



Trump's Family Incarceration Policy Threatens Healthy Child Development

By Leila Schochet July 12, 2018

President Donald Trump's zero tolerance policy of forcibly separating children from their parents at the southern border has spurred horror and outrage across the United States. And in a June 20 executive order, the president proposed a solution that is just as alarming: incarcerating families together for months or even years.¹ Although Trump is not the first president to detain families,² the scale of his latest policy is the first of its kind. The government currently operates three family detention centers with a combined capacity of about 3,300 beds. As the Trump administration prepares to ramp up family detention, Immigration and Customs Enforcement (ICE) is reportedly exploring options to secure 15,000 additional beds to detain immigrant families.³

Yet, locking up immigrant children has damaging effects on their health and well-being. Pediatricians, developmental experts, and child welfare advocates nationwide have condemned the practice of family detention.⁴ Beyond being cruel and inhumane, research has confirmed that children forced to spend time behind bars—enduring the trauma, stress, and uncertainty of detainment—see lasting consequences, even if they are with their parents.

This issue brief outlines how the Trump administration is attempting to roll back important legal protections for children in detention and details how President Trump's latest policy of detaining families will have negative effects on the health and well-being of immigrant children and their parents.

The Trump administration is attempting to get around the *Flores* settlement

The Trump administration wants to prosecute and then detain all parents entering the country without prior authorization—including those requesting asylum—and is arguing that the only way to avoid separating families is to detain them together indefinitely. Detaining families for long periods of time would require an act of Congress or a federal court decision to modify or eliminate a safeguard that currently limits the amount of time children can be detained in an unlicensed facility.⁵

Under this safeguard—known as the *Flores* settlement, which resolved a legal dispute about the duration and conditions of confining immigrant children by setting out minimum standards for their care—children not released into the custody of an appropriate adult must generally be housed in a licensed, nonsecure facility within five days of apprehension.⁶ In the case of an “emergency” or “influx of minors,” transfers to a licensed facility must take place within 20 days.⁷ Children also must be placed in the “least restrictive form of detention,” as well as have access to commonsense necessities such as food, running water, and medical treatment.⁸ A federal court has ruled that *Flores* protections also apply to “accompanied” children who arrive with their parents.⁹

Last month, a San Diego judge issued an injunction temporarily stopping the administration from separating families.¹⁰ In a recent court filing, however, the U.S. Department of Justice argued that this injunction permits it to detain families indefinitely without modifying the *Flores* agreement.¹¹ The judge rejected this argument but confirmed that parents can waive their children’s rights under *Flores* in order to stay together and be detained with their children in an unlicensed facility.¹² This forces immigrant parents to make the impossible choice between being separated from their children or waiving their children’s *Flores* rights to be indefinitely detained together. Either way, this policy will lead to more children spending time in detention, with or without their families.

The *Flores* safeguards were put in place to protect children from spending prolonged periods of time locked up in horrendous conditions that are decidedly detrimental to their safety and well-being. However, the administration’s latest plan could sidestep this effort, resulting in thousands of vulnerable children and their families spending prolonged periods of time in unlicensed detention centers. Such centers are not subject to important regulations and oversight—or even equipped with the resources and supports necessary to house children.¹³

And the research is clear: For children, any amount of time spent in a detention center is too much.

Spending any amount of time in detention threatens children’s healthy development

The mother [of a 5-year-old boy] describes how her son seems depressed, has stopped playing with other children, has become quiet, wants to go and says that he is in prison.— Flores v. Reno¹⁴

Healthy child development depends on children’s ability to learn, explore, and interact with their environment. When children are sick and deprived of the medical treatments and basic comforts they need to recover, their healthy development can be

undermined. Testimonies submitted in support of a 2016 motion to enforce the *Flores* settlement highlighted the dangers that family detention poses to children’s physical and mental health.¹⁵ Children frequently get sick in detention but do not always receive immediate access to adequate medical care. One social worker said that every child she worked with at the Dilley, Texas, family detention facility “had a deep, hacking cough and a fever at some point during detention.”¹⁶ Mothers reported not having access to medications that their children needed to take regularly to manage medical conditions and stay healthy. Furthermore, many children lose their appetites or stop eating in detention, causing them to lose weight and not receive the proper nutrition they need to grow and stay healthy.¹⁷

On top of physical harms, spending time in detention is traumatic and stressful, compromising children’s mental and emotional health. One attorney said in 2016, “Children right now detained at Berks [family detention center] exhibit suicidal ideation, anxiety, stress, chronic depression, constant tearfulness, isolation and anger. It has manifested itself in isolation, thoughts of self-harm, crying, tantrums, slapping kicking, biting, spitting and other form of expressing their frustration.”¹⁸

When young children endure trauma or prolonged periods of stress—known as toxic stress—their bodies are flooded with stress hormones that can alter their brain architecture and disrupt other aspects of healthy development.¹⁹ Importantly, immigrant children and families seeking asylum have likely already endured trauma before reaching the border.²⁰ Subjecting these children to the additional stress of being detained has cumulative, lifelong effects: As they grow up, many children who experience toxic stress are less able to regulate their emotions and cope with everyday instances of stress, putting them at increased risk for cognitive impairments and stress-related physical and mental illness later in life.²¹

Research has shown that even spending less than two weeks in detention can be detrimental to children’s mental, physical, and emotional health, and development.²² Children who are detained are more likely to experience anxiety, depression, recurrent nightmares, psychological distress, and post-traumatic stress disorder (PTSD).²³ At the same time, children and families in detainment may lack access to the appropriate medical and mental health treatment that they need to cope with trauma and promote physical and emotional well-being.²⁴ Furthermore, children in detention lack the opportunities for quality education, play, and recreation that they may have had outside detention.²⁵

Children are resilient, but the consequences of detention do not disappear after release. One study found that children had psychiatric and academic difficulties long after detention.²⁶ Luis Zayas, the dean of the University of Texas at Austin School of Social Work stated:

*I can say with certainty that detention is inflicting emotional, psychological, physical health and neurological harms on these families, particularly the children, and that some of these effects will be long lasting, and very likely permanent as adduced by the scientific literature. The healing process, in my view, cannot begin while mothers and young children are detained.*²⁷

Parents experience significant stress and limited freedom in detention

*Children are under immense emotional stress, both from being detained and from watching their mothers try to navigate the legal process while in detention. ... I especially remember one young boy continually reaching up to wipe the tears from his mother's face, saying softly 'No, don't cry mommy. Don't cry mommy.' To distract him, we tasked him with finding tissues for mommy. – Flores v. Reno*²⁸

Keeping families together is paramount to healthy child development and family stability. A responsive, consistent caregiver is the single most important person in a child's life.²⁹ Children learn to depend on their caregivers for everything, from food and shelter, to love, comfort, and protection. When parents are not able to be responsive to these needs, young children can become distressed.³⁰ And the very nature of detention limits a parent's ability to care for their child.

Immigrant parents in detention are under immense stress and face many mental health challenges. Most have already faced and fled violence, domestic abuse, or other trauma. This trauma can be exacerbated in detention, as parents endure harsh conditions and struggle to navigate complex legal processes.³¹ One study found that after a median detention period of 18 days, more than three-quarters of adult asylum seekers were clinically depressed, two-thirds were clinically anxious, and a third had symptoms of PTSD.³² Research has consistently shown that a child's mental health and well-being is closely tied to their caregiver's emotional well-being.³³ However, parents in detention may not be able to adequately care for and comfort their children because they are coping with their own trauma.³⁴

Family detention centers are not suitable or humane places for parents to care for their children.³⁵ They take away parents' agency to make decisions about how best to care for their children, which ultimately has negative effects on children's development and further traumatizes parents. While in detention, parents do not have the autonomy nor the resources they need to be fully responsive to their child's needs.³⁶

For example, a parent cannot: go to the kitchen to make their child a snack when they are hungry; get their child a favorite toy when they are upset; let their child come into bed when they have a bad dream;³⁷ choose which doctor to bring the child to when they are sick; or bring their child outside to run around when they are restless.

Family detention centers challenge the typical family structure and disrupt important attachment relationships.³⁸ In detention, parents' role as the authority figures in their children's life can be undermined by the presence of guards and other disciplinary figures who hold ultimate authority.³⁹ Although children typically look to their parents for comfort and guidance about how to behave and interpret new situations,⁴⁰ the presence of a conflicting authority figure may confuse children, particularly in an unfamiliar environment. In short, at a time when children most need to feel safe, detention can compromise the parent-child relationship.

Conclusion

In June, a California court ruled that the families separated by Trump's zero tolerance policy be reunited within 30 days.⁴¹ As questions remain on what will happen to those families once they are reunited, one thing is clear: Immigrant families must not be put into family detention.

The Trump administration is pursuing a policy that harms immigrants even though proven, cost-effective alternatives to detention exist.⁴² Before the Trump administration shut it down, ICE's Family Case Management Program, for example, allowed families to be released under intensive supervision and provided families with critical legal, health, and education services.⁴³ The program had a 99 percent success rate in having families comply with their court hearings and check-ins and was about one-tenth of the cost of detaining an individual. In short, there are ways to both address the current situation and avoid inflicting additional trauma on children.

The world is watching. Rather than pay for tens of thousands of new beds in family detention centers, the Trump administration should fund alternatives to detention and invest in the necessary mental health supports for children and families who have been subjected to the horrors of forced separation and detainment. Families belong together, but they do not belong in jail.

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Endnotes

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