



Written Testimony of
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For a Hearing on

Kids in Cages: Inhumane Treatment at the Border

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Chairman Raskin and Members of the Sub-committee, thank you for the opportunity to offer testimony regarding the inhumane treatment of children detained at the border.

My name is Hope Frye. I am the Executive Director of Project Lifeline, a non-profit dedicated to bringing attention to the conditions of detained immigrant children. I am also an attorney with more than 40 years of experience practicing immigration law. I previously served as Board President for the Center for Human Rights and Constitutional Law (CHRCL), class counsel in *Flores v. Barr*. I have participated in monitoring visits to CBP, ORR and ICE facilities on behalf of *Flores* counsel over six years, leading those visits for the last two.

In 1997, the government settled a class action concerning the treatment, conditions of detention and release for all immigrant children. This agreement, known as the *Flores Settlement* or simply *Flores*, gives the children's legal team the right to inspect all facilities and interview any children detained there to monitor the government's compliance. CHRCL, class counsel, has a robust monitoring program visiting detention facilities administered by CBP, ORR and ICE. The visits are staffed by volunteer lawyers and child welfare workers, including pediatricians and pediatric mental health professionals.

The importance of monitoring cannot be overstated. It's the only way to ensure that the children are safe, held in the conditions prescribed by law and released expeditiously. Without monitoring, we wouldn't be here today discussing the torture endured by the children. The declarations taken during the recent monitoring visits to the Rio Grande Valley and El Paso Border Patrol Sectors paint a picture of wanton disregard for the safety and welfare of the children in their care. Across the board, we documented the systematic persecution of children and the cruel and inhumane conditions in which they are kept.

I selected the attorneys and was team lead on a *Flores* monitoring visit to the Rio Grande Valley (RGV) border patrol stations from June 10-14. Our attorneys interviewed 103 children and parents with children at the Ursula Processing Center and at the Weslaco, Brownsville, Rio Grande, Donna, McAllen and Fort Brown Border Patrol Stations.

We were coincidentally there at the same time as inspectors from the Office of the Inspector General who issued a report on their visit, Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley, on July 2, 2019. They visited the same places we did.

Although we are permitted to inspect facilities run by ORR and ICE, we are restricted to office areas and forbidden to see inside CBP detention centers. Our understanding of the physical facility in which children are held and what happens to them there, is informed by what the children tell us. What they say is consistent with the findings of the OIG inspectors.

Some children were too traumatized to even interact with us. Children who were lucid enough to interact with us were glad to see us. They were grateful for the opportunity to sit in an office which is warmer than their cages, to sit on a chair not on a concrete floor, to sit close to us – adults with smiling faces - and talk to a respectful person glad to see them, about the horrendous things that are happening. As the conversations unfolded, we struggled to maintain our composure, emotions carried away by the cruelty and deprivation all the children describe. We are uniformly incredulous at how the government can treat children so inhumanely in our name and saddened to find the children more traumatized and in worse shape than even the most experienced of us had imagined.

While most of the recent attention has focused on the hideous conditions at the Clint CBP station in El Paso, the situation at border patrol facilities in the RGV are substantially the same. What distinguishes the RGV, is that these same horrific conditions are the subject of a 2017 federal court Order, in which the government was found to have violated *Flores* by failing to provide adequate food; adequate access to drinking water; adequate hygiene (bathrooms, soap, towels, toothbrushes), and adequate sleeping conditions and by keeping the temperature too cold.

The government was ordered to remedy these failures. They have had two years. What have they done? Nothing. The five basic needs of all people are still missing for children in CBP custody.

Food is still inadequate

Children in the RGV are going hungry. They are given non-nutritious food and not enough of that. Pureed food necessary for infants 6-12 months old, is completely missing. When there are bottles and formula, there is no way to wash the bottles, so they become contaminated.

Although the diet varies somewhat station to station, a typical meal is similar to that served three times a day at Ursula except that there is fresh fruit. Fruit and vegetables are unusual. At Ursula, it's either a bean burrito or ham sandwich, potato chips, an apple and a bottle of water. Children told us that the food was inedible; that it gave them a stomach ache because the rice in the burrito was undercooked or because it was frozen, that it wasn't "even suitable for a dog." The ham sandwich is a single slice between two pieces of bread and children try to find some part they can eat because ham is often slimy just about to spoil. I saw what purports to be juice but appears to be only colored sugar water.

Drinking Water is not readily available

Water makes up more than half our body weight and we can't live more than a few days without it. Fresh, clean water is vital for good health. Breast milk is about 90% water and hydration is essential to its production.

Many of the children we saw were teen moms with children under the age of one. Some of the babies were exclusively breast fed. All these moms complained that they got inadequate water to assure enough milk production which endangers the health of their infants.

The uncle of a one year old told us that the water in the jug in his cage tasted awful like it was from a dirty well. A breast-feeding mother of a two-year-old said that the water available to her tasted like dirt so she couldn't drink it.

The experience of 16-year-old mother breast feeding her 8-month-old daughter is common. "The water was very bad. I didn't eat for two days. The baby only had a very little bit of milk. The water came from a jug, smelled bad, and people had to share cups. It was absolutely terrible, and I could not drink it."

There's no still no soap

Flores requires that children be held in facilities that are safe and sanitary and consistent with the government's concern for the "particular vulnerability of minors." The government has stood by its preposterous position that soap isn't part of sanitary conditions, to the great dismay of concerned citizens and elected officials.

The children we saw were filthy wearing the same wet and mud caked clothes in which they traveled. Many were covered in mucus and vomit. Babies had soiled diapers. The smell of the children was foul.

No child had warm clothing, and many were not fully clothed, this despite the extreme cold in the holding areas. A four-year-old who was well past potty training was given only a diaper to wear and told there were no pants for him. Babies were in onesies with no sweater, jacket or socks.

One baby wore a pad that look like a dog's pee pad wrapped around his lower body. His mother explained that he had soiled his clothes a few days before, and that she was told that there were no clothes for him. She had opened up clean diapers and attempted to wrap them around his upper body to keep him warm. She cupped one diaper over each shoulder and tried to secure them in the middle of his chest.

Many children had not showered, including a 17-year-old mother and her 10-month-old son who had been held for approximately 30 days without having the opportunity to shower. The water available to wash sometimes smelled like urine. One man told us that he waited until he got water with a meal and then used some to clean his infant nephew.

There was no soap, no hair brush, no tooth brush, no toothpaste.

All the children were sick

Influenza A killed a boy the RGV three weeks before our arrival. Nearly every one of the children we met was sick with the flu differing only in the severity of their symptoms. I met with a 16-year-old girl and her 8-month-old daughter. The daughter was extremely ill and lethargic with a deep, continuous raspy cough. She was feverish to the touch – pale with glazed eyes. She was frail. She'd had a mild cold when they arrived, but CBP took the baby's medication and clothes and told mom that sleeping outside would be good for her. After four days of sleeping outside with no clothes, the baby worsened, her condition rapidly deteriorated.

When she was transferred to Ursula, she was vomiting and had a high fever and diarrhea. She was repeatedly denied medical care, one CPB guard saying that she “did not have the face of a sick baby.” Despite the raging flu for which the entire facility had been under recent quarantine, the baby had not received any medical attention.

Five days after entering CBP custody, a 5-month-old infant became suddenly ill. Despite repeated requests she, too, was refused medical care. When we saw her, she was in her mother's arms only moving when she was seized by a deep and continuous cough that caused her to wrretch and dry heave violently. She had stopped eating and had been unable to drink. It had been 4 days since she became sick.

After vigorous advocacy by *Flores* counsel, we were allowed to bring a pediatrician into the Ursula facility to meet with 39 children we had seen previously. After the pediatrician's visit was announced, 5 of these children, infants, were taken to the hospital to the natal intensive care unit (NICU).

The doctor examined 21 infants and children who had spent between 14-24 days in detention. Of these children, 2/3 of them had respiratory infections, two of them with acute distress, one of whom had been denied access to medical care.

Then I got sick

We began our CBP visit on Monday. On Wednesday night I got sick. I had a fever – 102.5 – vomiting, diarrhea and the worst headache of my life. I developed this deep racking continuous cough. The same cough many of the children had.

I couldn't leave my bed but continued to work on Baby K's release until Thursday afternoon. I lost my voice. Despite continuous doses of Tylenol, the fever was still there and the headache untouched.

At 4am on Friday I called 911. My chest was tight, and I couldn't draw a proper breath. I still had fever, the headache, body pain and that cough. The ER doctor was examining me, heard the cough and ordered me admitted to the hospital.

I had Influenza A. I caught it from the children.

I was immediately put in an isolation room, given IV fluids and medicine including a strong narcotic for the head pain. They began respiratory therapy which I had every three hours including just before I was released. I stayed on the IV. I had a five-day course of Tamiflu.

After a day, I was moved to a private room with a quarantine sign. Put on a mask and gloves if you want to enter. A nurse checked on me every several hours. I had a pitcher of water, a flat screen TV, my cell phone, nutritious food, visitors. I was in the hospital 2.5 days. It took two weeks before I was well.

Let's contrast this with the children. We had the same disease. Same symptoms. Same fever. Same pain. But they had to plead for medical attention. If they got it, they were probably given something for the fever – they didn't know – and some but not all were maybe given one or two doses of Tamiflu. Most were returned to the same packed cage, in the same freezing room to try to sleep on the concrete and to transmit the flu to the other child held with them. Those who were taken to what CBP called a quarantined area were held in the same conditions - packed into cages, some with nowhere to lie down and all with no adult to turn to for help. Their heads pounding. Fever unabated. Noses running. Body aching. And that cough. That cough that never stops. I will never forget the sound of that cough.

It's child abuse pure and simple.

Baby K – a Story of Cruelty

She sat in a dilapidated wheel chair, hunched over in pain. Her clothes were mud caked. Her long braids dirty. She tightly held a rolled up thick sweatshirt – once gray now black with filth. I opened the top of the bundle and there she was – Baby K - newborn, her eyes closed, her face

pinched and her hands in tight balls. So tiny. Almost not there. She had mucus around her nose and sneezed periodically. Otherwise she was motionless and mute.

After traveling from Guatemala, mom, just 17, had an emergency c-section in Mexico. Baby K, born a month premature, was kept in an incubator for 8 days. Mom was left with such bad pain down her leg that she couldn't stand.

They were held for 4 days at the first border patrol station. Mom, who was nursing, was given juice and cookies and only 2 bottles of water, necessary to produce breast milk, after pleading.

As is the case with every migrant with whom we spoke, Mom was forced to throw away her things. This included her backpack containing Baby K's warm clothes, the pills, disinfectant cream and a special girdle to care for her incision, and her phone.

They had been at Ursula for four days when we met, kept in the freezing cold in a crowded cage without soap, a toothbrush, a shower, or clean clothes.

I took a wet Kleenex and cleaned black dirt from Baby K's neck. I asked for clothes to replace her soiled short sleeve onesie. I asked the government lawyer to get them a shower.

We all thought the shower was a good idea, but it didn't go well. It's freezing in the bathing area and after being washed by a worker, the baby was shaking violently. Mom asked for a blanket to keep her warm. The response – she's not cold - she's hot and trying to cool off.

When we saw them the following day, the baby was wrapped in a threadbare towel. Unable to regulate her body temperature, Baby K was cold to the touch. My colleague, who worked with UNICEF and the WHO on issues involving public health of detained migrants, told me that Baby K was failing to thrive and if not hospitalized in a neonatal intensive care unit might die. Another preventable death of a child in government custody.

Immediately after encountering Baby K on day one, I brought the senior most attorney for the government to see them. She was obviously disturbed and took the information necessary to gain release to an ORR shelter.

Despite this and massive intervention, it took the government over 2 days to transfer Baby K and mom to ORR custody. One physically debilitated 17-year-old and a one-month old preemie. Two days. Once there, Baby K was diagnosed with the flu, quarantined and monitored for 24 hours a day by a health care worker until she was well.

The story of Baby K brings us to the central issue in this discussion, the reason for the manufactured “crisis at the border.” The administration would have us believe that the number of arriving children is causing the delay in release from CBP and the subsequent need to warehouse children in unregulated influx facilities like Homestead. But the real culprit is the policies of this administration. The administration has slowed the rate of release from ORR shelters by imposing restrictive and unnecessary requirements for the vetting of family sponsors. Though in the face of overcrowding some progress has been made to improve the rate of release, by their own data, it remains unacceptably longer than when this administration took office. Rather than providing funds to detain additional children, Congress should be working to ensure their expeditious release to their families, who are far better suited to care for these children than a government that causes so much harm.

It is my recommendation that Congress take the following actions:

Congressional oversight is urgently needed to protect children in federal immigration custody. The fundamental principles established by the *Flores* Settlement Agreement and TVPRA are critical to providing basic protections for detained immigrant children and must be defended. Congress has the ability to intervene and protect these vulnerable children by taking the following actions:

1. Protect and codify the principles established by the *Flores* Settlement Agreement.
2. Ensure that children are not detained in CBP custody for any longer than 72 hours, under any circumstance
3. Demand transparency about the length of time that children are in federal immigration custody.
4. Use congressional oversight authority to ensure that policies and practices do not interfere with timely release of children from custody and to ensure that the federal government provides “safe and sanitary” conditions for all children in its custody, including soap, toothbrushes, beds, adequate food, water, blankets, and diapers.
5. Prohibit CBP from separating children from their families unless it is in the best interest of the child. Separations must be overseen by state-licensed child welfare professionals.
6. Require CBP to provide access to the facilities, by independent medical professionals who can assess the emergency medical needs of the children and triage appropriately.

7. Appoint a public health expert to inspect all CBP facilities, with ongoing authority to mandate changes.