



A REALITY CHECK

WHAT ICE SAYS ...	WHAT AILA KNOWS ...
<p>“ICE will create a new Advisory Committee... to advise the Director and the Secretary concerning ICE’s family residential centers.”</p>	<p>This is another layer of bureaucracy that appears to lack any actual authority to make changes. Advising isn’t enough; the lives and health of women and children are at stake.</p>
<p>“Director Saldaña has designated a senior ICE official with the responsibility to coordinate and review family residential facility policies.”</p>	<p>If this hasn’t already been happening then shame on the Administration. Again, what authority to actually change policy would this person have? Coordinating and reviewing are not descriptors of actual power to change an inhumane system.</p>
<p>“Building on recent efforts, ICE and the Department will undertake a series of engagements over the next several months with stakeholders to listen and discuss their concerns regarding family residential centers.”</p>	<p>Stakeholders have been engaging with ICE, DHS and the White House for months on end. Now they say they will start to listen? If so, why did they issue this release that simply promises more of the same?</p>
<p>“[W]hile ICE’s family residential centers currently operate in an open environment that includes play rooms, social workers, educational services, comprehensive medical care, and access to legal counsel, ICE will explore ways to further enhance these conditions.”</p>	<p>An open environment that includes guards everywhere, bed checks hourly, lockdowns during census counts, no privacy, foul water, and obstacles in the way to due process and access to counsel. They could hardly do worse than the current situation.</p>
<p>“Ensuring access to counsel continues to be an ICE priority. As such, ICE will take additional measures to promote these values, including addressing language access issues for speakers of indigenous languages, providing dedicated work spaces for pro bono attorneys, and making available additional attorney-client meeting rooms.”</p>	<p>AILA has been asking for these and other measures for months now to address the daily struggle that AILA pro bono volunteers encounter just to see and serve their clients. Dedicated work spaces for counsel would be a helpful change. However, regardless of conditions, detention places the mental and physical health of children at serious risk and blocks off meaningful access to due process.</p> <p>The announcement pays mere lip service to the serious problems of indigenous language interpretation when these women are languishing in detention without being able to speak adequately to guards, medical staff, legal services, government officials, or judges. Their cases drag on and they remain detained.</p>
<p>““Because of the sensitive and unique nature of detaining adults with children, ICE will also implement a review process for any families detained beyond 90 days, and every 60 days thereafter, to ensure detention or the designated bond amount continues to be appropriate while families await conclusion of their immigration proceedings before the Department of Justice’s Executive Office for Immigration Review. Priority in the timing of the reviews will be given to those who have been detained the longest.”</p>	<p>They already have this review system in place for certain classes of detainees. The result? No one is released. Until ICE pledges to evaluate detention decisions based on flight risk and threat to public safety as required by law—which nearly every one of these families will pass—its review process is meaningless.</p>
<p>“[O]n February 20, 2015, a federal district court in Washington, D.C. enjoined ICE from invoking general deterrence in custody determinations where an individual from Central America in a family residential center is found to have a credible fear of removal. ICE has complied with that injunction, but has moved for reconsideration of the Court’s ruling. Notwithstanding that, ICE has presently determined that it will discontinue invoking general deterrence as a factor in custody determinations in all cases involving families. This would affect not only families covered by the injunction, but also families from non-Central American countries and families who have established either a credible fear or reasonable fear of removal.</p> <p>“Homeland Security Secretary Jeh Johnson has made it clear that our borders are not open to illegal migration, and that individuals apprehended crossing the border illegally are a Department priority and that ICE should allocate enforcement resources accordingly, consistent with our laws and values. As such, ICE is endeavoring to use appropriate prosecutorial discretion and dedicating resources, to the greatest degree possible, to the removal of individuals who are considered enforcement priorities, which include recent border entrants.”</p>	<p>This is doublespeak at its finest. They won’t use detention as deterrence. But they will continue detention to show that border crossers are a priority. The federal court injunction already prohibits ICE from invoking deterrence in custody determinations, but in the months since then ICE has resorted to setting absurdly high bonds that amounts to a no-release policy.</p>