



**FIRST FOCUS**

MAKING CHILDREN & FAMILIES THE PRIORITY

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**FIRST FOCUS  
STATEMENT FOR THE RECORD**

**U.S. SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL  
AFFAIRS**

**THE IMPLICATIONS OF THE REINTERPRETATION OF THE FLORES  
SETTLEMENT AGREEMENT FOR BORDER SECURITY AND ILLEGAL  
IMMIGRATION INCENTIVES**

September 18, 2018

Chairman Johnson, Ranking Member McCaskill, and Members of the Senate Committee on Homeland Security and Governmental Affairs, we thank you for the opportunity to submit this statement for the record on this hearing focused on the implications of the reinterpretation of the Flores Settlement Agreement.

As an organization committed to the health and safety of all children in the United States we are extremely concerned with the attempts of both Congress and the Administration to undermine the Flores Settlement Agreement to allow for the detention of children and families. Detention for any amount of time has negative life-long consequences for a child's mental and physical well-being, and these consequences are compounded for children who have already experienced significant trauma. Children in detention facilities are ten times more likely than adults to experience symptoms of Post-Traumatic Stress Disorder (PTSD), and those rates increase the longer a child is in detention.<sup>1</sup> In addition to harming a child's mental and physical health, medical experts have also found that the conditions of detention can have life-long consequences for a child's academic, economic, and social development.<sup>2</sup> The American Academy of Pediatrics recommends discontinuing the general use of family detention and instead use community-based alternatives to detention for children and families. Additionally, the American College of Physicians recently raised concerns about the intention of Congress and the Trump administration to expand the use of family detention stating, "The fundamental flaw of family detention is not just the risk posed by the conditions of confinement—it's the incarceration of innocent children itself... Detention of innocent children should never occur in a civilized society, especially if there are less restrictive options, because the risk of harm to children simply cannot be justified."<sup>3</sup>

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<sup>1</sup>Australian Human Rights Commission. (2015). The Forgotten Children: National Inquiry on Immigrant Children in Detention. Available at: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>.

<sup>2</sup>American Academy of Pediatrics. (July 24, 2015). Letter to DHS Secretary Johnson. Available at: <http://bit.ly/1XXcHXD>.

<sup>3</sup><https://www.wyden.senate.gov/imo/media/doc/Doctors%20Congressional%20Disclosure%20SWC.pdf>

**Detention as a means to deter future migration puts children’s lives in danger.**

Detention has proven ineffective in deterring refugees from migrating and violates both international and U.S. law. Mothers who are fleeing extreme violence in order to protect their children will continue to seek refuge, even if that means risking long periods in detention. The alarming increase in gender-based violence and gang-related crime in the Northern Triangle continues to endanger the lives of children and families. Focusing on enforcement is a misguided approach that puts children’s lives at risk and ignores the need to address the root causes of the violence in the countries that these families are fleeing.

**Detention is costly and unnecessary as there are child-friendly alternatives to detention available.**

Alternatives to detention (ATDs) are not only highly effective, but they are also much more cost-efficient. Most importantly, community-based alternatives, such as family case management programs administered by trusted providers, allow children to live in a home setting, attend school, and can help their families connect to critical legal assistance and social services. Additionally, the Trump Administration ended several programs that have proven to be effective including the U.S. Family Case Management program which had a 99% compliance rate.<sup>4</sup> Similarly, the Central American Minors program ended in 2017. This program created a vetting process and provided legal pathways for children seeking asylum before enduring the dangerous journey of traveling from the Northern Triangle.

**Detention undermines the “best interest of the child” principle.**

In every U.S. system that serves children—from the education system to the child welfare system—there is a recognition that policies and practices should be informed by research and seek to achieve the best possible outcomes for the children involved. There is also a recognition across child-serving systems that institutionalized care should only be used as a last resort, since research consistently shows that children are best off when they are able to be raised in a home-setting with family, attend school, and participate in extracurricular activities with their peers.<sup>5</sup>

We continue to urge both Congress and the Administration to uphold the best interest of the children involved in all decisions regarding the long-term impact of detention due to immigration enforcement. Detaining families runs contrary to our American values of protecting vulnerable children. Children who are in search of safety should be treated with compassion, not further punished and locked up in prison-like facilities.

We thank you again for the opportunity to submit this written testimony. We look forward to working with you to implement policies that will help shape this conversation and ensure that all children thrive in the United States. Should you have any further questions please contact Kristen Torres, Policy Director for Child Welfare and Immigration at [kristent@firstfocus.org](mailto:kristent@firstfocus.org).

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<sup>4</sup> Women’s Refugee Commission, *Family Case Management Program: A Backgrounder*, published July 20, 2018, <https://www.womensrefugeecommission.org/rights/resources/1653-family-case-management-program>.

<sup>5</sup> Casey Family Programs. (2012). *Shifting Resources in Child Welfare to Achieve Better Outcomes for Children and Families*. Available at: <http://www.casey.org/media/ShiftingResources.pdf>