sexually assaulted and retaliated against for speaking out. Detainees and community groups report that phone calls are monitored and sometimes cut off when women mention inappropriate or retaliatory conduct by facility staff.

- **Many immigrants detained in Texas report denial of or inadequate medical care and long waits to receive treatment.** A Mexican detainee suffering from both kidney stones and a shoulder injury was told to choose which he wanted treated as it was too costly to treat both. An older detainee has a prior spinal cord injury that is causing pain and numbness in his limbs. Despite repeated pleas, he was not evaluated and was provided only over the counter pain medication. Also, following a December 2017 policy change ending the presumption of release for pregnant women, ICE is detaining many pregnant women in Texas despite the well-documented harmful effects of detention on both pregnant women and fetal development.
- **Mental health services are insufficient at Texas detention facilities, and fear of punitive treatment and over-medication force many to try to cope on their own.** For example, a Salvadoran asylum seeker placed on suicide watch for over ten days after his arrival at a Houston detention facility has not received mental health treatment. “I can’t go back to El Salvador because of gang violence so it would be better to just kill myself here,” he said. “If I’m deported, I know I will be killed and my family won’t even be able to bury my body.”

Congress and the Trump Administration should end the massive overuse of detention—which is both violating the human rights of immigrants and costing U.S. taxpayers billions of dollars—and implement reforms to improve oversight, detention conditions, and legal release procedures, as detailed in the recommendations at the end of this

report. For cases where additional measures are necessary to ensure compliance, ICE should use community-based alternatives, which are more humane and cost-efficient than detention, and which have produced high appearance rates.

At the same time, the U.S. Department of Justice should stop curtailing access to legal counsel. Instead, the U.S. government, along with Texas state and local governments, should provide funding for legal representation for immigrants, particularly those in detention.

## Asylum Seekers and Other Immigrants Are Often Held in Texas Detention Facilities for Prolonged Periods

*“Is El Paso even part of the United States? Do they follow international laws here? I thought the U.S. was one of the most recognized countries for human rights, and I come here and find the worst form of human treatment.”*

*—West African asylum seeker detained at the El Paso Processing Center*

Since entering office, President Trump has called for immigrants to be detained “pending the outcome of their removal proceedings or their removal from the country.”<sup>13</sup> The administration’s policy of increasing detention and limiting release processes, even for those who meet the criteria for release on parole or bond, has contributed to unduly lengthy detentions.

Human Rights First met with or learned of many held in Texas detention centers for six months or longer, and in some cases, for well over one year. These asylum seekers come from a range of countries, including Afghanistan, Honduras,

Mexico, India, China, Cameroon, Guinea, Nigeria, and the Democratic Republic of the Congo.

They include:

- Berta Lidia Arias, a 63-year-old Honduran detained for 18 months after fleeing her home country with her granddaughter to escape death threats from MS-13. Despite congressional intervention on her behalf and several medical problems, including diabetes, palpitations, hypertension, tachycardia, and a heart murmur, the three parole requests filed on her behalf were denied.
- Emilio Gutierrez Soto, an award-winning Mexican journalist held in U.S. immigration detention for over eleven months. He is currently at the El Paso Processing Center along with his son, Oscar, even though their requests for asylum and release on parole are supported by the National Press Club, the Committee to Protect Journalists, and other press freedom groups. Mr. Gutierrez Soto and his son pose no flight or security risk and have complied with all ICE requirements for their parole. Since being detained, they have suffered greatly.<sup>14</sup>

During visits to Texas detention facilities in April and May 2018, Human Rights First researchers met with many long-term detainees, including:

- At the Houston Contract Detention Facility, a Mexican asylum seeker has been in detention for two years and two months, and two other individuals have been detained for over one year.
- At the West Texas Detention Facility, women seeking asylum from Cameroon, Nigeria, India, China, and the Democratic Republic of the Congo have been detained for over one year. Some have been detained so long that they have learned to speak Spanish nearly fluently. ICE also noted that there has been an increase

in long-term ICE detainees at the facility, with roughly 15 percent remaining in detention for upwards of six months.

- At the El Paso Processing Center, male asylum seekers from Guinea and Cameroon have been detained for one year and four months, and female asylum seekers have been detained for one year.
- At the IAH Secure Adult Detention Facility, two individuals have been detained for over six months.
- At the T. Don Hutto Residential Center, some women have been detained for longer than one year due to delays when the immigration courts shifted from Miami back to San Antonio. Many women had merits hearings scheduled for late 2017, but were knocked off the docket during the move, possibly due to lost paperwork. While some were rescheduled for April or May 2018 hearings, many are still waiting for a court date.

U.S. legal commitments under the Refugee Convention and the International Covenant on Civil and Political Rights prohibit the unnecessary, disproportionate, or otherwise arbitrary detention of migrants and asylum seekers. Under these treaties, continued detention is prohibited when alternative measures could be used to assure compliance with immigration appointments.<sup>15</sup> Community-based management or other alternative to detention programs have proven highly effective in assuring appearance and are significantly more cost-effective.<sup>16</sup> Cost estimates for these various alternatives-to-detention are between 17 cents and 17 dollars per day.<sup>17</sup>

Comparatively, ICE calculates only the “direct costs” for each bed in adult immigration detention to be \$121.90 *per day* and \$319.37 for each bed in a family detention facility *per day*.<sup>18</sup> The U.S. Government Accountability Office, however, has stated that “ICE [has] consistently underestimated the actual bed rate” and immigration advocates

also estimate that the actual daily cost of detention is higher.<sup>19</sup>

## Release on Parole is Virtually Non-Existent in Parts of Texas

*“There is no parole for anybody.”*

*—Emilio Gutierrez, Mexican journalist denied parole and detained at the El Paso Processing Center*

Asylum seekers who request refugee protection at a U.S. airport or other port of entry are termed “arriving asylum seekers.” Regulation blocks them from immediate immigration court custody hearings, leaving ICE as both judge and jailer in its authority to release asylum seekers on parole. The standards for their release are outlined in ICE’s 2009 Asylum Parole Directive, which states that those who meet certain criteria—including establishing a credible fear of persecution or torture, adequate establishing identity, and lack of security or flight risk—should generally be paroled.<sup>20</sup>

President Trump has, however, issued an order directing an end to legal release processes.<sup>21</sup> In the February 2017 memorandum implementing the January 25 executive order, the Department of Homeland Security (DHS) called for parole authority to be used “sparingly.”<sup>22</sup>

At detention facilities in Texas, ICE has often failed to follow the asylum parole directive, leaving asylum seekers unnecessarily detained. Different ICE field offices in Texas also appear to have their own policies and implement parole and bond differently.<sup>23</sup>

### In the El Paso Area, Parole is Virtually Non-Existent.

The El Paso ICE Field Office covers four immigration detention facilities: El Paso



Processing Center, West Texas Detention Facility, Otero County Processing Center, and Cibola County Detention Center. As documented in a 2017 report by the Borderland Immigration Council, parole grants first dropped after a new ICE field office director took over.<sup>24</sup> Area nonprofit and private attorneys report that parole grant rates have fallen even further under the Trump Administration. Between February and September 2017, the El Paso field office denied all 349 of the filed parole requests.<sup>25</sup> The parole directive, however, requires ICE to assess for parole eligibility even asylum seekers who do not file formal requests.

A nonprofit in El Paso reported that in December 2017, ICE released on parole about 50 women from detention because it needed additional bed space. While many of these women likely met the requirements for parole, this sporadic release not only skews statistics but also indicates that many of those denied parole are not receiving individualized assessments and could be released from detention.

As a result of these deficiencies and barriers, some attorneys in El Paso are not filing for parole. Examples of failures to apply ICE's parole directive properly in El Paso include:

- Jesus Rodriguez Mendoza, a gay Venezuelan asylum seeker with HIV, was detained in the El Paso Processing Center for over one year, where he was denied necessary medical treatment and endured maltreatment and discrimination from officers. Multiple parole requests filed on his behalf were denied even though he passed his credible fear interview, submitted evidence of his identity, and had a legal permanent resident friend as his parole sponsor. During this time, his health conditions worsened.<sup>26</sup>
- A Mexican journalist detained at the West Texas Detention Facility was denied parole

twice despite strong ties in the United States, including a cousin who is a U.S. citizen and the support of Reporters without Borders, which monitors the persecution of journalists. Ultimately, the prospect of even more time in U.S. detention facilities prompted him to abandon his request for asylum and return to Mexico, despite the acute and well-documented dangers facing him and other journalists in his home country.<sup>27</sup>

- “Meera,” an Indian asylum seeker detained at the West Texas Detention Facility, was denied parole despite proof of her identity, a U.S. citizen close relative who submitted a sponsorship letter on her behalf, and a lack of a criminal record. ICE reportedly denied her request because she was unable to produce her passport, which was stolen from her during her journey to the U.S.
- A 2018 survey by the El Paso-based organization, Hope Border Institute, found that 40 percent of area attorneys reported cases of pregnant women denied parole.<sup>28</sup>

### **In South Texas, Pro Bono Attorneys Report that Parole is Virtually Non-Existent, Except for Cuban Asylum Seekers with Passports.**

These Cuban asylum seekers are also often required to pay a \$1,500 to \$2,000 bond when paroled. The primary reason provided by ICE for denial of other parole requests is lack of identification documents with verifiable features, which essentially include only passports.

The parole directive makes clear that identity can be established by evidence other than a passport, yet attorneys say that other parole requests—including those filed with national identification cards and voting cards—have been denied.<sup>29</sup> Asylum seekers often do not have time to gather and prepare necessary travel documents before

fleeing persecution and violence. Those facing government persecution are unlikely to be able to secure a passport because it would be issued by the government that is persecuting them.<sup>30</sup>

For example:

- “Claude,” an asylum seeker from the Democratic Republic of the Congo fleeing government persecution and torture, was denied parole and detained for five months at the Port Isabel Detention Center. His parole request included a sponsorship letter from his U.S. citizen cousin, along with her identification documents, and his driver’s license from the DRC. He never had a parole interview and never received a response to his parole request. He ultimately won his asylum case in April 2018 and was released.

### **In the San Antonio Field Office, Parole Grants are Dependent on Individual Deportation Officers.**

This has led to confusion among attorneys and detainees regarding what specific documents are required for a successful parole request. Some deportation officers require proof of income from the sponsor, one does not grant parole for individuals who have sponsorship letters from a specific local migrant shelter, and another requests additional identification documents even when ICE already has identification documents in its possession.

For example:

- “Marta,” a Cuban asylum seeker, requested parole with a sponsorship letter from a nonprofit organization in Miami that had previously sponsored several other paroled asylum seekers. Marta’s deportation officer denied her parole request because she did not include proof of income and proof of domicile from this organization.

Nonprofit attorneys in the San Antonio area report that ICE often denies parole to asylum seekers who speak rare languages and, as a result, were not given credible fear interviews. When U.S. Citizenship & Immigration Services (USCIS) is unable to find a rare language interpreter for a credible fear interview, the agency may skip the interview and instead put the asylum seeker directly into immigration court removal proceedings. These rare language speakers may then be penalized and denied release from detention on parole on the grounds that they did not have a credible fear finding.

### **Bond Grants are Inconsistent and Often Set at Unaffordable Amounts Throughout Texas**

Some detained immigrants and asylum seekers—including those already in the U.S. or those who crossed into the U.S. between ports of entry—may have their continued detention assessed by an immigration judge in a “bond hearing.” ICE also has the authority to release immigrant detainees from detention upon payment of a bond. Asylum seekers and immigrants, however, are often denied release or ordered to pay bond amounts too high for them to afford. These “high bond” or “no bond” policies cause many to remain in unnecessarily long-term and prolonged detention and penalize asylum seekers and immigrants who lack financial resources.

### **In El Paso, ICE officers will not set Bonds for Release, and Immigration Judges Often Refuse to Grant Bond.**

At the El Paso Processing Center, a supervisory ICE officer stated that deportation officers are not setting bond. Rather, detainees eligible for bond hearings must request a hearing in front of an immigration judge to seek release from detention. Nonprofit attorneys confirmed this and noted that

deportation officers would occasionally set bond in prior years. Under the Trump Administration, they automatically deny bond, leaving the immigration court custody hearing as essentially the only route to seek release.

Bonds set by immigration judges in Texas vary greatly depending on the judge. While certain immigration judges grant bond to asylum seekers, others often deny bond after turning bond hearings into mini-merits hearings. One immigration judge in El Paso stated that he rarely grants bond for asylum seekers because he determines flight risk not by whether or not the individual will appear for hearings, but by whether they are likely to be successful in their application for relief in the federal circuit. Since immigration judges in El Paso have one of the lowest asylum grant rates in the country—granting only 1.2 to 5.4% of asylum claims brought before them between fiscal years 2012 and 2017—almost all asylum seekers in the area are detained for the length of their asylum proceedings.<sup>31</sup>

### **In South Texas, Immigration Attorneys Report that ICE Deportation Officers Grant or Deny Bond Depending on Bed Space.**

ICE sets lower bonds when it believes it needs bed space for arriving detainees and imposes stricter requirements for release on bond when it has sufficient bed space.

If immigration judges set bond for an asylum seeker, they typically set it between \$5,000 and \$15,000, considering factors such as whether the individual has legal counsel and a close relative sponsor, and the strength of the protection claim. Attorneys report that they have seen bonds as high as \$40,000 for some Indian and Chinese nationals. These amounts are too high for some asylum seekers and immigrants to afford.

### **In San Antonio Area Detention Facilities, Immigration Judges Often set Bonds at Unaffordable Amounts.**

At the two detention facilities in the San Antonio area—the South Texas Detention Complex in Pearsall and the T. Don Hutto Residential Center in Taylor—ICE’s bond release practices appear to be dictated by bed space, rather than by individualized assessments. As a result, bond rates are often set at relatively low amounts by deportation officers when they need to free up bed space, and higher amounts when they have empty beds.

Immigration judges in San Antonio often set bonds at amounts too high for some immigrants to afford, typically refusing to set a bond lower than \$7,000. One immigration judge told an attorney that he would never go lower than that amount. Such an approach does not consider what an asylum seeker or other immigrant detainee would be able to pay.

For example:

- “Andres,” a gay Honduran asylum seeker detained at the Port Isabel Detention Center and the South Texas Detention Complex, was told to pay a bond of \$7,500. Unfortunately—because Andres could not afford to pay a bond that high—he spent ten months in detention, where he suffered repeated discrimination and threats from facility guards due to his sexual orientation.

### **In Houston, ICE and Immigration Judges Demand Bonds Too High for Many Asylum Seekers and Immigrants to Pay.**

ICE deportation officers generally require that detained asylum seekers and other immigrants pay bonds of 10,000 to 12,000 dollars. ICE deportation officers also refuse to set bond for

victims of gang extortion or other gang threats. Immigration judges also routinely set bond too high for individuals to afford.

- “Angela,” a Honduran asylum seeker fleeing persecution based on her sexual orientation, has been detained in the Houston area for several months while her immigration case is pending. Her deportation officer set a \$12,000 bond, too much for her family to pay. As a result, she remains in detention.

## **DHS’s Separation of Children from Their Parents Causes Significant Stress, Trauma, and Anxiety, as Does Detention of Families with Children**

Texas is home to the two largest family detention centers in the United States: The South Texas Family Residential Center and the Karnes County Residential Center. During the first month of fiscal year 2018, ICE detained an average of 2,103 mothers and children per day in these two facilities.<sup>32</sup>

The Trump Administration is drafting a set of regulations to replace a 1997 consent decree that guides the detention and treatment of migrant children.<sup>33</sup> These regulations would attempt to eliminate several protections for children and families. For example, they seek to eliminate time limits on detention of families with children.<sup>34</sup>

Detention is harmful to the physical, mental, and developmental health of children. Experts, including the American Academy of Pediatrics (AAP), widely recognize that even short-term detention can be permanently harmful to the physical and mental health of children. In a 2015 statement, the AAP noted that detention “is associated with poorer health outcomes, higher rates of psychological distress, and suicidality.”<sup>35</sup>

Young children often begin to exhibit behavioral and developmental regression in detention, such as wetting the bed and crawling despite knowing how to walk.<sup>36</sup>

A Human Rights First attorney volunteered at the South Texas Family Residential Center in Dilley, Texas in late 2017 with the Dilley Pro Bono Project and was overwhelmed by the number of sick children. One asylum-seeking mother reported that her four-year-old daughter lost eight pounds over three weeks due to persistent vomiting and diarrhea, combined with a high fever, rashes, and coughing. Her daughter was so lethargic that as her mother tried to wake her one day, the child said, “Mommy, I’m too tired. Can we just die?” The clinician at the detention center reportedly diagnosed her vomiting as bulimia, claiming that this is common among young children at the center who are unaccustomed to the food provided.<sup>37</sup>

## **Family Separation Causes Significant Distress and Anxiety.**

Some parents taken into custody after crossing the U.S.-Mexico border are having their children taken from them by border officials. As documented in a January 2018 Human Rights First’s report, the administration is separating some children from their parents as part of its effort to escalate criminal prosecutions for illegal entry and reentry.<sup>38</sup> The recent expansion of this cruel practice is partially due to a new zero-tolerance policy calling for the criminal prosecution of all migrants who cross between ports of entry.<sup>39</sup>

The attorney general and secretary of homeland security have made clear that all border crossers who enter the country between ports of entry will be referred for criminal prosecution, regardless of whether they are seeking refugee protection or traveling with children. In promoting the new policy, Attorney General Sessions stated, “If

you're smuggling a child, then we're going to prosecute you, and that child will be separated from you, probably, as required by law. If you don't want your child separated, then don't bring them across the border illegally. It's not our fault that somebody does that."<sup>40</sup>

In support of family separation and other harsh immigration policies, the administration is depicting immigrants as dangerous criminals, even as the number fleeing extreme violence and persecution increases. On May 22, 2018, the United Nations High Commissioner for Refugees noted "a significant increase in the number of people fleeing violence and persecution in the North of Central America" and called on the international community to address their protection needs.<sup>41</sup>

Recent cases of family separation include:

- A father, mother, and their 15-year-old daughter fled government threats in Venezuela in May 2017 and entered the United States near Presidio, Texas. Upon apprehension, the family handed border patrol agents U.S. forms requesting asylum. Despite their clear indication of an intent to seek asylum, border patrol placed the girl in a federal foster care center in El Paso, Texas and referred her parents for criminal prosecution.<sup>42</sup>
- A mother and her three young children fled El Salvador and crossed into the U.S. near El Paso, Texas. The mother told border patrol agents that she had received death threats from a gang and needed asylum. Although she presented the children's birth certificates proving her relationship to them, immigration officials placed them in federal foster care in New York. Agents then detained the mother, who was convicted for illegal entry.<sup>43</sup>

Between October 2016 and February 2018 (prior to the implementation of Sessions' zero-tolerance policy), nearly 1,800 families were separated at

the U.S.-Mexico border.<sup>44</sup> 658 children were separated from 638 parents between May 6 and May 19, 2018, demonstrating the impact of increased prosecutions under the zero-tolerance policy.<sup>45</sup>

Federal public defenders who represent asylum seekers and other immigrants being prosecuted for illegal entry and re-entry note a substantial increase in family separation cases since the policy was implemented. In McAllen, Texas, between 30 and 67 parents were prosecuted per day after being separated from their children at the border in mid to late May 2018.<sup>46</sup>

Medical professionals, including the American Academy of Pediatrics, have condemned this practice, explaining in a May 2018 statement:

*Separating children from their parents contradicts everything we stand for as pediatricians—protecting and promoting children's health. In fact, highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child's brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress—known as toxic stress—can carry lifelong consequences for children.*<sup>47</sup>

A Human Rights First researcher met with a mother at the T. Don Hutto Residential Center who had been forcibly separated from her one year and nine-month-old son earlier this year after they requested asylum at a port of entry. She waited two weeks before even being told where her son was and if he was alright. She described her experience:

*They put him in a car and he started to cry, but they closed the door and put me in another car. I couldn't go to him. It is so hard because he is so small, and he doesn't*

*understand. I wasn't able to eat. I wasn't able to sleep. My son's deportation officer says he is crying all the time and screaming for me. I never imagined this would happen. I never imagined that I would come to this country and they would separate a mother from her baby.*

At most facilities Human Rights First visited, there was little indication that ICE was trying to assist parents in locating their missing children. At the West Texas Detention Facility, however, the ICE case manager is reportedly helping parents locate their children. She is widely publicizing the Office of Refugee Resettlement (ORR) hotline that allows parents to call and locate their children. Provided with biographical information and point of entry, the hotline operators will locate the child and contact the ICE case manager, who will work to put the parent in communication with the child.

Due to the Trump Administration's efforts to prevent asylum seekers and immigrants who meet the relevant criteria from being released from detention, these separations will be lengthy and prolonged.

## **Asylum Seekers and Other Immigrants Suffer Under Harsh and Inhumane Conditions**

*"The guards treat us poorly and make us feel like we are nothing, that they are better than us, and they have power over us. One even said, 'My job is to come here and make your life miserable.' What kind of person does that?"*

*—Mexican asylum seeker detained at the West Texas Detention Facility for over seven months*

*"This is a modern ghetto. They want to break us mentally ... We haven't committed any crime ... The treatment here is very criminal. You cannot access justice here."*

*—Emilio Gutierrez Soto, describing the El Paso Processing Center*

Human Rights First researchers found a number of inhumane and punitive conditions at the eight Texas detention centers we toured. The conditions are essentially identical to those in criminal correctional facilities, including use of prison uniforms and limited outdoor access. Indeed, some of the facilities hold both criminal law inmates and civil immigration detainees.

Dr. Dora Schiro, a DHS Special Advisor on ICE Detention and Removal, stated in a 2009 report that, "With only a few exceptions, the facilities that ICE uses to detain aliens were built, and operate, as jails and prisons to confine pre-trial and sentenced felons. ICE primarily relies on correctional incarceration standards designed for pre-trial felons and on correctional principles of care, custody, and control. These standards impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained population."<sup>48</sup>

Detainees reported a range of harsh conditions and treatment, including racist statements and maltreatment from facility staff and officers, unhygienic living conditions, and insufficient food.

Many of these conditions were in violation of the various ICE detention standards that the facilities claim to adhere to: the 2000 National Detention Standards (2000 NDS); the 2008 Performance-Based National Detention Standards (2008 PBNDS); the 2011 Performance-Based National Detention Standards (2011 PBNDS), and; the Family Residential Standards.<sup>49</sup> ICE states that the 2011 PBNDS were "crafted to improve

medical and mental health services, increase access to legal services and religious opportunities improve communication with detainees with limited English proficiency, improve the process for reporting and responding to complaints, ... and increase recreation and visitation.” Unfortunately, three of the eight facilities we toured still adhere only to the 2000 NDS.<sup>50</sup> The others apply the 2011 PBNDS or the family residential standards.

The adult detention standards—based on criminal correctional standards—are not appropriate for civil immigration law detainees, as criminal correctional experts—including those who have led or assisted in running state prison systems—have explained.<sup>51</sup> Furthermore, these standards are neither enforceable nor legally binding, but only provide suggested guidelines. The American Bar Association has issued an alternative set of guidelines that outline conditions and treatment more appropriate for facilities holding immigration detainees. These standards encourage free movement around the facility, use of regular clothing rather than prison uniforms, and extended access to indoor and outdoor recreational spaces.<sup>52</sup>

The T. Don Hutto Residential Center, which adheres to ICE’s family residential standards, represents a more appropriate model for conditions in adult civil detention. Women have freedom of movement, extended recreation time and contact family visitation, limited access to a computer lab where they can send emails, and no disciplinary segregation exists. Many, though, continue to be detained unnecessarily in this facility and other detention centers.

Researchers noted the following concerning conditions in the facilities we toured:

### **Lack of Meaningful Outdoor Recreation in Some Facilities.**

While a few of the detention facilities offered regular access to actual outdoor recreation, above what is required in the 2011 PBNDS, some did not.<sup>53</sup> Correctional and legal experts have documented the importance of regular outdoor access for detained or imprisoned individuals.<sup>54</sup>

At the Joe Corley Detention Center, recreation is an indoor room with a skylight. The facility staff allowed our researchers to conduct detainee interviews in these recreation rooms and even in April, it was already incredibly warm, particularly due to the limited air circulation. When one researcher noted the heat to a facility officer, he mentioned that most of “these people” were from near the Equator and have never heard of air conditioning.

At the West Texas Detention Facility, despite the availability of outdoor recreation spaces, detainees reported that they are able to use the space only in 30-minute slots a couple of times per week. Detainees also report that officers often offer recreation at 7am when it is so cold that most people decline.

At the IAH Secure Adult Detention Facility, while a true outdoor recreation space exists, detainees reported that they do not have access to it every day. One individual reported that they go to outdoor recreation two to three days per week, and another said that his dorm once went almost two weeks without outdoor recreation. The most common reason provided is the limited availability of officers to transport and supervise them.

At the South Texas Detention Complex, meaningful outdoor recreation space is similarly available, but the officer conducting the tour noted that detainees are permitted to use it only once per month for one hour in order to allow time for each of the 25 dorms. Given that they are only provided one hour in the yard, accommodations to

the schedule could be made to allow dorms additional hours or days. Detainees are otherwise able to use only a small recreation space attached to their dorm, suitable for limited types of exercise or sports.

### **Improper Housing Units at the West Texas Detention Facility.**

At the West Texas Detention Facility, located in the desert in Sierra Blanca, ICE detainees are housed in barracks accessible only by a wooden path. Built to serve as temporary housing, these barracks have become permanent. Their windows are covered with black trash bags, and many are broken.

In *The Washington Post*, a Mexican journalist who sought asylum in the United States last year described the “hell” he endured in this facility.

*There, I experienced the worst days of my life. It is known by the detainees as “el gallinero” (“the henhouse”), because the barracks resemble a stable for livestock. It was designed for about 60 people but houses more than 100...*

*The henhouse of Sierra Blanca is small, with metal bunks, worn-out rubber mattresses, wooden floors, bathrooms with the walls covered in green and yellow mold, weeds everywhere, and snakes and rats that come in the night. The guards look at the detainees with disgust, and everything we say to them is ignored. Honestly, it is hell.<sup>55</sup>*

### **Maltreatment by ICE Officers and Contracted Staff.**

Numerous individuals described repeated instances of discriminatory statements, intimidation, and harassment from detention facility officers and ICE officers.

Examples of mistreatment include:

- At the Houston Contract Detention Facility, we heard reports that ICE officers intimidate immigration detainees to accept voluntary departure. A Mexican asylum seeker, for example, reported that after notifying his deportation officer that he wanted to seek asylum, the officer got very loud and tried to pressure him into signing the voluntary departure paperwork, saying “You know that you’re going to get deported either way.”
- At the Laredo Detention Center, women reported that they are frequently punished or threatened for not wearing complete uniform sets. This often occurs because when they receive their clean laundry, it is an incomplete set. Guards allegedly threaten to file reports against them, which would—they tell them—prevent them from receiving asylum.
- Also at the Laredo Detention Center, the guards reportedly threaten to remove detainees’ identification paperwork or cut off their telephone access, which is often their sole or primary connection to their families.
- At the El Paso Processing Center, a detainee from a Muslim majority country said that guards have called him a “stupid Taliban terrorist” and that kitchen staff have called him a “Muslim terrorist.” Another officer said, “You guys are my enemy.”
- At the T. Don Hutto Residential Center, one woman reported that upon arrival at the facility, officers would not permit her to order from the commissary because she was unable to write her name on the order form. After nearly two weeks of practicing copying the letters of her name from her identification card, she was finally allowed to place an order.
- At the South Texas Detention Complex, African detainees explained that they feel discriminated



against by officers because they do not speak Spanish. Officers will speak to a group of detainees in Spanish and not provide the information in English or other languages.

- At the West Texas Detention Facility, detainees reported maltreatment from the officers, including one who has said, “My job is to come here and make your life miserable.” Others reported that one female officer frequently throws away their food, even food purchased from the commissary. As a result, people are often left hungry. The officers have also threatened to take away both the microwave and kettle from the dorm, both of which the women feel is necessary to heat food they need to survive.
- An El Paso attorney said that he has noticed a reduction in calls from detainees at the West Texas Detention Facility requesting legal services since March 2018. While he used to receive as many as 12 to 15 calls per month, he has received only one in the last three months. This attorney heard that ICE is telling detainees that it is a waste of time and money to hire an attorney and that they should just accept voluntary departure.
- Various reports have raised concerns regarding inappropriate use of force at the West Texas Detention Facility. A February 2016 compliance inspection of the West Texas Detention Facility by DHS’s Office of Detention Oversight found Chlorobenzylidene Malononitrile (CS) grenades, bean bags, and rubber pellets in the armory, despite the fact that these items are not authorized under the 2000 NDS.<sup>56</sup> While staff informed the inspectors that these items were only authorized for use on U.S. Marshal Service inmates, a March 2018 report by the Texas A&M University School of Law Immigrant Rights Clinic, the Refugee and Immigrant Center for Education and Legal Services, and the University of Texas School of Law Immigration

Clinic contained numerous allegations of indiscriminate use of pepper spray against ICE detainees. Several of these detainees also reported that officers pointed guns at them while pepper spraying them.<sup>57</sup>

- The latter report also documented an extensive pattern of racist abuse towards a group of African detainees at the West Texas Detention Facility, including one incident in which the warden told a Somali detainee, “Shut your black ass up. You don’t deserve nothing. You belong at the back of a cage.”<sup>58</sup>

### **Inadequate or Retaliatory Grievance Processes.**

Many detainees stated that they felt unable to file grievances because they feared retaliation or knew it was futile. At the Laredo Detention Center, El Paso Processing Center, and West Texas Detention Facility, blank grievance forms are only available upon request to the officer in the dorm, a practice which discourages some detainees from filing grievances. When researchers asked the guards at the Laredo facility why they do not leave blank grievance forms out, they said detainees repurpose the forms. The facility does, however, leave out blank ICE correspondence forms in the dorms.

Examples of grievance concerns include:

- At the Joe Corley Detention Facility, a Honduran asylum seeker fleeing persecution based on her sexual orientation reported that she had repeatedly requested dorm reassignment after feeling unsafe and discriminated against by other women in her dorm. Her safety concerns were not addressed.
- At the El Paso Processing Center, the detainee from the Muslim majority country who reported discriminatory statements filed a grievance reporting the maltreatment. He said that he was

placed in solitary confinement for three days and accused of threatening an officer.

- Also at the El Paso Processing Center, detainees reported that they feel they cannot file grievances because the officer in question will write a report against them. One woman stated, “They tell us they will write us up and it will affect our legal case. They always judge in favor of the official if we make a complaint, so we don’t complain.” Others said that their complaints are met with comments including, “You are wasting taxpayer money” and “You can write to Trump.”
- At the South Texas Detention Complex, one detainee reported to his attorney that he has filed three grievance reports and each time he is placed in solitary during the “investigation” period, which has ranged from under 24 hours to a few days. The most recent grievance report he filed was in response to an officer not permitting him to use the toilet. The officer claimed he was combative and he was placed in segregation.

### Lack of Bathroom Privacy.

In most immigration detention facilities in Texas, the bathrooms are located within the same “pods” or “dorms” where immigrants sleep and eat, in an area often inadequately screened or separated from the rest of the space. Researchers did not view the bathroom areas of the dorms in some of the facilities we toured as they were in use at the time. In three of the facilities, we observed the complete lack of privacy provided to detainees in the bathrooms.

- In the El Paso Processing Center, the 56-bed dorms have eight showers, eight toilets, and five sinks. The toilets are in two rows of four, lined up next to each other with no barriers between them and only a “privacy wall”—roughly three-foot-tall barriers that allow others

to observe while individuals are using the bathroom—to separate them from the main dormitory area.

- In the South Texas Detention Complex, the 100-bed dorms have eight showers, four toilets, and two urinals, all separated from the sleeping and living area only by privacy walls.
- At the IAH Secure Adult Facility, the smaller dorms include one toilet and one shower, also only separated by privacy walls.
- At other facilities, including the T. Don Hutto Residential Center, toilets and showers are separated from the living and sleeping area by full curtains that at least allow individuals the dignity of using the bathroom and showering in visual privacy.

### Unhygienic and Unsanitary Conditions.

Detained individuals reported a range of conditions that raised serious sanitary, hygiene, and health concerns. As further explained below, a recurring issue at several detention facilities in Texas is the failure to provide new uniforms and under-garments to detainees upon arrival, and to properly launder under-garments and their subsequent random re-distribution to detainees, which, detainees report, leads to vaginal infections, urinary tract infections, and body rashes.

For example:

- At the El Paso Processing Center, detainees complained that their uniforms are not washed frequently enough and that they are unable to wash them themselves. A female detainee reported requesting soap and was denied. When she asked again, staff punished her, she said, by leaving her in a cold room for five hours.

- At the Laredo Detention Center, all 13 women we spoke with reported that the underwear they are provided is often unclean and as a result some women develop vaginal infections or urinary tract infections. One woman was apparently hospitalized for several days due to a vaginal infection from unclean underwear.
- At the West Texas Detention Center, women reported receiving only two pairs of underwear and two bras upon arrival to the facility, but that they are often used and yellowed due to age. Some officers reportedly refuse to exchange them and get upset if detainees wash their clothes by hand in the barrack sink. Women also stated that they are only allowed two sanitary napkins at a time, and that they are short and of poor quality. Some officers get upset when they ask for additional pads, so they frequently have to purchase them from the commissary.
- At the IAH Secure Adult Detention Facility, detainees said that they are provided used socks and underwear.
- Reports from nonprofit and private immigration attorneys with clients at the T. Don Hutto Residential Center state that many of their clients develop rashes on their back, arms, scalp, feet, and vaginal areas. When the detainees report these rashes to the medical clinic, they are given an ointment, but are not told the source of the problem nor are changes made to discover or alleviate the cause. Attorneys suspect the cause is the failure to properly launder clothing as several women have complained that when they receive laundered clothing, it is often another person's uniform and is not adequately cleaned.
- These attorneys also reported that women have to purchase tampons from the commissary, as they are not provided free ones.
- At the South Texas Detention Complex, detainees reported that humidity in the bathrooms causes a buildup of fungus behind the toilets. They are not provided with appropriate cleaning products, such as bleach. Detainees also stated that air quality in the dorms is very poor and causes respiratory problems.
- At the Houston Contract Detention Facility, several detainees reported that the air quality in the dorms is very poor and that people develop chronic coughs as a result. A few detainees at this facility also showed researchers that their plastic shoes and socks were full of holes that had caused sores on their feet.

### **Inadequate and Unsafe Food.**

Almost every individual interviewed at the eight facilities complained about poor food quality or insufficient food and noted that they often had to supplement their provisions by purchasing food or drinks from the commissary or vending machines, which is costly. The “work” programs only pay between one dollar and three dollars per day, so detained individuals must rely on family and friends—who may already be suffering economic hardship because of their family member’s detention—to fill their accounts and give them some small measure of human dignity and comfort. If an asylum seeker or other detained immigrant is indigent, they often struggle with insufficient food.

At the IAH Secure Adult Detention Facility, the South Texas Detention Complex, El Paso Processing Center, and the West Texas Detention Center, detainees reported often feeling hungry. At the El Paso Processing Center, detainees reported that they eat dinner at 6pm or earlier and do not eat again until breakfast the next morning at 7am. At the West Texas Detention Center, detainees said dinner is provided at 4pm and breakfast is 13 hours later, at 5am. In the

meantime, women are left hungry because food stored from earlier meals or purchased from the commissary is often disposed of by guards. Women also reported that meat and beans are often raw or undercooked and that they have, several times, found hairs in their food. At the South Texas Detention Complex, two detainees reported that they once found a live worm in their beans.

### Employment Abuses.

At the T. Don Hutto Residential Center, women are paid one dollar and fifty cents per day to work in the kitchen and one dollar to work as dorm or hallway porters, or in the laundry, warehouse, or commissary. Facility staff reported that they typically work five-hour shifts with a maximum of forty hours per week.

While facility operators and ICE state that all work programs are voluntary, legal service providers in the area, a nonprofit community-based organization, and a recent class action lawsuit all report that women may be threatened to work, even if they are sick or injured.<sup>59</sup> Attempts to quit employment or miss work due to sickness and injury have reportedly been met with yelling and abusive language. Threats include restrictions on movement or activities, and transfer to other sections, which can be particularly damaging as the women form relationships with other women in their sections. One detained woman who had begun organizing to fight this abuse was transferred to the Port Isabel Detention Center.

Examples of this abuse include:

- “Gabriela” works in the kitchen five days a week and lives in section B of the T. Don Hutto Residential Center. All of the women in her section are threatened and forced to work if they are sick, injured, or depressed. Section B also receives a few extra privileges, including popcorn on Thursday afternoons, and the

guards threaten that they will lose their bed in section B if they cannot work.

- “Amelia” works in the kitchen and is paid \$1.50 for a six-hour shift. When she decided to stop working in the kitchen, she was moved to another section.
- “Andrea” works in the kitchen from 4am to 10am. She reports that most women work to avoid conflicts with the guards, being written up, or transferred to another section. She said a guard also threatened them that if they did not work, more months would be added to their detention.<sup>60</sup>

At the South Texas Detention Complex, detainees are paid between one and three dollars a day to work in the laundry, kitchen, dorms, or as porters. Nonprofit attorneys with clients in this facility report that while work is reportedly voluntary, many detainees feel that they have to work in order to afford supplemental food or over the counter medicine from the commissary. One detainee also reported to his attorney that when he told officers he would not work because of pain from a hernia, the officers responded that he should be working and made him sign a form stating that he was refusing to work.

### Sexual Assault at the T. Don Hutto Residential Center.

Access to information about this problem is strictly limited despite regulations requiring ICE to publish data on sexual abuse and assault. A Freedom of Information Act request submitted by *The Intercept*, however, revealed that immigration detainees filed 1,224 complaints of sexual harassment and assault with DHS’s Office of Inspector General between 2010 and September 2017. These allegations ranged “from brutal gang rape to sexually explicit verbal abuse.” OIG investigated only 30 of these 1,224 complaints.<sup>61</sup>

The T. Don Hutto Residential Center's history of sexual abuse by facility staff goes back to 2007, when a guard was accused of sexually assaulting a female detainee while her son slept in a crib nearby.<sup>62</sup> CCA (now CoreCivic) fired the guard and reported the incident to ICE, but the guard never faced criminal charges.<sup>63</sup> This history was publicized in late 2017 after 23-year-old Laura Monterrosa, a Salvadoran asylum seeker, reported that she was sexually assaulted and retaliated against after speaking out. She was also denied mental health support in the aftermath of the abuse.<sup>64</sup> Ms. Monterrosa first described the sexual assault in an anonymous letter:

*As for myself, a woman named [redacted], harassed me, telling me threatening words and forcing me to have unwanted relations with her, which I did not want, but I had to do what she wanted . . . She began to tell me she liked me, and that whatever she liked belonged to her . . . She looked for or took advantage of every moment she could to touch my breasts or my legs, she knew where and when she did it, I don't remember dates because there are many. She worked in the recreation area and what she did with me she did with other residents. The only thing that she says is that she is good friends with the boss.<sup>65</sup>*

Ms. Monterrosa eventually filed a complaint against the officer, and then two more women came forward alleging similar harassment.<sup>66</sup> Due to the egregious nature of these accusations, over 45 U.S. Congressional representatives sent a letter to DHS calling for an investigation.<sup>67</sup>

In our interviews with detainees at Hutto and nonprofit attorneys providing legal assistance to detained women, we received reports that telephone calls are monitored and recorded. One asylum seeker reported that while speaking to her

niece about a male guard blowing kisses to a female detainee, the line quickly cut off. A community-based organization supporting Ms. Monterrosa said the phone lines were cut during her phone interviews with reporters when she was sharing details of the sexual assault and retaliation. One immigration attorney reported that after a detainee had spoken to her pro bono counsel about the treatment at the facility, her deportation officer called her into his office, repeated the conversation back to her, and penalized her for sharing this information. As a result, attorneys state that many women do not feel comfortable speaking to their attorneys or families, except in person.

A nonprofit community-based organization reports that calls were similarly monitored and cut off during a widespread hunger strike in fall 2015. Phone lines were abruptly cut on repeated occasions when hunger strike leaders mentioned retaliation. Women also shared their unwillingness to provide real names because they knew calls were monitored.

## Substandard or Denial of Medical Care in Immigration Detention Facilities

Several detained individuals reported substandard or denial of medical care, long waits to be seen by a medical professional or receive medication, and a lack of proper medication.

### Medical and Dental Needs are Left Unmet.

Immigrants at all eight facilities reported medical needs left unaddressed. Many detained individuals and legal service providers reported that water and ibuprofen are the most commonly prescribed remedies for a wide range of symptoms and disorders.

Detainees at the El Paso Processing Center reported that the medical professionals sometimes Google their symptoms and then just tell them to drink more water. As a result, many simply do not request medical help anymore. One woman stated, “When we have pain, we don’t tell anyone. It isn’t worth it. They won’t help us, and if we complain, they treat us worse.”

Examples of unmet or neglected health needs include:

- “Solomon,” an asylum seeker fleeing religious and political persecution in Sierra Leone, has been detained at the South Texas Detention Complex since January 2017. He is suffering from a hernia that developed during his journey to the U.S. and has been unable to access sufficient pain medicine or creams and has been waiting for surgery since September 2017. The scheduled surgery was suddenly canceled and has not been rescheduled. When his attorney asked ICE when he would receive the operation, she was told it would never happen.
- “Angelo,” a Mexican man detained in the Houston area, is suffering from kidney stones and a shoulder injury. The facility provided him only Ibuprofen, despite the negative impact it can have on kidney function, and he said he was told by medical staff, “Do you want to fix the kidneys or the shoulder? It’s too expensive to deal with both.”
- “Oscar,” an older detainee with a prior spinal cord injury and other medical disorders, reported that he is in perpetual pain and experiences numbness in his limbs. Despite repeated pleas to the medical clinic, he is only provided over the counter pain medication.
- “Carmen,” a female asylum seeker from El Salvador previously diagnosed with lupus and detained at El Paso Processing Center for over six months, did not receive any medical care during her first two months of detention. It was only when she hired an attorney, who had her medical records translated and sent to ICE alongside a strongly worded letter, that she began to receive some care. She was so scared of dying in detention that she requested voluntary departure.
- Jesus Rodriguez Mendoza, a gay, HIV-positive Venezuelan asylum seeker has been detained at the El Paso Processing Center and the Krome Service Processing Center in Miami for over one year. He staged a seven-day hunger strike in El Paso to protest the denial of access to needed medication and discrimination based on his medical condition and sexual orientation. He reports that he was forced to change anti-retroviral medications, thereby risking negative effects on his immune system and did not receive standard viral load and CD4 cell count testing, the standard methods for testing whether medications are working. Mr. Mendoza said, “I feel so neglected.”
- Brenda Menjivar Guardado, a diabetic asylum seeker from El Salvador, was detained at the T. Don Hutto Residential Center. She presented at the U.S. border with Novolin insulin, but when she was detained, her medication was disposed of by intake staff. At Hutto, she was placed on Lantus and Regular insulin injections, which she reported do not regulate her blood sugar levels properly. Her attorney saw her blood sugar log and noted the levels were mostly between 200 mg/dL and 450 mg/dL, with only two readings below 200. Ms. Menjivar Guardado also reported that she was suffering from blurred vision, tingling in the extremities, dizziness, weight loss, and shortness of breath. She ended up requesting voluntary departure because her condition worsened to the point where she was afraid of dying.<sup>68</sup>
- “Luisa,” a Salvadoran asylum seeker previously detained at the Laredo Detention Center, was prescribed pills for anxiety and

nightmares. After the first day of taking this medication, she lost consciousness, fell down, and vomited for the next several hours. She sustained serious bruising behind her ear and still did not feel well weeks later. While at the Laredo facility, she filed three sick requests for assistance, but was denied.

- “Alex,” a Central American asylum seeker suffering from a serious clotting disorder, reported experiencing severe headaches and swollen feet. Even though headaches can be life-threatening to someone with this condition due to the risk of blood clots in the brain, Alex reported that the facility is not responding to sick call requests for 24 to 48 hours each time and that only registered nurses, not doctors, are providing medical care.
- “Jamie,” a Honduran asylum seeker, was bitten by a black widow spider while detained. After the bite became infected, Jamie was rushed to a nearby hospital for surgery, but is still in pain. Jamie’s repeated requests for pain medication have been denied.
- “Alejandra,” a Mexican immigrant detained at the Port Isabel Detention Center for over three months, has Hepatitis C. She reports that while she did receive testing for her condition, she was told that whether or not she receives treatment depends on the length of her detention. She also reports not receiving the special low-fat diet her condition requires.
- “Franklin,” a West African asylum seeker detained for over one year at the El Paso Processing Center, suffers from a blood disorder that has been progressively worsening in detention. After his arrival, medical staff gave him a different medication that he says is less effective. As a result, he is suffering from significant joint pain. He described his experience by stating, “They’re killing us here. We flee our countries because we are afraid of

prison and being killed. Now we are in prison and being killed.”

### Delays in Receiving Medical Care.

Many individuals also reported long delays in receiving standard and emergency care from the medical professionals at the detention clinics.

For example:

- “Gabriela,” a diabetic asylum seeker from El Salvador detained at the T. Don Hutto Residential Center for over one year, has endured significantly increased glucose levels because of a delay in receiving her medication and the facility’s failure to provide her with a diabetic diet. White bread and white rice are provided to her at nearly every meal, neither of which she is able to eat.
- At the Laredo facility, multiple detainees reported that it takes about four days to receive medications for their diagnosed conditions. A Honduran asylum seeker waited four days for her hypertension medication. During this time, she suffered from chest pain. A Mexican asylum seeker with high blood pressure waited four days for her blood pressure medication. During the wait her systolic blood pressure rose to 180 (a normal systolic blood pressure is 120).<sup>69</sup>
- The February 2016 compliance inspection of the West Texas Detention Facility found that there were significant delays in responding to sick calls, with medical professionals taking between two days and two weeks to respond to requests. The inspection also found that one detainee diagnosed with a mental illness waited three weeks for her prescribed medication.<sup>70</sup> Human Rights First researchers heard similar reports from detainees at the facility.
- A July 2015 compliance inspection of the Joe Corley Detention Facility conducted by DHS’s

Office of Detention Oversight found several deficiencies in medical care. These included four instances when health intake assessments were completed after the mandated 14-day time frame, three cases with no record of the health assessment, one case when an individual referred for a mental health evaluation did not receive this within 72 hours as required by the PBNDS, one case when no such evaluation was completed, and three cases when it took two to four days after admission for detainees to receive medications reported at intake.<sup>71</sup>

### Insufficient Medical Personnel.

At the time of our visits to the facilities, there was no physician on-site at either the T. Don Hutto Residential Center or the Laredo Detention Center. The physician who previously worked at Hutto retired on February 12, 2018. Instead, the facility brings in regional physicians on an as-needed basis. The Laredo Detention Center reportedly brings in an independent physician once per week and on an as-needed basis. The staff includes registered nurses, licensed vocational nurses, and emergency medical technicians. The majority of other facilities typically have a staff physician on-site 40 hours per week and on-call during the night and weekend hours.

### Detention of Pregnant Women.

In December 2017, ICE terminated its prior practice of presumptively releasing pregnant women from detention in favor of a new policy that evaluates each individual on a case-by-case basis, with pregnancy considered only a “special factor.”<sup>72</sup> During the first three months under this new policy, 506 pregnant women were held in ICE custody.<sup>73</sup>

The American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the American Academy of

Family Physicians condemned this policy change soon after it was implemented, stating:

*All pregnant women and adolescents held in federal custody, regardless of immigration status, should have access to adequate, timely, evidence-based, and comprehensive health care. Pregnant immigrant women and adolescents should have access to high levels of care, care that is not available in these facilities. The conditions in DHS facilities are not appropriate for pregnant women or children. A growing body of evidence suggests that maternal psychological state can negatively affect fetal and child development, and practices like shackling during pregnancy, which have been reportedly used at ICE facilities, have serious negative physical and mental health impacts on pregnant women.*<sup>74</sup>

In September 2017, several advocacy groups submitted a complaint to DHS’s Office of Civil Rights and Civil Liberties, documenting experiences of several pregnant women in detention. For example, Rosa is a 23-year-old Salvadoran asylum seeker who was apprehended when she was 12 weeks pregnant and detained for three months. During this time, she endured six transfers between facilities in Texas and New Mexico. After one particularly lengthy transfer when she had limited access to food and the bathroom, she was hospitalized for dehydration and exhaustion. During her detention, she also experienced “nausea and vomiting, weakness, headaches, abdominal pain, and vomited blood. She was denied requests for a vegetarian diet, did not receive sufficient prenatal vitamins or adequate medical attention.”<sup>75</sup>

At the time of our tours, 11 pregnant women were held at the South Texas Detention Complex and four pregnant women were detained at the Laredo



Detention Center. The T. Don Hutto Residential Center reportedly receives about one pregnant woman per month. The other detention facilities stated that they did not have these numbers.

### **Lack of Privacy as Required Under the PBNDS.**

In violation of the 2000 NDS and the 2011 PBNDS, researchers witnessed medical questioning conducted in the presence of other detainees and staff. The 2000 NDS require that “[a]dequate space and equipment be furnished in all facilities so that all detainees may be provided basic health examinations and treatment in private.” The 2011 PBNDS require that “[m]edical and mental health interviews, screenings, appraisals, examinations, procedures and administration of medication shall be conducted in settings that respect detainees’ privacy.”

Despite these standards:

- Upon entering the medical clinic at the Houston Contract Detention Facility, researchers witnessed a conversation between a detainee in a wheelchair, a medical professional, and a phone interpretation service placed on high volume on speakerphone in the middle of the clinic. Several individuals, including our researchers, were able to clearly hear the conversation. We also noted several occupied exam rooms with the doors left open.
- At the West Texas Detention Facility, we observed a medical professional conducting an intake medical questionnaire with a detainee in the middle of the intake room, where several other detainees, staff, and Human Rights First researchers were present.

### **Insufficient Availability of Mental Health Care and Fear of Punitive Treatment Forces Many Detainees to Cope on Their Own**

Many asylum seekers suffered violence, torture, and other abuses in their home countries or during their journeys. Detention itself can be traumatizing or re-traumatizing for asylum seekers and immigrants. Medical and mental health experts have documented that many detained asylum seekers suffer from mental health problems, including post-traumatic stress disorder (PTSD), depression, and anxiety. These conditions generally worsen the longer they are in detention.<sup>76</sup>

Medical and mental health professionals employed at the Texas detention facilities we toured noted the high percentages of detainees with these disorders even though the clinics do not use established screening modules at intake.

At the West Texas Detention Facility, for example, a medical administrator stated that roughly 20 percent of the ICE population suffers from depression, anxiety, and other psychiatric disorders.

A licensed professional counselor (LPC) at this facility noted that many of the detainees are “far more traumatized than soldiers coming back from two tours in Iraq.” He also commented that there is little to no preparation or support for detainees before appearing in immigration court, which is particularly traumatizing for those individuals suffering from PTSD. This LPC described the various therapeutic tools he uses, including trigger worksheets, brain puzzles, arts and crafts activities, and motivational movies and books.

Many detainees who need supportive psychotherapy do not receive it. Impediments include a simple lack of availability, the need to request it, a lack of knowledge of services, and

fear of negative consequences for seeking help. In those facilities that offer supportive psychotherapy, many detainees were unaware of its existence and said the facility should ensure that detainees know about it.

For example:

- At the Laredo Detention Center, a medical professional stated that supportive psychotherapy is available from the mental health coordinator only for those who are a suicide risk or who go on hunger strikes.
- At the Joe Corley Detention Center, a licensed professional counselor stated that not many individuals receive supportive psychotherapy “because they are managed well on just medication.” A medical administrator stated that while mental health issues are often identified, they are rarely treated due to the turnover among detainees. Several of the detainees researchers spoke with, however, appeared to need mental health treatment. For example, “Jose,” a Salvadoran asylum seeker placed on suicide watch for more than 10 days, said “I can’t go back to El Salvador because of gang violence so it would be better to just kill myself here. If I’m deported, I know I will be killed and my family won’t even be able to bury my body.”
- Legal service providers report that many of their clients at the T. Don Hutto Residential Center have expressed suicidal desires. Due to fear that their clients will be placed in medical isolation, the legal service providers may not report the suicidal expressions to ICE.
- At the Houston Contract Detention Facility and the T. Don Hutto Residential Center, none of the mental health professionals are bilingual, resulting in additional barriers to providing mental health care and financial disincentives due to interpretation costs.

- At the South Texas Detention Complex, a nonprofit attorney reports that individuals identified as having mental health issues are restrained during transport around the facility, even if there is no documentation of violence.

### **Mental Health Care at the T. Don Hutto Residential Center Has Become Mere “Band-Aid Psychology.”**

Dr. John Rubel, a clinical psychologist who worked at the T. Don Hutto Residential Center from September 2013 to November 2015, has knowledge of current practices at the facility.<sup>77</sup> Dr. Rubel stated that while the Immigrant Health Services Corps’ (IHSC) mission is to provide comprehensive medical and mental health care to all detainees, his experience demonstrated that “it’s impossible to do that given the staffing patterns.”

Dr. Rubel developed a model for group therapy at Hutto in order to treat the high numbers of women with severe PTSD and depression. Individual therapy was an unrealistic option because of the limited staff. Through this group model, Dr. Rubel was able to provide services to 60 to 80 women per week, thereby serving more women and reducing the numbers of suicide watches and sick call requests. Nonetheless, IHSC’s administrators did not support the group therapy because it required billing additional interpretation services. Due to the hospital administration’s efforts to terminate this program, Dr. Rubel left Hutto. “I couldn’t work there and look at someone who is in a tremendous amount of pain and tell her I can only put her on a waiting list,” he said. “I can’t do that. I wouldn’t do that.”

Since he left Hutto, Dr. Rubel believes that the mental health care has worsened and turned into mere “Band-Aid psychology,” or crisis intervention to prevent suicidality and other emergency conditions.

Dr. Rubel recounted an occasion when hospital administrators failed to listen to his professional opinion. A detainee was transferred to Hutto from a family detention center, where she was separated from her two children in order to undergo anger management and parenting courses. This separation order was partially based on an “unethical” interview conducted in Spanish, a language she did not understand well, and did not include any observation of the mother interacting with her children. Dr. Rubel offered to remain after his scheduled shift to evaluate her as she was reportedly suicidal, but the hospital administrator told him he was not approved for overtime. The next day, Dr. Rubel realized that she suffered from depression and stress; providing anger management and parenting courses was not the best course of action. When he tried to provide therapeutic services and intervene on the separation issue, they transferred her to another facility and threatened to terminate him.<sup>78</sup>

### **The Suicide Watch Program at Some Facilities is Punitive, as Opposed to Therapeutic.**

Some or all of the suicide watch housing units at the Laredo Detention Center, the El Paso Processing Center, and the Houston Contract Detention Facility are located within the restricted housing unit, which also house those on disciplinary segregation. At the Laredo facility, for example, the segregation unit consists of four solitary cells, one of which is designated for suicide watch. The cell has a barred over door and a metal bed with a thin mattress and almost no natural light. The shower is located apart from the cell also behind a barred over door. At the El Paso Processing Center, while most suicide watch rooms are in the medical clinic, we were told that there is a padded suicide watch room in one of the segregation units as well.

Under ICE’s 2011 PBNDS, if a detainee is “at risk” for significant self-harm or suicide and requires housing in a special isolation room, she may be placed in the Special Management Unit (or segregation units) only “as a last resort” when housing in the medical unit does not exist. Given that suicidality is a medical and mental health concern, those on suicide watch should always be housed within the medical clinic in units distinguishable from those on disciplinary segregation and in close physical proximity to medical and mental health staff.

At the IAH Secure Adult Detention Facility, researchers observed one man in a suicide watch cell who was visibly distraught and banging repeatedly on the observation window of the cell. He was trying to get our attention and telling us that he needed to get out. The facility staff informed us that he had been in this cell for 20 days. Previously, he had threatened to commit suicide by putting a pen to his neck.

A mental health professional participating in the tour expressed serious concern about the long-lasting damage that could result from placing a suicidal individual in isolation for 20 days and questioned why they did not refer him to a hospital that specializes in in-patient mental health care.

### **Barriers to Legal Representation in Texas**

With legal representation, asylum seekers and immigrants are much more likely to succeed in proving their eligibility for relief. Likewise, represented detained immigrants are four times more likely to be released during a custody hearing. Detained immigrants with representation are also ten-and-a-half times more likely to succeed in their removal cases than non-represented detained immigrants, either by termination of the case or other form of relief.<sup>79</sup>

Lawyers are crucial for asylum seekers and other immigrants. Yet those held in Texas detention centers face staggering barriers to legal representation and therefore are often left with no choice but to try to navigate complex immigration court proceedings by themselves.

### Low Legal Representation Rates and Lack of Government Funding for Counsel.

During fiscal year 2017, only about 28 percent of asylum seekers and immigrants detained in Texas had some level of legal representation—meaning 72 percent were unrepresented.<sup>80</sup> In Houston, which holds roughly 10 percent of the country's detained population, local experts estimate that only about 10 percent of detained immigrants are represented.<sup>81</sup> Nationwide, only 14 percent of detained immigrants have counsel, compared with two-thirds of non-detained immigrants.<sup>82</sup>

Legal representation is particularly vital in areas where judges routinely deny cases with merit, requiring legal appeals. Moreover, the lack of legal representation can contribute to a lower overall grant rate. In addition to having the highest detained population in the country, several areas in Texas also have some of the lowest asylum grant rates. In Houston, for example, the three immigration judges on the detained docket have an average grant rate of only 7.9 percent. In El Paso, Texas, asylum grant rates ranged from 1.2 to 5.4 percent between 2012 and 2017, based upon the individual immigration judge.<sup>83</sup>

The presence of legal representation may also impact the quality of court proceedings, as indicated by these examples:

- Nonprofit attorneys in San Antonio reported that immigration judges are more likely to speed through an asylum seeker's merits hearing when she is unrepresented. When scheduling merits hearings for asylum seekers proceeding

*pro se*, the courts reportedly schedule two in the morning and two in the afternoon. When asylum seekers are represented, however, they generally only schedule one during each session, presumably because they know attorneys are more likely to have the capacity to gather and present relevant evidence in support of a claim.

- Two asylum seekers in El Paso who proceeded *pro se* were denied asylum by the immigration judge in merits hearings in which they were not permitted to give oral testimony. One said that the only question the immigration judge asked was how he came to have the submitted documents since he did not enter the country with them.

### Attorney Visitation Barriers.

Attorneys and detainees reported numerous barriers to finding legal representation and maintaining an attorney-client relationship.

These barriers include:

- **Remote location of many detention facilities.** Many Texas detention facilities are located in areas that make it difficult for attorneys to take on clients as it often takes an entire day to visit one client. While some facilities, including the El Paso Processing Center and the Houston Contract Detention Facility are close to urban centers, many of the other facilities are a long distance from the cities where attorneys are most present. The Cibola County Detention Center is 325 miles from El Paso. The West Texas Detention Facility is 90 miles from El Paso and everyone must pass through a CBP checkpoint to get there. The IAH Secure Adult Detention Center is 78 miles from Houston. The South Texas Detention Complex is about 60 miles from San Antonio.
- **Non-contact visitation rooms for attorney-client meetings.** The use of non-contact

attorney visitation rooms at IAH Secure Adult Detention Facility, Joe Corley Detention Facility, and West Texas Detention Facility inhibits the development of an attorney-client relationship and the conduct of attorney-client meetings. The lack of appropriate attorney-client meeting spaces also causes additional delays and complications even for otherwise simple tasks, such as signing paperwork or reviewing an affidavit in a non-contact setting.

- **Lengthy wait times due to insufficient attorney visitation rooms, inadequate facility staffing, or other delays.** Lengthy waits for visitation rooms prevent some attorneys, particularly private ones, from taking detained individuals as clients. At the South Texas Detention Complex, there are only four attorney visitation rooms even though the facility has the capacity to house 1,851 detainees. Attorneys report an average wait of two hours to see their clients. Some attorneys reported maximum waits of four to six hours. One nonprofit attorney told Human Rights First that the “unpredictability makes it impossible to do efficient work.” Even when there are open visitation rooms, there may be insufficient staff to bring detainees to the visitation rooms, leading to further delays. At the Houston Contract Detention Facility, which has a capacity of 1,000 detainees, there are only three attorney visitation rooms. When asked how often this leads to lengthy wait times for attorneys, the ICE officer responded, “pretty often.” At the IAH Secure Adult Detention Facility, which can hold up to 1,054 detainees, there are only two non-contact attorney visitation rooms. (Currently it is holding 525 ICE detainees and additional U.S. Marshal inmates.) The Laredo Detention Center has only two small visitation rooms for attorneys.

- **Attorney visitation rooms used for government functions.** While the El Paso

Processing Center has five contact attorney visitation rooms, two are often used to conduct credible fear interviews, and the remaining three are often used to temporarily house those waiting for immigration court. As a result, many attorneys have to use the non-contact areas with limited confidentiality and poorly functioning phones.

- **Some attorney-client visitation spaces limit confidentiality.** There is limited confidentiality in attorney visitation rooms at the T. Don Hutto Residential Center and the El Paso Processing Center. The Hutto visitation area consists of six cubicles on the edges of the community visitation room, with plastic walls that do not reach the floor or ceiling. Attorneys report difficulty speaking to their clients about their legal cases because the sound carries beyond the cubicle. The cubicles are also used by ICE deportation officers and for credible fear interviews, meaning that a detainee could be speaking to her attorney or in her credible fear interview while an ICE deportation officer is in the adjacent cubicle. If the contact rooms are full, attorneys at the El Paso Processing Center often have no choice but to meet with their clients in a non-contact booth. There is little to no confidentiality here because the guards remain posted behind the detainees.
- **Attorney visitation rooms may not have phone access.** Nonprofit and private immigration attorneys with clients at the South Texas Detention Complex report that it is very difficult to represent those who do not speak Spanish or English because of the difficulty of using an interpreter. The attorney visitation rooms do not have phones and while attorneys can submit a request to bring in a cellphone, only the first visitation room has a phone signal.
- **Detention facility transfers in El Paso impede attorney access.** The El Paso ICE Field Office frequently transfers detainees

between the four facilities under its area of responsibility: West Texas Detention Facility, Cibola County Detention Center, El Paso Processing Center, and Otero County Processing Center. These transfers are frequently made without attorney notification, even when a G-28 form identifying the detainee's counsel has been provided. Attorneys therefore show up at a facility only to discover that the client has been transferred. In a 2018 report by the El Paso-based organization, Hope Border Institute, 75 percent of surveyed attorneys reported transfers of their clients, often made without attorney notification or justification. These transfers also frequently led to rescheduled hearings and increased the overall length of detention.<sup>84</sup>

- **Impediments to legal staff and interpreter access.** In many areas, including Austin, increased legal representation for detained individuals depends upon the support of law students, legal assistants, and interpreters. Yet they face barriers to access at the T. Don Hutto Residential Center. Arbitrary changes in clearance procedures often result in unnecessary and sometimes prejudicial delays in legal visitation and case preparation. In the past year, for example, ICE and CoreCivic instituted a 60-day duration of clearance for law students, legal assistants, and interpreters without explanation. Clearances at Hutto, as at other CoreCivic facilities in Texas, had previously been granted for several months. The policy is not visibly posted in the facility or otherwise publicly available.<sup>85</sup>

### Threats to the Legal Orientation Program (LOP).

In April 2018, the Department of Justice (DOJ) announced a temporary suspension of the LOP while it assessed its cost-effectiveness. LOP is a critical and effective program that provides legal

information to tens of thousands of detained immigrants and asylum seekers. In Texas alone, five nonprofit organizations provide legal orientations to over 30,000 detained immigrants through the program annually. Groups such as the Houston Immigration Legal Services Collaborative (HILSC) have explained that LOP not only offers detained individuals critical information about their legal cases, but it also permits nonprofit groups to have a “regular presence in immigration detention facilities, where they can reach out to detainees who have limited English proficiency, financial resources or cognitive capacity who will otherwise be unable to access any legal assistance.”<sup>86</sup>

Only two weeks later, the DOJ reversed its decision after significant bipartisan backlash from Congress, the American Bar Association, and legal advocates.<sup>87</sup> DOJ announced, however, that it will continue to conduct the review. The LOP was previously reviewed in a 2012 DOJ study, which concluded that the program not only promoted due process, but also helped reduce the growing backlog in immigration courts. It thereby generated a net savings of nearly \$18 million by reducing the total number of days that participants spent in detention.<sup>88</sup> Rather than following the recommendations of this study, DOJ announced its suspension and assessment. Given the recent use of skewed statistics by DOJ and its political appointees, concerns remain that this assessment will not be a fair one.

During our tours of Texas detention facilities, several ICE and facility officers noted the positive benefits of the LOP. ICE officers from the Houston field office stated, “If detainees are informed, it makes them a lot easier to manage. It makes it easier for them and us.” The warden at the IAH Secure Adult Detention Facility said, “The more you can educate [the detainees], they don’t feel isolated. If they feel some hope, then their anxiety levels go down.”

## Limited Legal Resources and Information.

At the Houston Contract Detention Facility, legal experts expressed serious concerns about the limited legal resources. Detainees reported that the law library printers were frequently out of paper and ink and legal forms were often out of date. Furthermore, they reported receiving insufficient time in the law library to prepare their legal cases due to the high volume of people interested in using it.

At the West Texas Detention Facility, researchers observed that the list of legal service providers was not posted in the law library. At the IAH Secure Adult Detention Facility, the pro bono legal service provider list we saw in a dorm was last updated in July 2015 and did not include several of the newer legal service providers.

## Expert and Community Visitation Barriers.

A mental health expert who has assisted in asylum cases for individuals detained at the T. Don Hutto Residential Center reported that she has been denied access multiple times even when all documents were submitted by her and the respective attorneys. Facility staff also made her meet one asylum seeker in the community visitation area in full earshot of guards and have prohibited her from bringing paper or a pen.

A nonprofit community-based organization reported facing access barriers at the T. Don Hutto Residential Center. Following its involvement in supporting sexual assault survivor, Laura Monterrosa, in speaking out publicly, the organization's lead organizer and immigration program director were both banned entry into the facility indefinitely. No justification was provided.

## Barriers to Stakeholder Access.

In 2011, ICE implemented a new directive entitled, "Stakeholder Procedures for Requesting a Detention Facility Tour and/or Visitation" to provide access to organizations to tour detention facilities and interview detained individuals.<sup>89</sup> This directive was also incorporated into section 7.2 of the 2011 PBNDS, "Interviews and Tours," with a stated purpose of "ensur[ing] that the public and the media are informed of events within the facility's areas of responsibility."<sup>90</sup>

Human Rights First requested tours of eight facilities under the jurisdiction of the Houston, San Antonio, and El Paso ICE field offices. All eight tours were granted. We had no access concerns during the tours or interviews at IAH Secure Adult Detention Facility, Joe Corley Detention Facility, the T. Don Hutto Residential Center, and the West Texas Detention Facility, and appreciated the willingness of ICE officers and facility staff to accommodate our work. Researchers did, however, experience obstacles during other tours.

These included:

- At the Houston Contract Detention Facility, we were permitted only 27 minutes to interview detained individuals, even though they had been waiting in the chapel for over two hours to speak with us.
- At the South Texas Detention Complex, we were not permitted to view the restricted housing unit, which includes both administrative segregation and disciplinary segregation units. Additionally, the men we spoke with at the facility had reportedly been informed that we were representatives from the Mexican consulate, rather than a nonprofit organization. In the days after our visit, we were informed by a legal service provider with clients at the facility that many African detainees had signed up to speak to us but were told that the visitation room was at capacity.

- At the Laredo Detention Center, we were not provided a space where detainees felt comfortable to freely engage with researchers. We were placed in the family visitation room with two officers present. Despite our requests for the officers to wait outside given the low security classification of the female detainees present and the fact that officers are not present in the same room during family visitation, they refused, citing security concerns. Their presence inhibited the ability of stakeholders to hear from detainees about conditions and care in the facility. This was the only facility that insisted that officers remain in the room during detainee interviews even though we spoke to detainees in higher security classifications at other facilities.

Human Rights First was grateful for the El Paso Field Office's accommodation of our request to tour the West Texas Detention Facility, and we hope that these requests will continue to be granted in the future. This was the first stakeholder visit since 2016, despite the fact that nonprofit groups in the El Paso area have requested tours several times.

## Recommendations

1. **End Unnecessary, Costly, and Inhumane Immigration Detention**
  - **Stop the Expansion of Immigration Detention:** Congress should sharply limit the funding provided for immigration detention in order to decrease its massive overuse and the high average daily detention population. Alternatives to detention, which are significantly more cost-effective and humane than detention, should be implemented when additional measures are determined necessary to assure appearance in an individual case.
2. **Support Access to Legal Representation**
  - **Fund Legal Representation and Continue to Fund the Legal Orientation Program (LOP):** The Department of Community-based case management programs, which generate high appearance rates, should be used rather than programs that resort to punitive and intrusive ankle shackles.
  - **Ensure Fair Release Processes:** DHS and ICE should ensure fair and consistent release practices nationally and across Texas. To that end, ICE should effectively implement its 2009 asylum parole directive applicable to arriving asylum seekers. In cases where individuals will receive bond hearings, or in cases where bond is set, ICE should set affordable bond amounts and end “no bond” or “high bond” policies. All custody reviews should consider the medical and mental health of each individual, and if additional appearance support is needed, alternative to detention programs can be used. Congress should also provide oversight to ensure effective parole implementation and fair bond policies, as well as oversight of detention conditions.
  - **End the Detention and Separation of Families:** The Trump Administration should end its efforts to terminate or circumvent legal rules limiting the detention of families with children and stop separating children from their parents. Congress should refuse to change the rules protecting children from long-term detention and refuse to fund criminal prosecutions for migration offenses, including the prosecution of asylum seekers and those involving the separation of families.
  - **Fund Legal Representation and Continue to Fund the Legal Orientation Program (LOP):** The Department of



Justice (DOJ) should reverse policies and practices that thwart access to legal representation and information, and instead facilitate and support access to legal counsel. Congress should support funding for legal representation and expanded LOPs and press DOJ to stop undermining access to counsel. The DOJ should also continue to fund the cost-effective LOP, a service that enjoys bipartisan Congressional support, and support from many ICE and detention facility officers. Texas should follow the lead of other states—such as New York—by providing funding to expand legal services for immigrants facing removal proceedings—particularly those in detention. Statistics show that asylum seekers who are represented overwhelmingly appear for their immigration court hearings and that legal counsel is pivotal to ensuring that those who qualify for asylum or other immigration relief are granted status.

- **Improve Access to Counsel and Legal Resources:** ICE and detention facility operators at the South Texas Detention Complex, Houston Contract Detention Facility, and Laredo Detention Facility, as well as any subsequent facilities built in the state, should ensure that additional contact attorney visitation rooms are designated in order to reduce the substantial wait times that many attorneys face. Contact attorney visitation rooms should be added at the IAH Secure Adult Detention Facility, the Joe Corley Detention Facility, and the West Texas Detention Facility in order to reduce the barriers faced by attorneys and clients when trying to work on a legal case in a non-contact room. Additional rooms

should also be added at the El Paso Processing Center if the existing rooms continue to be used for other purposes. These rooms should be available to attorneys upon arrival to the facility, rather than upon prior request and approval. Phones should be added to all attorney visitation rooms in order to facilitate interpreter access.

### 3. Strengthen Standards and Oversight

- **Adopt Civil Detention Standards:** Civil immigration detainees should not be held in facilities with penal conditions. Instead, ICE should adopt standards for detention centers that provide a more normalized environment, consistent with the ABA Civil Immigration Standards, which call for the least restrictive form of custody. Detainees should, for example, be permitted to wear their own clothing and move freely among various areas within a secure facility, have access to true outdoor recreation for extended periods, and have privacy in the toilets and showers.
- **Increased Oversight of Facility Staff:** ICE and detention facility operators should increase oversight of detention facility staff to prevent maltreatment, improper use of force, and discrimination. Additionally, detained immigrants should have easy access to grievance forms without having to request them from an officer and they should not face retaliation from officers for filing grievances against them or for requesting assistance.
- **Ensure that Fresh and Clean Clothing is Provided to Detainees:** Upon arrival at a detention facility, all detainees should be provided with new sets of undergarments, including underwear, socks,

and bras. Laundry procedures should be reviewed and monitored to ensure that clean clothing is always provided to detainees. Laundered under-garments should be returned to the detainee they originally belonged to in order to prevent the spread of vaginal infections and other diseases. Detainees should also have access to sufficient sanitary pads, rather than be limited to a set number.

- **Investigate and Reduce Sexual Assault in Detention:** In light of the allegations of sexual assault at the T. Don Hutto Residential Center and other facilities nationwide, Congress should launch the second bipartisan National Prison Rape Elimination Commission (NPREC) to investigate whether the Prison Rape Elimination Act (PREA) is effectively preventing sexual assault in immigration detention. DHS should also ensure that all of its facilities are implementing the PREA standards and publishing information on reported complaints of sexual abuse.

#### 4. Address Medical and Mental Health Care Deficiencies and Gaps

- **Ensure Adequate and Timely Provision of Health Care:** ICE, detention facility operators, and their health subcontractors should implement reforms and policies to provide adequate and timely medical care and medications. This includes the use of qualified and professional interpretation services during all medical visits or making a greater effort to hire bilingual staff. All medical and mental health conversations and exams should be conducted in a separate, closed room to ensure privacy and confidentiality.
- **Implement Comprehensive and Trauma-Informed Mental Health**

**Services:** Adequate mental health services should be provided both to those individuals identified as having mental health problems and those who affirmatively request these services. These services should include thorough evaluations, individual and group counseling, and prescription of medications. Given that many individuals seemed unaware about the availability of mental health services, greater efforts should be made to publicize them. Furthermore, isolation for suicidal patients should be used only as a last resort and for limited time periods as it can often exacerbate the symptoms of mental health disorders. All suicide watch cells should also be relocated to the medical clinic, as opposed to the segregation units.

- **Implement Independent Medical Oversight Boards:** ICE and detention facility operators should work with communities to implement Independent Medical Oversight Boards (IMOB) to increase public transparency and accountability toward the delivery of quality medical and mental health care for immigrant detainees. The IMOB could have several functions, including regulation, auditing, accreditation, reporting, investigating, and monitoring. The IMOB should also have the authority to review individual cases and medical files brought before it by detainees, attorneys, or advocates to ensure adequate care. IMOB members could include county leaders, representatives of advocacy or community-based groups, attorneys familiar with correctional and/or detention settings, and medical and mental health professionals.

**Appendix 1**

| <b>Facility</b>                     | <b>Location</b>      | <b>Management Company</b>         | <b>Capacity</b> | <b>Population (April/May 2017)</b> |
|-------------------------------------|----------------------|-----------------------------------|-----------------|------------------------------------|
| IAH Secure Adult Detention Facility | Livingston, Texas    | Management & Training Corporation | 1,054           | 525                                |
| Houston Contract Detention Facility | Houston, Texas       | CoreCivic                         | 1,000           | 950                                |
| Joe Corley Detention Facility       | Conroe, Texas        | GEO Group                         | 1,533           | 1,364                              |
| T. Don Hutto Residential Center     | Taylor, Texas        | CoreCivic                         | 512             | 505                                |
| South Texas Detention Complex       | Pearsall, Texas      | GEO Group                         | 1,851           | 1,700                              |
| Laredo Detention Center             | Laredo, Texas        | CoreCivic                         | 404             | 392                                |
| El Paso Processing Center           | El Paso, Texas       | ICE                               | 1,000           | 800                                |
| West Texas Detention Facility       | Sierra Blanca, Texas | LaSalle Corrections               | 1,215           | 564 (ICE)                          |

## Endnotes

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- 14 Brief in Support of Petition for Writ of Habeas Corpus for Emilio Gutiérrez-Soto, *Gutiérrez Soto v. Sessions*, No. EP-18-CV, available at <https://www.documentcloud.org/documents/4403025-Emilio-Combined-Brief-All-Parts-FINAL.html>.
- 15 Convention Relating to the Status of Refugees, arts. 31, opened for signature July 28, 1951, 189 U.N.T.S. 150; International Covenant on Civil and Political Rights art. 9, Dec. 16, 1966, S. TREATY DOC. NO. 95-20, 999 U.N.T.S. 171; United Nations High Commissioner for Refugees, Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012).
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