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Catherine Lhamon, Chair
U.S. Commission on Civil Rights
1331 Pennsylvania Ave NW
Suite 1150
Washington, DC 20425

RE: Public Comment on Immigration Detention Centers and Treatment of Immigrants

Dear Chairwoman Lhamon,

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On behalf of the American Psychiatric Association (APA), the national medical specialty society representing more than 38,500 psychiatric physicians nationwide, we are writing in response to the U.S. Commission on Civil Rights' *Request for Public Comment on Immigration Detention Centers and Treatment of Immigrants*, as published in the Federal Register on April 3, 2019. Following the Department of Homeland Security's (DHS) implementation of its "zero tolerance" policy, [we issued a statement opposing child separation](#) and warned about the traumatic impact this policy would have on children and their families. We appreciate the opportunity to provide feedback on the treatment of immigrant individuals in detention centers and focus our comments on the need to address the unique mental health needs of this population.

Unlimited Detention Will Lead to Long-Lasting Trauma

We are concerned about DHS's intent to modify the Flores Settlement Agreement (FSA) to legally authorize the indefinite detainment of children and their families through a proposed rule that was published in the Federal Register on September 7, 2018.¹ The FSA was originally adopted to protect the well-being of children who are detained by immigration authorities, and, as interpreted by the Courts, limits the detainment of children to no more than 20 days. The proposed rule seeks to amend the FSA to allow the Department to keep "families who must or should be detained together at appropriately licensed family residential centers (FRCs) for the time needed to complete immigration proceedings." This vague guidance about how long families can be detained is concerning and has the potential to impose long-lasting trauma on detained children and their parents.

¹ Notice of Proposed Rulemaking, "Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children," Federal Register, Vol. 83, No. 174, September 7, 2018, pgs. 45493-45494, <https://www.regulations.gov/document?D=ICEB-2018-0002-0001>.

Many families crossing the United States border are fleeing war and violence in their home countries and are already coping with the effects of stress and trauma. A recent study found that among Central American migrants arriving at the border, 83% reported violence as the primary reason for fleeing their country.² The exposure to violence included extortion, death threats, and being victims of domestic violence. Reports of serious violence are also common, with nearly one third of study participants (32.2%) reporting that a family member had been murdered.

A substantial body of research links the trauma of childhood detention with lasting adverse outcomes, including an increased risk of mental illness, such as depression, anxiety, and post-traumatic stress disorder.³ While people who are displaced can demonstrate high levels of resiliency, they can also experience disabling post-traumatic stress disorder or other consequences that adversely impact their medical, psychological, social, and spiritual well-being. These consequences can range from demoralization to various sequelae, involving simple and complex trauma complicated by the migratory journey and resettlement process. These migration-related and postmigration stressors can produce demoralization, grief, loneliness, loss of dignity, and feelings of helplessness as normal syndromes of distress that impede refugees from living healthy and productive lives.^{4,5} It is critical that children remain with their parents, but this will not eliminate the risk of trauma. Prolongation of these families' detention will compound the already significant mental health consequences they face.

APA recommends the maximum period of detention for children and their parents not go beyond the current limit of 20 days, and that every effort be made to minimize the number of days spent by families in detention to decrease the negative consequences of detention for this vulnerable population.

Weakened Facility Protections May Lead to Worse Health Outcomes

In its 2018 proposed rule, DHS argues that the challenges in licensing of FRCs were the precursor to families being separated at the border in 2018. To counter those challenges, the rule would allow facilities, which may not be able to be licensed by state or local governments, to become licensed and audited by a third-party auditor. Loosening the licensing standards for facilities and handing off oversight and accountability to a third party is concerning given the risks that this presents to the safety and health of children and their families.

² Keller A, Joscelyne A, Granski M, Rosenfeld B. Pre-Migration Trauma Exposure and Mental Health Functioning among Central American Migrants Arriving at the US Border. *PLoS ONE*. 2017;12(1):e0168692.

³ Felitti, Vincent J et al. *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*. *American Journal of Preventive Medicine*, Volume 14, Issue 4, 245 – 258.

⁴ Al-Krenawi, A., Lev-Wiesel, R., & Sehwal, M. (2007). Psychological symptomatology among Palestinian children living with political violence. *Child and Adolescent Mental Health* 12:27–31.

⁵ Fernando, G.A., Miller, K.E., & Berger, D.E. (2010). Growing pains: the impact of disaster-related and daily stressors on the psychological and psychosocial functioning of youth in Sri Lanka. *Child Development* 81:1192-1210.

Even before the announcement of this rule, the American Medical Association cautioned the federal immigration system to refrain from partnering with private facilities that do not meet the standards of medical care set by the National Commission on Correctional Health Care, due to the amount of reported preventable deaths in such settings.⁶ In a recent report on the state of detention centers, the Office of Inspector General (OIG) found that current audits, “do not ensure adequate oversight or systematic improvement in detention conditions.”⁷ The report highlights that the current lenient approach to inspections and onsite monitoring have led to inadequate responses to Immigration and Customs Enforcement (ICE) and inconsistencies in implementing corrective actions. Some examples included facilities failing to notify ICE about alleged or proven sexual assaults or not allowing detainees to participate in the standard recreation time.

The proposed rule also includes expanding the definitions of “emergency” in an effort to give DHS more flexibility to manage juvenile transfers. This would allow for longer delays in the placement of minors and excuse noncompliance for an undetermined amount of time, adding stress to families. For example, the proposal mentions that a snack or meal may be delayed in an emergency, but the guidance leaves the facility to decide the rationale and length of an emergency. In the previously mentioned OIG report, investigators revealed that facilities are already failing to meet compliance standards and highlighted the growing concerns with ICE agents granting waiver to exempt facilities from compliance resulting in health, safety, and security issues. It would be dangerous and negligible to legitimize a violation of minimum standards in FRCs for detainees.

APA recommends DHS hold detention centers accountable to the maximum safety and compliance requirements and make no exemptions to these standards.

Meeting the Mental Health Needs of Detained Families

Research indicates that despite the threat of punitive measures, families fleeing the Northern Triangle region of Central America will continue to flee violence to save their lives and those of their children.⁸ It is critical that FRCs do better to meet the mental health needs of detained families. Psychiatrists are uniquely qualified to help children and families recover from the trauma inflicted upon immigrants and refugees by displacement from and within their home countries and can provide direct

⁶ American Medical Association. AMA Adopts New Policies to Improve Health of Immigrants and Refugees (June 12, 2017). <https://www.ama-assn.org/ama-adopts-new-policies-improve-health-immigrants-and-refugees>.

⁷ Dept. of Homeland Security Office of Inspector General, *ICE’s Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, OIG-18-67 (June 26, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

⁸ Medecins sans Frontieres, *Forced to Flee Central America’s Northern Triangle: A Neglected Humanitarian Crisis* (June 2017), https://www.msf.org/sites/msf.org/files/msf_forced-to-flee-central-americas-northern-triangle_e.pdf.

psychotherapeutic and psychosocial interventions.⁹ Each FRC should adequately staff their leadership teams with psychiatrists to appropriately care for persons suffering posttraumatic symptoms and other migration-related syndromes of distress.

In July 2018, Drs. Scott Allen and Pamela McPherson, who respectively serve as the medical and psychiatric subject matter experts for DHS, wrote a letter to the Congressional Whistleblower Caucus highlighting the agency's harmful practices in detention centers and their impact on the health of families. They noted that FRCs have largely failed in recruiting adequate health staff, including pediatricians, child and adolescent psychiatrists, and pediatric nurses.¹⁰ This level of oversight can lead to harmful public health consequences, as noted in a facility where numerous children were vaccinated with adult doses of vaccine when the providers were not familiar with labels on pediatric vaccines. Additionally, they warned that the detention centers were not equipped to screen detainees for trauma. These factors, combined with the language barriers immigrant families face, can lead to preventing families from receiving the care they need while detained.

Additionally, a federal judge found that the Shiloh Treatment Center, a FRC contracted by the Department of Health and Human Services' Office of Refugee Resettlement, had violated state child welfare laws by giving psychotropic medication to migrant children without seeking the consent of their parents or guardians on July 30, 2018.¹¹ As psychiatrists, we are troubled by testimony from child witnesses, who reported being forcibly medicated and having many side effects (such as nausea, dizziness, depression, and inability to move) that went untreated. We strongly support Judge Dolly Gee's order to stop medicating children without their parents' consent and emphasize that medications should be used judiciously and as part of a comprehensive treatment plan, not in place of effective psychosocial interventions. The judge also ordered the facility to stop using any unessential security measures, such as denying children drinking water to prevent them from having to use the bathroom, and demanded officials allow children at Shiloh to speak privately over the phone. According to *The Houston Chronicle*, this facility has a history of troubling practices that includes allegations of child abuse, physical violence, excessive use of physical restraints and several deaths of children in custody.¹² We are concerned that the current oversight of these facilities is not sufficient and that rolling back protections for these children and their families could have devastating health impacts. These facilities need staff who are trained to understand and address the unique and critical needs of immigrant families.

⁹ American Psychiatric Association. Position Statement on the Role of Psychiatrists in Addressing Care for People Affected by Forced Displacement (2017). <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2017-People-Affected-by-Forced-Displacement.pdf>

¹⁰ Dr. Scott Allen and Dr. Pamela McPherson, Letter to the Senate Whistleblowing Caucus, July 17, 2018, <https://www.whistleblower.org/sites/default/files/Original%20Docs%20Letter.pdf>.

¹¹ Schmidt, Samantha. "Trump Administration Must Stop Giving Psychotropic Drugs to Migrant Children without Consent, Judge Rules." *Washington Post*, July 31, 2018.

¹² Carroll, Susan. "Federal agency's shelter oversight raises questions." *The Houston Chronicle*, December 20, 2014.

APA recommends that DHS require that each FRC promptly evaluate and treat detainees' health and mental health needs, integrate psychiatrists into their programmatic leadership, and educate staff to deliver trauma-informed and culturally competent care.

We thank the Commission for the opportunity to provide our feedback and for taking swift action to address this issue by reopening your investigation on the conditions of immigrant detention and appointing a subcommittee to examine this issue. We welcome the opportunity to continue this conversation and ask that you contact Kathy Orellana, Associate Director of Practice Management and Delivery Systems Policy, at korellana@psych.org or 202-559-3911 if we can lend our expertise to your investigation.

Sincerely,

A handwritten signature in black ink that reads "Saul Levin, MD, MPA". The signature is written in a cursive, flowing style.

Saul Levin, MD, MPA, FRCP-E
CEO and Medical Director