

Summary of Meeting

U.S. Immigration and Customs Enforcement (ICE)
Advisory Committee on Family Residential Centers (ACFRC)
Potomac Center North
Washington, D.C.
October 07, 2016

The U.S. Immigration and Customs Enforcement (ICE) Advisory Committee on Family Residential Centers (ACFRC) convened on Friday, October 07, 2016, at ICE Headquarters in Washington, D.C., from 9:00 A.M. to 3:00 P.M. The purpose of the meeting was to vote on and finalize recommendations. The meeting was open to members of the public under the provisions of the Federal Advisory Committee Act (FACA).

Attendance:

Committee Members Present:

BethAnn Berliner
Kurt Schwarz
Michelle Brané
Dr. William Arroyo
Dr. Andres J. Pumariega
Karen Musalo
Sonia Parras-Konrad
Judith C. Dolins
Jennifer Nagda
Anadora Moss
Dora Schiro
Margo Schlanger

Committee Members Present By Phone:

Howard Berman
Lesley Orloff

Others Present:

Sarah R. Saldaña, Director, ICE
John Amaya, Deputy Chief of Staff, ICE; Designated Federal Officer (DFO), ACFRC
Elizabeth Cedillo-Pereira, Senior Advisor, ICE; Alternate Designated Federal Officer (ADFO), ACFRC

Public Attendance:

Approximately 23 members of the public attended the meeting. Additional members of the public joined via teleconference.

Call to Order:

ACFRC DFO John Amaya called the meeting to order, extended his appreciation to those in attendance, and conducted the roll call.

Welcome and Opening Remarks:

DFO Amaya thanked members for their professionalism and dedication and reiterated the tasking and scope for the members of the public. In addition to the site visits, briefings, meetings, and e-mail communication, Committee members participated in 3 ½ hours of weekly calls with ICE to deliberate nuances at the subcommittee level.

Understanding the sensitivities and vulnerabilities around these families ICE reached out for help. ICE is doing its best but called on these experts based on their longstanding positions in the community, academia, and medical and legal fields to provide their advice on how to do better. The objective was to have the Committee develop recommendations for best practices in those areas.

ICE looks forward to receiving this report and incorporating that which we can given the Agency's mission. ICE staff has been reviewing subcommittee meeting minutes tracking the report as it progressed and has already looked at a lot of issues that were raised. ICE should be able to share that which it has already implemented and that which is in the works.

DFO Amaya then thanked his ICE colleagues for their patience and support providing hours of review from our operators, lawyers, folks at the facilities, GEO, CCA.

ACFRC Chair Kurt Schwarz then provided an overview of the Committee's work. Over the course of the last 10 months, almost a year, the Committee diligently reviewed the subject areas in the ACFRC charter within ICE's FRCs. Last march, the Committee was divided into three subcommittees to allow for more focused discussions on priority issues within the assigned tasking. Chair Schwarz said the purpose of this meeting is to finalize and vote on the recommendations submitted to him by the subcommittees last week. The subcommittees combined their recommendations into one large product. Each subcommittee will give a brief overview of their work, the full committee will deliberate on that section and vote, and then move on to the next subcommittee.

Subcommittee on Medical and Mental Health

The Subcommittee on Medical and Mental Health was tasked with developing recommendations for best practices at FRCs that will build on ICE's exiting efforts in the areas of medical treatment and mental health/trauma-informed care. Subcommittee Chair Leslye Orloff provided an introduction to the section, background on how the recommendations were developed, and highlighted some big picture, key issues followed by a public comment period. The two sections produced by this subcommittee are:

- Section 6: Medical, Mental Health and Trauma-Informed Care
- Section 7: Inspections, Complaints, and Oversight

PUBLIC COMMENT PERIOD:

Carol Ann Donohoe

Ms. Donohoe stated that 15 minute bed checks must stop. She opined that at Berks, and possibly the other facilities, the mental health professionals are contracted out by ICE and it is clear that their allegiance is to ICE not actual evaluations, therapy, or helping the children. She gave the example of a 9 year old girl who allegedly was wetting her bed but the mental health evaluator and telephonic interpreter both agreed the child was wetting her bed out of laziness. Ms. Donohoe opined that the mothers and children do not trust the medical health provider and he does not speak Spanish. She argued that outside psychologists who actually care and do not have a conflict of interest are needed.

Alan Shapiro

Mr. Shapiro thanked the Committee for the report. He said he has visited Berks twice Karnes once in the past year. He opined that fifteen minute checks with flashlights in faces is torture. One thing he did not see in the report periodic mental health screening. He stated that there are children at Berks who have been there for a year. Allegedly, a psychologist told Mr. Shapiro that they just observe the children and ask the mom how the child is doing but they do not do any formal screening using any validated tools. Additionally, Mr. Shapiro argued that there are very few, if any, bilingual mental health staff. Every parent and child felt uncomfortable talking to a psychologist or mental health professional not in their language. Mr. Shapiro said he runs group programs in New York, mostly for unaccompanied children. He stated that group therapy is the crux of therapeutic intervention that he provides there and so he asked about group programs at the FRCs. Allegedly, the psychologist responded that group programs are run but they put a telephonic monitor in the middle of a room and no one comes. Mr. Shapiro asserts that when he visits the women are crying within two minutes and opening up to tell their story. He concluded that it seems like there is a missed opportunity to provide traumatized people with care.

Karen Lucas

Ms. Lucas said her organization has been partnering with others to provide advocacy and volunteer lawyers. She thanked the Committee and said the report was thorough and well researched. It rings true to the experience that AILA has had working with these attorneys to provide these services at FRCs. She wanted to echo the overarching recommendation that this practice end. Additionally she observed that it is clear from the report that the Committee had a difficult time understanding the credentials of the existing individuals and staff providing mental health services, and that is AILA's experience as well. She echoed the frustration about the inability to get that information as well as the importance of qualified individuals providing service. She also noted the frustration of rapidly being able to access medical and mental health records. She argued that it is more difficult when you have a private prison contractor as the middle man, it slows down the process. She concluded that AILA has had a rocky road trying to get independent mental health professionals to see its clients and thanked the Committee for the recommendations on this.

Bridget Cambria

Ms. Cambria said the recommendation that women in prolonged detention at Berks be released is great. She asserted that the longest term family as of today has spent 408 days in detention. She identified a child named Briani, she just turned 7 years old and allegedly

celebrated two birthdays in detention. Ms. Cambria argued that the child had diarrhea for 5 months but when her mother filed a grievance they were told to withdraw their case and return to their country. Ms. Cambria said she and her colleagues listen to children allegedly express that they would rather be dead than stay at Berks. She alleged that when suicidal ideations were brought up to the facility, the mental health staff told the mothers to make sure the psychologist could see it so they could believe it. She asserted that they did not take the word of the mother. She claimed that there are at least 3 children at Berks with suicidal ideation who have not had any follow up or seen a psychiatrist or psychologist.

Ms. Cambria claimed that the mothers also received retaliation on account of the hunger strike. She added that there were releases of families at Berks with people in the exact same immigration position as the women in the hunger strike but who were not engaged in a lawsuit. She explained that the people released were ones who were not contesting their removal and were not engaged in a federal lawsuit but were in the exact same immigration position where immigration alleges it is mandatory detention but they were released after about a year. She opined that it seems that mandatory detention is only mandatory when you say it is.

Ms. Cambria said ICE decided to file federal court papers to transfer one of the mothers because allegedly they found her to be a problem but instead of saying it was because they did not like the hunger strike they tried to make a legal claim to transfer this mother who had been in detention for one year. She opined that the fact that they would try to transfer a child to a third facility when this is one of the children who has expressed suicidal ideation is just not right.

Ms. Cambria then read a grievance filed by a mother, Karen Zelaya. Ms. Zelaya filed a grievance that her child had dental pain for 6 months. Allegedly, when he came into the facility he had three teeth that needed to be worked on, now he has twelve. She claimed that every other child has received dental care except for this child and it happens to be one that they wanted to transfer. She argued that if the facility is not willing to fix his teeth then she wants to be released so her family can pay for it which they will..

Adriana Zambrano

Ms. Zambrano noted that her group of attorneys are currently the ones doing screenings for VAWA, T and U visas and SIJS. She argued that the mothers have been so heavily traumatized, they've been failed and lied to by everyone who was supposed to protect them and it takes a long time to build a trusting relationship to elicit the information to confirm that they are in fact victims. The incidents of trauma caused by sexual assault by a man is really high and the two mental health people who are at the facility are males and are communicating with a phone interpreter. She argued that these individuals cannot be charged with making these determinations when they are talking to women who are terrified of men.

Aminta Menjivar

Ms. Menjivar spent four months volunteering at Dilley last year. One of the more consistent things noticed is that the most vulnerable cases tend to be transferred, allegedly, often times without advice to counsel. These are the women who end up being those who are unable to physically tell their stories, women with T visas, women who could have solid claims to SIJS and VAWA and yet no one is screening for that at Dilley and Karnes, and then they end up here

in berks where there are all of these problems and grievances. She concluded by highlighting the inhumaneness of the entire process.

Erica Almiron

Ms. Almiron has worked for the last few years on issues at Berks. She met with a lot of the others inside and outside and asserted that the children echo a lot of what everyone at this meeting is saying. She stated that there is no need for family detention. She added that there is no way to fix an alleged unjust situation. She said that family detention is inhumane and unjust. She argued that these are also human rights violations. Ms. Almiron said they are working with the UN who is going next week on tour and they are working to file an urgent appeal for the release of the mothers who are there, essentially to shut down Berks, and end family detention. She opined that it is the worst behavior ever against other kinds of human beings and it is about racism and fear as most of these people are Latino. Ms. Almiron said we need to evaluate what we are doing as a country. She argued that ICE and DHS are one of the most unaccountable forces in the US, not just in family detention, but in every detention case and deportation case she has ever worked on. She urged the Committee to demand to shut down Berks and end family detention.

Giselle Hass

Ms. Hass thanked the Committee. She is very impressed with the recommendations particularly in mental health. She said that the recommendations and the framework could benefit from emphasis on the cultural aspects of trauma because we do not just have people who are traumatized but people traumatized within the context of language, social, cultural perspective. Suggested integrating into the approach elements of psychology and utilize, religion, spiritual beliefs. Ms. Haas is also concerned about the burnout level of the providers, not only mental health providers but all the staff. She said that this job has a high level of burnout and that just giving them training does not really guarantee that they will implement that attitude or program. She pushed to ensure that these recommendations do not just stay on paper but that they receive time and thought, and continued education. She said in her experience it was the psychologist who was one of the least sensitive to the trauma and sensitive issues.

Dr. Allen Keller

Dr. Keller thanked ICE for putting the Committee together. He said the pro bono lawyers are the unsung heroes of this. He opined that what is being done is harmful, shameful, and needs to stop. If it continues he argued that it needs to be done under ORR. He argued that looking at it through an enforcement lens it is a traumatizing situation. He said these women are among the most traumatized women and children he has seen in 20 years. He noted that appropriate health care means language competency and decisions need to be made on the local level, dental care is being bogged down by bureaucracy, and mental health needs to be assessed at the beginning but also ongoing screening including for sexual assault. Dr. Keller opined that the women and children are in ice boxes that are public health nightmares. He added that there needs to be a look at the deportation process.

Katie Sheppard

Ms. Sheppard said she was formally on the ground in Dilley for 9 months, 7 of those months as the managing attorney for CARA. She thanked the members. She is cautiously optimistic but

also hopeful that the recommendations are adopted and implemented. Over the course of her time on the ground, she encountered women who were ill, allegedly told by the clinic to drink water to alleviate illness, waiting hours to see a medic, or forced to return numerous times before being seen. She said she held a seizing woman in her arms once waiting for medical personnel to arrive. She opined that the woman should have been released the second it was determined she had a seizure disorder. She allegedly suffered numerous additional seizures before her release was secured and only after numerous requests. Ms. Sheppard continued that the numerous medical and psychological concerns are well documented. Finally, she argued that most of the women and children are extremely traumatized, by their experience and by the experience of detention itself. She added that more translated materials should be readily available not just in Spanish and reiterated the need for gynecological services onsite because many of the women and children have experienced sexual trauma.

Amy Fischer

Ms. Fischer thanked the Committee for a strong report. She noted that at Karnes, medical records must be requested through GEO and it takes approximately one week. This is a big issue since families are detained for a short amount of time and on a fast track to deportation. She said that RAICES has a shelter in San Antonio that houses mothers and children who are released from detention and is happy to work with ICE to make sure families are released directly there rather than dropped off at all hours to the airport or bus station. Ms. Fischer highlighted some of the work RAICES has been doing because of the lack of health care in detention. They recently brought on a public health specialist to provide advice on healthcare in the shelter because the vast majority of children arriving after being released from detention are very ill. . She argued that that it is a universal complaint that children are sick and medical care in detention is unsatisfactory. Ms. Fischer expressed urgency for the recommendations in this report to be adopted.

FULL COMMITTEE DELIBERATION

Changes made include:

- Ensuring mentions of health care facility are specified as “nationally accredited” facility.
- Clarifying the need to ensure specialized training for all staff working in the areas related to trauma informed services.
- Recommendations 6.34 and 6.35 were amended to say the mental health screening is administered every three months or as requested by the detainee, or for a child, by the child, parent, or other responsible adult.
- Recommendation 6.75 was amended to say in addition to any provisions for HIPAA or any other laws and regulations, disclosures made to counselors and psychotherapists should be confidential and never used in immigration proceedings. Violations of this provision should be investigated by CRCL.
- A correction was made to the paragraph above recommendation 6.25. “In addition privacy for adolescents under 18 is important particularly with respect to sex related health care. Pursuant to state law, adolescents themselves may consent to healthcare related sexual activity...”

COMMITTEE VOTE

All 12 members present in the room voted in favor of accepting Sections 6 and 7 with amendments.

ACFRC Vice Chair Howard Berman raised the question of whether the Committee was trying to propose things that could be done within ICE or DHS versus things that would require a statutory change. ACFRC Chair Schwarz said in his view the Committee was not created in order to recommend congressional action on anything. He added that some of the Committee's recommendations cross that line but that is something for the group to discuss and vote on. He also noted that any of the members could register a dissenting opinion and moved on to the next subcommittee.

Subcommittee on Education

The Subcommittee on Education was tasked with developing recommendations for best practices at FRCs that will build on ICE's existing efforts in the area of educational services. Subcommittee Chair BethAnn Berliner provided an introduction to the section, background on how the recommendations were developed, and highlighted some big picture, key issues followed by a public comment period. The section produced by this subcommittee is:

Section 4: Education Services and Programs

PUBLIC COMMENT PERIOD:

Bridgett Cambria

Ms. Cambria stressed that these recommendations are wonderful but the need for FRC teachers is misguided because the need for detention does not exist to begin with. She stated that children should be released to schools in the community to be integrated. Having dealt with the families at Berks, Ms. Cambria said one of the children asked why they could not just take a bus and go to school. She argued that an additional problem at Berks is that there are two schoolrooms with multiple languages and multiple ages. Finally, she asserted that in over 2 years, she has learned of only one student who has received special education. Allegedly, there is a child currently at the facility who has been waiting to receive special education for over 10 months.

Adrianna Zambrano

Ms. Zambrano brought with her a transcript for two girls ages 14 and 16 who were released on October 5. She said the paper simply says that they went to school from this date to this date but does not have the right address of the facility. She argued that children are not being educated in detention, they are unlearning by remaining there.

Carol Ann Donahoe

Ms. Donahoe reiterated that there is no system of education in a detained setting that can in any way be valuable to these children. She stated that early education for children ages 1-3 is so critical yet there are 2 year olds at Berks who have learned to walk and talk there. She said she appreciates the difficulty of trying to do this under the circumstances but argued that family detention should end period.

Alan Shapiro

Mr. Shapiro appreciated that these guidelines are working to normalize and standardize care medical, mental and education while in detention but what really strikes him is that it is an attempt to create what already exists in communities around the country.. Mr. Shapiro has doubts whether detention and reforms can be carried out in rural areas that are apart from other communities and eyes that can really see what is going on. He argued that detention is traumatizing or re-traumatizing. Allegedly, the trauma begins in the processing center which is heard over and over again. In terms of education, children are so anxious about being deported or being stuck in detention it is really hard for them to concentrate in school. Detention should end for these families.

FULL COMMITTEE DELIBERATION:

Changes made include:

- Recommendation 4.21, adding that FRCs should permit children who are detained long terms receive educational services in the community, with the parent and child's consent and when it is in the child's best interest.
- Recommendation 4.22, added the need for teachers who are generally credentialed and specialists in bilingual education in order to retain their primary language.
- Adding a new recommendation, in addition to the Family Educational Rights and Privacy Act (FERPA), disclosures made to teachers should not be used in subsequent immigration proceedings without the child or parent's consent, violations of this provision should be reported to CRCL.

COMMITTEE VOTE:

All 12 members present in the room voted in favor of accepting Section 4 with amendments followed by lunch.

Next Steps for the Committee

Following a one hour lunch break DFO Amaya reiterated that at this point no decision has been made as far as next steps for the Committee. Upon transmission of the final report as voted upon today, this particular task is complete. Whether there is another task is for the Director and the Secretary to decide. That decision has not been made yet. There are terms that expire in November but the Committee does not come to a close.

Subcommittee on Access to Counsel and Language Services

The Subcommittee on Access to Counsel and Language Services was tasked with developing recommendations for best practices at FRCs that will build on ICE's existing efforts in the areas of access to counsel and language services. Subcommittee Chair Jennifer Nagda, and subcommittee members Karen Musalo, Dora Schriro, and Margo Schlanger provided introductions to each section, background on how the recommendations were developed, and highlighted some big picture, key issues. The sections produced by this subcommittee are:

- Section 1: Decisions to Detain and Release
- Section 2: Reform of Detention and Alternatives-to-Detention (ATD)
- Section 3: Access to Counsel
- Section 5: Language Access

The introduction was followed by a 10 minute break and Director Saldaña’s remarks to the Committee.

Director Saldaña’s Remarks

Director Saldaña spoke with the members for approximately 15 minutes, thanking them for their work and expressing the Secretary’s gratitude. She reiterated that she works within the construct of laws and until those laws change the Committee’s specific task was to help ICE serve the detainees and children better. She said she looks forward to receiving the final report.

Subcommittee on Access to Counsel and Language Services Continued

PUBLIC COMMENT PERIOD:

Jacquelyn Kline

Ms. Kline said there have been many legal access issues at Berks. Originally women were allowed to wait outside the attorney area if they wanted to speak with someone, but allegedly that is no longer the case. There is a pro bono list of attorneys but almost none of those do detained work. Only one does but the majority of cases are from the York detention center not Berks. She stated that attorneys have no way of knowing who is in the FRC unless other mothers say someone else has arrived and needs to be added to the list to be seen. Allegedly, attorneys are given different rules each day. One day you cannot bring in water and a printer, one day you must provide 24 hour notice and 72 hours the next. It is important to make sure the rules are clear and this is addressed in the report.

Karen Lucas

Ms. Lucas said she appreciated the emphasis on legal access. The Committee’s observations about the difficulties of legal access are reflective of AILA’s experience. She opined that there is a lot of coercion that happens in the meetings where mothers are asked whether they want to waive or assert their right to a bond hearing or take an ankle monitor instead. AILA has documented many instances in which ICE officers allegedly have misrepresented the nature of the options and Ms. Lucas feels strongly that an attorney presence during those meetings would be very helpful to dispel myths and misunderstandings. In her experience, these meetings have 30 mothers at a time. AILA has attorneys on site 24/7 and it would be easy for them to be in these meetings if allowed. She encouraged the addition to explicitly permit that and prevent categorical bans on attorney access. She thanked the members for the recommendation for deportations not to happen when things are pending like request for reconsideration or asylum applications. She also noted that AILA has an outstanding request for video conferencing and independent mental health evaluations. To the language access point about release of information, she said that needs to be done in person. Paperwork in their language of origin is

not enough to really meet the goals and ensure mothers and kids know what to expect next. Ms. Lucas recommended these be done in person to the greatest extent possible.

Olga Byrne

Ms. Byrne recommended that the terminology non secure facility be clarified for Berks. She said the term has legal implications. She understands that ICE maintains that the facility is non secure, but there are many others including the state of PA who have stated that it is a secure facility. The people who have been detained there, a range of legal experts and others have called it a secure facility. Ms Byrne recommended it at least be clarified that there is a difference of opinion.

Anya McMurray

Ms. McMurray thanked the Committee for their tremendous work. She said it is the most comprehensive product she has seen. She and her colleagues who work on this issue struggle to piece together all of the bits of information that we are able to find either from the department, the advocates, or in some cases from women who have been released. This document provides a much needed global view of what is happening from a variety of different perspectives. The schooling is not something she was tracking at all until this conversation and it is extraordinarily illuminating. She thanked them once more for a valuable product that would help her and the others who will continue this work after the Committee has finished.

Amy Fischer

Ms. Fischer wanted to highlight access to counsel issues at Karnes. She said after two years of fighting, they were just allowed to bring a printer into the legal visitation room last week. She echoed the urgency for these changes and recommendations to happen. She also wanted to link back to the fundamental resolution to end family detention. She stated that even with the best access to counsel it is insufficient when attorneys have to represent detained families.

FULL COMMITTEE DELIBERATION:

Changes made include:

- Recommendation 3.11, technology and using pagers to allow for more as needed access to, add a sentence that says ICE should also implement or facilitate video conferencing technology for detainees to consult with counsel and other independent experts.
- Recommendation 3.25, ICE should avoid the practice of transferring detainees between FRCs without informed consent from detainees.
- The criteria should be transparent.
- ICE should allow pro bono counsel.
- Whenever a detainee adult or child has a hearing before any court or administrative body or immigration official, ICE personnel should transport the detainee to that hearing in a timely manner.
- Recommendation 5.11, defining qualified interpretation.

- Recommendation 5.3, if the language slideshow does not confirm a language, ICE should utilize language line diagnostic services as needed.
- In the 3rd paragraph of Section 1 adding that the recommendations are intended to improve current practice consistent with extant U.S. law and policy.

COMMITTEE VOTE:

All 12 members present in the room voted in favor of accepting Sections 1, 2, 3, and 5 with amendments.

Adjournment:

The Committee adjourned at 3:00 P.M.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



Kurt Schwarz
Chairman, Advisory Committee on Family Residential Centers