Report of the ICE Advisory Committee on Family Residential Centers RECOMMENDATIONS ONLY*

October 7, 2016

1. DECISIONS TO DETAIN AND RELEASE

Recommendation 1-1: DHS's immigration enforcement practices should operationalize the presumption that detention is generally neither appropriate nor necessary for families – and that detention or the separation of families for purposes of immigration enforcement or management are never in the best interest of children. DHS should discontinue the general use of family detention, reserving it for rare cases when necessary following an individualized assessment of the need to detain because of danger or flight risk that cannot be mitigated by conditions of release. If such an assessment determines that continued custody is absolutely necessary, families should be detained for the shortest amount of time and in the least restrictive setting possible; all detention facilities should be licensed, non-secure and family-friendly. If necessary to mitigate individualized flight risk or danger, every effort should be made to place families in community-based case-management programs that offer medical, mental health, legal, social, and other services and supports, so that families may live together within a community. This recommendation is consistent with existing U.S. law.

A. Limit or Eliminate the Use of Expedited Removal and Reinstatement of Removal for Families

Recommendation 1-2: DHS should not use detention for the purpose of deterring future family migration or punishing families seeking asylum in the U.S. Any contrary policy is unlawful and ineffective.

Recommendation 1-3: DHS should return to its prior practice of not putting families into expedited removal and reinstatement of removal. Instead, DHS should place families in regular proceedings via issuance of a Notice to Appear and in all but the most unusual situations release them promptly as a family.

B. Avoiding Detention During Credible and Reasonable Fear Processes

Recommendation 1-4: Even if (notwithstanding Recommendation 1-2) DHS chooses to place a family or any family members in expedited removal or reinstatement of removal

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* In the full Report, the Recommendations include some footnotes, which may be useful to understand the precise references.

proceedings, DHS should generally exercise its authority to release family members, together as a family, as soon as possible. Detention should be only long enough to process a family for release into alternatives to detention, and any decision to detain rather than release should be reviewed at least monthly at the ICE Headquarters level. When DHS concludes that it should, or must, release a child from family detention it should release the child with her parent and siblings absent extraordinary circumstances, given the traumatic and detrimental impact of that separation, and because in most cases, there are less restrictive means to ensure the parent's continued participation in the legal process.

C. Inconsistency in Criteria for Release of Families

Recommendation 1-5: Children should not be separated from their parents in order to continue to detain the adults, or to continue to hold the children by placing them in ORR care.

Recommendation 1-6: To avoid inappropriate gender-based disparate treatment, and in keeping with the recommended criteria and conditions, the presumption of release together as a family should apply equally to mothers and fathers arriving with minor children, and neither fathers nor mothers should face separation from their minor children.

Recommendation 1-7:

a) **As soon as practicable, DHS should check its systems for pending VAWA, T, or U applications for any families in detention. If present, families should be released and any expedited removal or reinstatement processes against them halted pursuant to DHS's prosecutorial discretion or other authority to ensure eligibility for crime-based relief. DHS should also expeditiously process families' pending applications for other relief.**
b) **Going forward, DHS should ensure timely screening, prompt release, and preservation of eligibility for individuals in family detention who may have claims for crime-based immigration relief. DHS should not detain immigrant crime victims with pending and approved VAWA confidentiality-protected cases. Children of VAWA confidentiality-protected victims should be released along with their parents without regard to whether the children are included in the victims' application.**

D. Unduly Onerous Conditions of Release

Recommendation 1-8: In the absence of individualized assessment of clear flight risk or danger, detained families should be released on their own recognizance. Where bonds are set, the amounts should be reasonable based on the family's ability to pay.

Recommendation 1-9:

a) **Any conditions for release, including community supervision, should be the least restrictive means consistent with the needs and risk that the family presents in a community setting, and only for as long as necessary. Factors that should be considered in determining the most appropriate and least restrictive placement include the best interest of the child, the strength or durability of each family's community ties, and whether removal is likely.**

b) **ICE should retain personnel with clinical degrees and expertise in assessment to ascertain what needs and risks, if any; each family being considered for release presents, and then to identify the conditions or precautions to adopt in order to mitigate any concerns and achieve compliance in the community. Conditions of release to the community should be specifically tailored to reflect individuals' assessed needs and risks, yielding both the least restrictive and most effective means of achieving excellent outcomes.**
c) **Supervision, including community programs, electronic monitoring, and other restrictive alternatives to detention, should be imposed only after an individualized determination of danger or flight risk, and with clear standards and timeframes for eliminating these controls, especially removal of ankle monitors.**
d) **Detention should not be used due to a lack of available space in such programs; instead community support and case management alternatives should be expanded with a thorough review of contracting processes, examining efficacy, quality of services, and the appropriateness of using a for-profit prison company for case management.**
e) **Families that have similar community ties, risks and needs should receive the same access to ATDs and should not be over-supervised or under-supervised due to lack of appropriate options in the area to which the family is released.**
f) **ICE should regularly review placements that limit freedom of movement or carry other restrictions to determine whether a family could be "stepped down" to a less restrictive option.**

Recommendation 1-10: Any ankle monitors used for electronic monitoring should be no more restrictive than necessary, and should minimize inconvenience, discomfort, and stigmatization. For example, the ankle monitors used should minimize weight, heat, and the time the wearer must spend physically next to an outlet charging the device.

2. REFORM OF DETENTION AND ALTERNATIVES-TO-DETENTION (ATD)

A. Population Management

1. Incorrect Assumptions about Civil Detainees

Recommendation 2-1: To allow objective and accurate determination of which families must be detained due to individualized determinations of flight risk or danger, and also the use of ATD, ICE should retain one or more subject matter experts to create needs and risk assessment instruments specifically for families, to be used regardless of assumptions about mandatory detention. This instrument and its corresponding interview protocols should be specifically normed to families' demographics; sensitive to gender and to cultural and language differences; mindful of community ties and other factors that inform consideration for release; and validated to accurately ascertain any risk family members may present or face. ICE's recently revised ATD Risk Assessment Instrument may not currently be appropriately normed for families and female heads of household.

Recommendation 2-2: ICE's bed capacity and community supervision slots should be consistent with the actual numbers of families objectively appropriate for detention or supervision in the community. Under no circumstances should families be assigned to inappropriate or unlicensed facilities due to a lack of appropriate beds; similarly, families should be neither over- nor under-supervised in the community due to lack of appropriate placement options in the areas to which families are released.

Recommendation 2-3: DHS contract terms should not incentivize the otherwise unwarranted use of detention or supervision capacity; for example, contracts should not reduce the per bed price when the population exceeds a certain percent of occupancy, or pay for all beds, whether or not occupied. ICE should renegotiate any contracts with such terms. Contract terms should clearly state all costs. Contracts should include penalties for failure to satisfactorily perform all terms as stipulated.

Recommendation 2-4: Both the FRCs and community-based placements should eliminate as many characteristics of criminalization and prisonization as practicable, and become as normalized as possible in their design and operation. Families should be afforded every opportunity to continue to function as families, to exercise autonomy regarding parenting and their daily lives, including activities of daily living (e.g., when to wake and go to bed, menu and food preparation, wardrobe, hygiene, sanitation, discipline, and worship). Families in custody should be allowed easy access to immediate family members, whether themselves in custody or the community, by contact visitation and no-cost phone, email, and skype. Families should be permitted to live as intact groups and all members of a family group should be assigned to the same sleeping and living quarters.

Recommendation 2-5: Consistent with the commitment to normalization, when detention is necessary, ICE should only use small, non-institutional, and non-secure facilities and assign staff specifically selected to work with families, especially families exposed to the documented trauma this population has experienced. Correctional facilities and personnel should not be used under any circumstances. All facilities should be licensed to provide child welfare consistent conditions and services in accordance with the *Flores* Settlement Agreement.

Recommendation 2-6: The current monitoring instruments developed by ICE and used by ICE and its contractors to ascertain whether FRCs meet minimum operating expectations should be replaced with instruments and methods that will accurately assess compliance with its contracts and MOUs as well as the Family Residential Standards, both those in effect today and upon its their revision. The FRCs should be held to the highest applicable standard of care – whether that is in the Family Residential Standards or the PBNDS 2011. Monitoring of ICE's compliance with applicable standards should be done by an entity with child welfare expertise and experience.

2. **Insufficient Information and Analysis, Planning, and Preparedness**

Recommendation 2-7:

a) **ICE should convene its stakeholders to introduce detention management key indicators, describe data collection methods and finalize definitions with the group. ICE should consider additional data proposed by stakeholders. Data collection should begin with the next quarter.**

b) Key indicators should be collected and published, online. They should include, at least:

- **i. actual capacity (both beds and ATD slots by type of ATD),**
- **ii. operating capacity,**
- **iii. capacity utilization (i.e., the average daily population (ADP) detained and on ATD),**
- **iv. actual and average lengths of stay (ALOS) in ICE custody and at each facility while in ICE custody.**
- **v. frequency distributions for detainee age and gender,**
- **vi. frequency distributions of family members' risk assessment and mental health risk assessment scores,**
- **vii. frequency distributions of family members' medical and psychiatric diagnoses,**
- **viii. the number of mental health visits (primary care mental health visits, mental health professional evaluations, individual psychotherapy, group therapy, psychiatric evaluations, psychiatric follow-up visits),**
- **ix. the number of scheduled and emergency hospitalizations,**
- **x. the number and duration of seclusion and restraint episodes, including all uses of isolation housing, and their justifications,**
- **xi. releases due to deteriorating health or mental health condition, and their justifications,**
- **xii. deaths in detention (or in a hospital while still in ICE custody, after detention),**
- **xiii. frequency distributions of family members' primary and secondary languages, including literacy rates,**
- **xiv. the number and location of failures to appear and absconders previously in detention, or in ATD, and**
- **xv. per diem cost and total operating cost (bed by facility, slot by ATD type, and total).**

c) In general, data should be published at least monthly; some data should be published more frequently. For example, actual capacity, operating capacity, capacity utilization should be updated weekly online; and deaths in detention should be updated daily online.

Recommendation 2-8: ICE should engage in strategic planning on an on-going basis, actively involving both field staff and diverse stakeholders, and should develop a five-year strategic plan that is updated annually consistent with data trends, case law, and other key factors. The strategic plan should be coordinated with the ombudsperson office referenced in Recommendation 7-5 and should be shared with the DHS Office for Civil Rights and Civil Liberties for its comments prior to finalization.

Recommendation 2-9: ICE should prepare a Continuity of Operations (COOP) plan and update it annually. A COOP is a federal government initiative, required by Presidential directive, to ensure that agencies are able to continue performance of essential functions under a broad range of circumstances including localized acts of nature, accidents and technological or attack-related emergencies. Periodic increases, or surges, in the migration of families, seeking relief in the U.S. are situations well-suited for this measure.

Recommendation 2-10: ICE should create the infrastructure – including data collection, planning processes, personnel with specialized skill sets suited to the work at hand, and a continuum of viable placement and program options – to receive and assess and then release or refer families in less than 24 hours and without detaining them. ICE should consider models used by social service and not-for-profit organizations with child welfare expertise that specialize in emergency response and relief.

Recommendation 2-11: Even in the event of ebbs and flows in population, ICE should create capacity to keep families in the community in lieu of temporary detention whenever possible and to detain families only when necessary and for the briefest period of time, in temporary, family-friendly, non-secure and licensed settings.

3. **Outsourcing vs. Acquiring Internal Expertise**

Recommendation 2-12: ICE should develop sufficient internal expertise to perform and monitor key functions that are currently out-sourced, by providing extensive in-service training of qualified enforcement personnel and by hiring, as ICE staff, subject matter experts to design and implement reform, including this Committee's recommendations. Subject matter experts should have a work history and professional orientation related to child and family welfare, not criminal justice.

Recommendation 2-13:

a) **ICE should immediately cease the expansion of the current FRCs' capacities. ICE should provide timely notice to those contractors that their contracts for family residential housing and services will not be renewed.**
b) **In place of the FRCs, when detention or ATDs are necessary, ICE should pursue placements in small, licensed group homes and evidence-based community supervision programs.**
c) **If larger facilities must be used, they should nonetheless be small, in order to facilitate a sense of safety and well-being, and should have ample space to separate one function from another (e.g., sleeping areas from recreational areas). Facility design and construction should provide ample natural light and fresh air, ready access to the outdoors, and building materials similar to those used in residential settings (not cinder block or industrial-sized porcelain tiles on the walls). Furnishings should be family-friendly as well; for example, using fabric and wood rather than plastic or metal and including privacy-protective window treatments.**
d) **Available placements should be sufficient in number, operated by non-criminal-justice subject matter experts, and located nearby population centers with ample access to legal counsel, public transportation, access to emergency health care, and a diverse and qualified workforce.**

Recommendation 2-14: Ideally, DHS should separate enforcement and custodial/supervision functions from one another within ICE, with ERO focusing exclusively on enforcement and a new division focusing exclusively on envisioning and executing a system of temporary non-secure housing and supervision strategies specifically tailored to the objectively assessed needs and risks presented by migrant individuals and families. ICE should acquire the expertise to perform custodial/supervision functions itself, or those functions should be

assigned to another governmental entity that is appropriately expert in non-criminal population welfare and services.

B. Detention Management

1. Normalization

Recommendation 2-15: ICE should realign its core operating assumptions and expectations – as expressed in its rules and regulations, existing and future contracts and memoranda of understanding, and current Family Residential Standards – with the individuals actually in its custody and under its supervision, who are neither criminal defendants nor sentenced inmates within a criminal justice system.

Recommendation 2-16: ICE should work with NGOs and other entities and experts with experience in child welfare to significantly modify the Family Residential Standards, eliminating all of the components of the FRCs that are characteristic of prisons and jails, normalizing to the greatest extent possible families' time both in detention and under ICE supervision in the community. The approach taken should be trauma-informed, and follow principles outlined by SAMHSA. The many facets of ICE's care, custody and control warranting substantive modification include: counts and bed checks, the daily schedule, rules governing grooming and personal appearance and other activities of daily living, housing/bed assignments, access to immediate family members and to others, and the addition of a Family Bill of Rights. Additional attention must be given to other key areas discussed at length in this Report, notably access to legal counsel; language access; health, mental health and trauma informed care; and free and appropriate education services.

Recommendation 2-17: For situations in which families must be detained, detention rules and practices should be normalized in at least the following ways:

a) **Counts and Bed Checks: Both parents and children need their sleep. All bed checks should stop immediately. If there is a bed check to be made, it should be by children's parents, if they feel one is necessary. ICE should develop means to account for and ensure the safety of everyone in its care that do not involve entering rooms at night when parents and/or children are sleeping.**
b) **Daily Schedule: The prototypical institution schedule should be eliminated. In its place, "wake-up" and "lights-out" as well as the meal service schedule should be determined by parents. A flexible sleep schedule would help to demarcate weekends and holidays from weekdays and school days, and reduce idleness. Getting up early with no place to go makes little sense, and adds to the feeling of helplessness that so many in the population expressed.**
c) **Food Service: The menu has been a significant source of concern for parents detained in the FRCs; many of them have worried about their children's weight loss. ICE should adopt alternative means of planning and preparing meals with the active participation of parents, affording them opportunity to prepare breakfast and lunch with staples kept at the ready and to modify dinner with seasonings, sauces, and fresh fruits and vegetables that are familiar to them. Healthy snacks, water, and juice should be made available to parents and their children 24 hours per day.**

d) **Grooming and Personal Appearance: As much as possible, ICE should afford families in detention unencumbered access to personal property, toiletries and shaving supplies, their own clothes (or new garments but not used clothes, used undergarments and used shoes) and their children's toys and books, laundry soap, mending kits, ironing boards and irons, and haircuts as often as needed. Children should be allowed to keep toys, stuffed animals and other property in their living space and to hang artwork and other decorations on the walls.**
e) **Other Activities of Daily Living: ICE should provide parents opportunities to launder/tailor the family's clothes, tend a garden that they control, and assign their children household responsibilities as appropriate. Both parents and older children should be offered opportunities to perform meaningful work for wages and hours set by the U.S. Department of Labor. Subminimum wages should be prohibited.**
f) **Housing/Bed Assignments: ICE should modify and deinstitutionalize FRC sleeping quarters by housing family members together in private rooms with attached bathrooms; and using privacy panels, or hanging curtains or doors, in the restrooms, bedrooms and changing areas.**
g) **Family Bill of Rights: Intact families' parental decisions and authority should not be subordinated by ICE rules and contractor practices. ICE should develop a Family Bill of Rights that ensures the protection of a detained or supervised parent's fundamental right to make decisions about the care of his or her child, while protecting children from abuse and neglect.**
h) **Access to Immediate Family Members: ICE should ensure families in detention have reliable, routine, and affordable access in person and by phone, email, and mail, to their family members, whether those family members reside in the U.S. and elsewhere, and whether the family members are detained in another ICE facility, supervised by ICE in the community, or in the custody of ORR or the child welfare system. ICE should afford any indigent detainees ready access to phone calls and email to facilitate meaningful contact with family members.**
i) **Access to Others: Families in detention require contact with many individuals who are not their relatives and with government agencies – for example, former and prospective employers, consulates, victim-advocacy programs, and child welfare agencies – to manage their affairs prior to their release or removal and in anticipation of the release or removal. ICE should ensure families in detention have reliable, routine, and affordable access to community resources, by phone, email, and mail, as well as by contact visits.**

Recommendation 2-18:

a) **ICE should develop and implement a consistent policy for caring for children who are temporarily out of the care of their parents. All details of this policy should be developed by child and family welfare experts and with the input of counsel who have expertise in FRC detainee representation. Each FRC should employ a qualified child welfare coordinator with designated responsibility for overseeing implementation of this policy.**
b) **Any child who is out of the care of his or her parent should be supervised and cared for by a staff member with child welfare expertise. At no time should ICE or contractor personnel use the threat of family separation or actual family separation to**

discipline or retaliate against a parent or child. In every case where they have the mental and physical capacity to communicate a choice, parents should have a choice as to what happens with their child in their absence. In any case where circumstances indicate that the parent will be unavailable to care for their child for more than 72 hours the parent should be consulted regarding options including reunifying the child with family members or sponsors in the community, or ORR custody as an unaccompanied child.

c) **Decisions regarding separation because of abuse or neglect should be made by a child/family welfare professional only. ICE personnel and contractors should immediately report any suspected maltreatment of a child – whether by a parent, ICE personnel or contractor staff – to the relevant jurisdiction's child welfare agency, consistent with obligations under state and federal law. In any case in which a child is separated from a parent due to accusations of abuse or neglect, the child should be provided with an advocate or legal counsel, and the parent should have the right to an attorney or advocate to assist him or her.**

2. **Building a Culture of Safety**

Recommendation 2-19: ICE should provide both an orientation and a handbook that is easy to understand, communicated in a manner that it is accessible to detainees, highly likely to meet the informational needs of detained families, and encourages questions and conversations between detainees and FRC and ICE staff.

Recommendation 2-20: ICE and the FRCS should employ and assign both line staff and supervisors whose skills, languages, education and training, and prior employment and work histories are compatible with the needs of detainee families, and should ensure that staff receive pre-service and ongoing in-service instruction in meeting the needs of protection-seeker children and families that is sufficiently in-depth and of adequate duration for personnel to perform their duties with proficiency. ICE should designate a child welfare coordinator with expertise in working with traumatized children and families at each FRC to oversee implementation of a child-friendly service model and provide ongoing training of staff.

Recommendation 2-21: ICE should comply in both letter and spirit with the concept of operating only non-secure and fully credentialed facilities for families; FRCs should be licensed as child care facilities by the appropriate state regulatory agencies.

Recommendation 2-22: DHS and ICE should comply in full with federal laws and regulations that impact the conditions of families' detention. They should not expend efforts to secure exemptions; instead, DHS and its agencies should lead by example. In all residential custodial settings – including those that are community-based – ICE should ensure compliance in full with PREA and the DHS PREA regulation. ICE should ensure that individuals who are victims of sexual abuse or assault are not transferred away from legal counsel without their explicit consent and that victims are advised of and assessed for potential U visa eligibility.

C. Accountability

1. Roles and Responsibilities of Government Actors

Recommendation 2-23: To realize better outcomes at less cost, ICE should become more proactive and less reactive. ICE should engage in ongoing strategic planning, eliciting feedback from within the agency and input by its stakeholders, publishing a five-year strategic plan and updating it annually. The focus of this process should be on expanding the use of release and alternatives to detention, housing those families who are detained in group home settings near urban areas, and ensuring that contractors and their personnel are appropriately suited to the families in its custody.

2. Roles and Responsibilities of Public and Private Sector Contractors

Recommendation 2-24: ICE should not delegate substantive decision-making to its contractors, since it is ICE that is ultimately responsible for the safety and well-being of those in its custody. ICE should ensure that all FRCs operate consistently and in compliance with policy and this Report's recommendations, which should support positive outcomes for detainees. ICE should raise FRC standards and then hold FRCs accountable to them. The strategic planning process is a credible process by which to begin to accomplish this work but meaningful monitoring, oversight and accountability measures are also critical.

Recommendation 2-25: Reforms adopted by ICE at the beginning of the Obama Administration – in particular, adding on-site oversight and deploying Office of Detention Oversight teams to its largest facilities – have not yielded optimal outcomes; they should be revisited and revised. Other proposals were not implemented, including creation of in-house expertise relating to the care and custody of families, to oversee reform. This should be pursued immediately and in earnest.

3. Transparency: Government's Core Commitment to Good Governance

Recommendation 2-26: ICE should manifest its commitment to detention reform by making the most of every opportunity to improve transparency and accountability. ICE should publish on the internet FRC policies and performance measures, and quarterly accountability reporting results. ICE should consider improving transparency and accountability by publishing its contracts and MOUs (suitably redacted if need be) and corresponding audits and evaluations.

3. ACCESS TO COUNSEL

A. Overarching Recommendations

Recommendation 3-1: DHS should develop, implement and train staff to operate on the principle that it is best – for detainees and for the efficiency of the system as a whole – for detainees to consult with an attorney before making any significant decisions about their case, the conditions of custody, or the conditions of release from custody. Staff should consistently inform detainees of their right to speak with counsel and provide access to counsel whenever detainees invoke that right. Rather than waiting for detainees to

affirmatively request an opportunity to speak with an attorney, detainees should be offered affirmatively the opportunity to consult with an attorney (in person, over the phone or by video conferencing) before making any decisions about their case, conditions of custody, or conditions of release. ICE staff and USCIS Asylum Officers should be directed not simply to ask detainees whether they want an attorney or whether they think they need one, when detainees might not know how an attorney could help, and may not be aware that an attorney will maintain confidentiality, or that the attorney may provide free services. DHS and USCIS should also inform detainees of their right to representation, and what that representation entails, and that counsel (independent from the government) are on-site and available to meet with them prior to any government interviews.

Recommendation 3-2: Before any detainee appears for a credible fear interview, reasonable fear interview or bond hearing, DHS should confirm that the detainee has received a "Know Your Rights" or "Legal Orientation Presentation" and has had an opportunity to meet with an attorney. If the detainee has not secured counsel she should be provided an opportunity to do so unless she affirmatively states a preference to proceed without counsel. In all cases in which the desire for counsel has been expressed, DHS should take all possible steps to ensure that the individual has an attorney without undo delay, before proceeding with /any decisions that could result in removal.

Recommendation 3-3: Legal services organizations and other attorney groups (authorized in advance by DHS or DOJ) who provide pro bono counseling and representation to detainees should be given a daily census of all detainees with information that protects individuals' privacy but allows attorneys to prioritize cases for pro bono consultation. The census should include the age and gender of the adult family member, date of arrival, country of origin, the ages and number of children detained with the parent, primary (or preferred) language and, importantly, the date(s) of credible or reasonable fear interviews or any other scheduled hearing for any member of the family—and a numerical indicator that will allow DHS to notify the detainee if the attorney or legal services organization wishes to schedule a meeting. DHS can establish procedures to limit the number of attorney groups and legal services organizations who receive this information, protect confidential information, and require the legal services organizations and attorney groups to prevent further disclosure.

Recommendation 3-4: Detention facilities should not be located more than 30 minutes from major metropolitan areas with immigration courts to increase access to counsel (NGO counsel, pro bono counsel, paid counsel) and should be designed to ensure in-person appearances before immigration judges, USCIS officials and other government officials, which will result in more just and efficient adjudication of cases.

Recommendation 3-5: DHS should ensure that children who wish to speak with an attorney, or whose parents wish for them to speak with an attorney, know about their right to access counsel and have the ability to meet with counsel. This would require DHS to contract with legal services providers with experience representing and working with children to create and provide developmentally appropriate "Know Your Rights" presentations; and to provide time and child-appropriate space for attorneys to meet privately with children.

Recommendation 3-6: In order to ensure that families—parents and children—have a fair opportunity to present claims for relief as they transition into communities, enroll children in

school, seek help for medical and mental health concerns and obtain other services, ICE's Office of Chief Counsel (responsible for representing the government in removal proceedings) should not:

a) **oppose requests for continuances submitted by counsel for families previously detained in FRCs, given the challenges of preparing their legal case;**
b) **seek *in absentia* removal orders the first time a family previously detained in an FRC fails to appear at immigration court, but instead asks that the court reschedule/reset and send notice to the last known address; and**
c) **oppose motions to reopen filed by post-release families, whether represented or *pro se*, when they do appear in court after a prior *in absentia* removal order.**

B. Meeting and Communicating with Counsel

1. Meeting with Counsel

Recommendation 3-7: Detention facilities should allow attorney teams (attorneys and supporting professionals including law students, paralegals, interpreters and experts) maximum access and flexibility in meeting and speaking with detained persons and advising or representing them in proceedings that take place while the person is detained.

Recommendation 3-8: Visitation policies at each facility – including but not limited to visiting hours, technology permitted in counsel visitation rooms, and child care provided during attorney-client meetings – should remain consistent. Frequent changes undermine counseling and representation and may deny notice to attorneys and their support staff and to the detainees and their families for timely attorney-client meetings to take place. Signs and posters to this effect, in different languages, should be posted in housing units, cafeterias, recreational areas, and law libraries.

Recommendation 3-9: FRC handbooks, manuals and policies should be amended to clearly state that detainees – including the children of parents detained at the facility – have the right to meet with an attorney at any time the attorney is available within facility visiting hours, and to contact their attorney by telephone at any time; detainees should not be precluded from meeting with or calling an attorney because they failed to make an advance request.

Recommendation 3-10: Legal services organizations should not be required to identify particular detainees with whom they desire to meet before arriving at the facility, in order to provide free legal consultations and/or legal representation. Specifically, they should be able to establish "drop in" hours or meet with prospective or retained clients on an as-needed basis and detainees should be able to request a same-day meeting with a member of an attorney team and should be informed and encouraged to seek legal advice as available.

Recommendation 3-11: ICE should use available technology (such as pagers) to allow detainees who wish to meet with an attorney to sign up and then continue with their daily activities until an attorney is available. ICE should implement or facilitate video conferencing technology for detainees to consult with counsel and other independent experts.

Recommendation 3-12: Detainees should be able to prioritize meetings with counsel over nearly all other "activities" while in custody. Detainees should never be discouraged from meeting with counsel or members of the legal team (including experts) because they might miss a planned activity, meal or (for children) even school, or because the meetings increase demands on child care providers within the facility.

2. **Care of Children During Attorney-Client Meetings**

Recommendation 3-13: ICE should design spaces for counsel to meet with parents from which parents can see their children in an open, shared play space (rather than closed-off or separate rooms where children have only enough space to watch TV) so that they can focus on communicating with their attorneys knowing exactly where their children are.

Recommendation 3-14: Child care hours should be extended to match hours when parents can meet with attorney teams, for parents who wish to use child care during this time. ICE should provide sufficient day care space and staffing to allow all parents who wish to meet with counsel outside the presence of their children to do so.

3. **Location of Attorney-Client Meetings**

Recommendation 3-15: ICE should immediately re-design or re-organize space within each FRC to increase and ensure sufficient private, sound-proof spaces for detainees to meet with attorney teams, both in small groups and individually. Detainees need to meet with counsel prior to and in preparation for each proceeding or interview at which the detainee is scheduled to appear related to the detainee's immigration case or any other proceeding in which the detainee is involved. Reorganization of space should be undertaken in consultation with attorney teams and considering data including the number of detainees in the facility, the average length of stay, the number of interviews or proceedings per detainee (each of which requires different consultation with counsel). Committee members requested much of this data but were denied the information.

4. **Ensuring Attorney Teams Can Function in their Role as Counsel**

Recommendation 3-16: Facilities should establish clear, consistent policies permitting attorney teams to bring food and drink into the facility and/or (if they choose) to leave the facility for meals and return later in the day. Attorneys and detainees should be able to eat and drink during meetings, and to use the bathrooms as needed during meetings, without having to terminate meetings.

Recommendation 3-17: Attorney teams should be permitted to bring and easily access cell phones, laptops, printers, scanners and wireless internet connections in designated spaces while meeting with detainees. This technology should be available in the same space in which attorneys are meeting with detainees.

Recommendation 3-18: ICE should develop a simple form by which detainees in any facility can request copies of any document from their file including documents the individuals had with them at the time of apprehension, unless the record requires a Health Insurance Portability and Accountability Act (HIPAA)-compliant release, and which permits release of

the document to both the detainee and the detainee's attorney team. This form should be consistent across facilities and be translated consistent with the recommendations in Part 5.

Recommendation 3-19: ICE should make available a HIPAA-compliant release form that detainees could sign while in the facility and should implement procedures that ensure that information covered by HIPAA is released by the FRC to the person designated by the detainee (including members of their legal team) within one business day after receipt of a the HIPAA-complaint release, unless the individual indicates a more immediate need for the information (such as a hearing). Providing counsel access to medical, dental, and mental health records is part of a trauma-informed approach. The information can both strengthen the legal cases and also provide background essential to counsel's ability to offer trauma-informed representation to the trauma victim.

C. Counsel's Role in Decisions Critical to Detainees' Safety and Right to Due Process

Recommendation 3-20: DHS policy and facility design should allow attorneys to be present with detainees during interviews with Asylum Officers or any other immigration officials and any disciplinary hearing or action regarding the detainee or the detainee's child.

Recommendation 3-21:

a) **ICE should avoid transferring detainees among FRCs and should transfer detainees only if the detainees grant informed consent. Instead, ICE generally should release detainees if they cannot remain at the FRC where they were first retained.**
b) **Criteria for transfers should be transparent and communicated to the public in general.**
c) **ICE should communicate the reason for any proposed transfer to the detainee and her counsel.**
d) **If a detainee must be transferred, ICE should never move a detainee from one ICE detention facility to another without providing notice to the detainee and her counsel, and without providing an opportunity for the detainee's counsel to respond to proposed relocation.**

Recommendation 3-22: If ICE meets with detainees in groups to advise them about immigration processes, ICE should allow the presence and partipation of pro bono counsel. Detainees presented with a release alternative or conditions of release should be informed that they can consult with an attorney while making decisions, and given phone access to attorneys during this process. A detainee's decision to consult with an attorney should not delay her release more than the time such consultation takes.

Recommendation 3-23: ICE should never deport a detainee while the detainee's case is in progress – in particular, but not limited to, if a detainee has filed a request for reconsideration of a claim, or has any pending petition for review before a federal court, or any pending VAWA, T or U visa case. Whenever a detainee – adult or child – has a hearing before any court, administrative body, or immigration official, ICE personnel should be required to transport the detainee to that hearing in a timely manner. If a detainee has a

pending civil rights complaint, the office investigating that complaint should have a full opportunity to interview the detainee and, if it so chooses, to delay deportation.

D. Counsel's Role in Decisions to Separate Children from Parents

Recommendation 3-24: ICE should never separate a parent from a child without providing notice to the parent, the child, and the parent's and the child's counsel (absent extreme emergencies), and an opportunity for the parent, child, the parent's counsel and the child's counsel to appear before and make arguments to the ICE official making the decision. If the basis for the separation is a concern about the detained parent's failure to care for, or maltreatment of, the child, the matter should be referred to local child welfare authorities for investigation before the parent and child are separated (absent an imminent threat to the child's safety or well-being, which should result in the child's separation from the parent but remaining within the facility). Referral to the local child welfare authorities and a review of the decision to separate and reunification if appropriate pending further investigation should occur within the time required under state law for reports and investigations of child abuse or neglect. This will help ensure that the right afforded all parents to the care and custody of their child, regardless of immigration status, are protected.

Recommendation 3-25: Threats of or actual separation of a parent and child should never be used as punishment or retaliation for exercising rights, nor as a means of discouraging the exercise of rights.

Recommendation 3-26: If ICE intends to separate a parent and child because of concerns regarding the legal relationship between the parent and child, and renders the child an unaccompanied minor pursuant to 6 U.S.C. § 1279(g), ICE should provide meaningful notice (at least 48 hours) to the parent, child and parent's and child's counsel and an opportunity for the parent, child, the parent's counsel and the child's counsel to appear before and make arguments to the ICE official making the decision, prior to transferring the child to the Office of Refugee Resettlement (ORR) custody.

Recommendation 3-27: In exceptional cases in which DHS separates a parent and child, renders the child unaccompanied, and transfers the child to the custody of the Office of Refugee Resettlement, the agency should submit a concurrent referral for the appointment of an independent Child Advocate pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA).

E. Meaningful Access to a Law Library

Recommendation 3-28: Detainees should be informed of the law library and the legal resources available for assistance in their asylum applications during the intake process and throughout their time in detention. Posters or other easily-observed notices informing residence of the law library should be posted in common areas throughout the facility, including near monitors showing the Know Your Rights video. Such notices should include the following:

a) that a law library is available;
b) the hours of the law library;
c) that no permission is needed to access the law library;

d) that the law library has the legal materials listed below;
e) the procedure for requesting materials not available in the law library;
f) that the law library has the equipment (e.g., computers) listed below;
g) that materials reviewed or prepared by detainees will not be read by facility staff; and
h) that the detainee may be accompanied by counsel in the law library.

Recommendation 3-29: FRC law libraries should be open 7 days per week, from 8 am to 8 pm. Detainees' use of the law library should not be restricted by time (i.e., length of usage), unless crowded conditions require restricting access. Detainees' use of the law library should not be restricted or denied due to any violation of facility rules, by adult residents or children, nor by medical condition, unless required by a compelling medical concern. Detainees facing a legal deadline should have priority in accessing the law library. Supervision of detainees using the law library should not include reading any of their materials.

Recommendation 3-30: All FRC law libraries should be supplied with materials necessary for effective education, research and advocacy by detainees, including:

a) pamphlets or similarly portable hard-copy publications providing basic legal information about the asylum process, and other related forms of relief, such as withholding and protection under the Convention against Torture under United States law in Spanish and other languages used by facility detainees;
b) all of the materials listed in Attachment A to the *Karnes City Residential Policy and Procedure Manual, Part 6: Justice*; and
c) contact information for pro bono asylum/immigration services in the locality or region where the detainee indicates she will reside after release.

Lost or damaged legal materials should be replaced as soon as practicable.

Recommendation 3-31: All FRC law libraries should include the following equipment:

a) access to electronic legal research products (e.g., Westlaw or LexisNexis);
b) computers
c) printers;
d) copier(s);
e) scanner(s);
f) writing utensils (pens, pencils); and
g) paper.

This equipment should not be restricted to legal research and work product, but should be allowed to be used to prepare or copy grievances, letters regarding facility conditions, or any matter relating to immigration, asylum and other forms of relief, release or the care and custody of children. Upon request, detainees should be provided with a means of saving legal research and/or work product in a convenient electronic format (e.g., thumb drive or flash drive).

Recommendation 3-32: Detainees should be allowed to email documents, including scanned and original documents. Indigent detainees should be provided with free envelopes and stamps for mail relating to legal matters, including correspondence with counsel (or in search of counsel), and any court.

Recommendation 3-33: ICE should designate a staff member or members to regularly to inspect each FRC law library equipment and legal materials. Legal materials should be regularly updated; staff should check to determine whether updates are available no less than annually.

Recommendation 3-34: FRC law libraries should be available to pro bono counsel, to facilitate provision of legal services to detainees without requiring unnecessary repeat visits. The use of an FRC law library should be sufficient justification for her a detainee to request and receive monitored, short-term care for her children.

Recommendation 3-35: FRC libraries should prominently display and provide, in English and Spanish, copies of the USCIS-produced brochure on VAWA, T and U visa and SIJS immigration relief. Detainees who are illiterate or whose primary language is one other than a language in which the brochures are translated should be able to receive information about these forms of crime victims related immigration relief though interpretation into their primary language.

Recommendation 3-36: ICE and the FRCs should accept published or unpublished legal materials from outside persons or organizations for inclusion in each FRC law library and/or distribution to detainees. Any such materials should identify on the cover: (1) the identity of the author; (2) a statement that ICE did not prepare and is not responsible for the content of the publication; and (3) the date of submission to the facility. The facility should forward the material to ICE for review and approval. If approval is declined, the author or person/entity responsible for its submission should be informed of the reason(s) for its being declined.

F. Access to Information Specific to Crime and Trauma Victims

Recommendation 3-37: FRCs should organize and offer informational group sessions that explicitly provide information about domestic violence, sexual assault, and human trafficking and should provide information about VAWA self-petitioning, VAWA cancellation of removal, U visa and T visa immigration relief, and SIJS immigration relief. Ensuring delivery of this service should be among the responsibilities of the Trauma Informed Care Coordinator working at each FRC.

Recommendation 3-38: FRCs should provide each detained family with a copy of the following USCIS brochures, which should be distributed at legal orientation programs, by Trauma Informed Care Coordinators, and again to each detainee upon release from detention:

a) **"Immigration Options for Victims of Crimes" at intake and upon release. The brochure should be provided in the detainee's primary language.**
b) **Pamphlet for K-1, K-3, IR-1/CR-1, and F2A Immigrant Visa Applicants under the International Marriage Broker Regulation Act (IMBRA). This pamphlet is available in various languages on the State Department website. The IMBRA pamphlet should be readily available at all FRCs and distributed to detainees.**
c) **"Special Immigrant Juvenile Status: Information for Child Welfare Workers" should be translated into Spanish and should be provided at intake and upon release to all FRC detainees.**

4. EDUCATION SERVICES AND PROGRAMS

Recommendation 4-1: ICE should review and revise its FRC standards for education to add needed detail about the expected content and quality of the education services and programs and to align with the Committee's education recommendations. To inform new education standards that specify best practices, ICE should also elicit input from a panel of education advisors with expertise in the following fields: child care; pre-kindergarten education; K-12 curriculum, instruction, and assessment; newcomer students and English language learners; interrupted schooling, dropout prevention, parent engagement, adult learners (including parents), and trauma-informed classroom practices.

A. Early Childhood Education

1. Access to Child Care

Recommendation 4-2: Infant and toddler child care should be:

a) **provided at all FRCs (currently, Berks does not offer an official structured child care program); and**
b) **available to parents for any reason, and not restricted to times when parents are engaged in legal or medical-related business.**

Recommendation 4-3: FRC child care programs should be accessible and expanded programmatically to be age appropriate for children under the age of 13 when not in school, and available upon request from parents, regardless of whether they are attending to legal- or medical-related business. Currently, child care programs are only for infants and toddlers. FRCs do not permit children to be separated from their parents until age 13, yet there are no supervised care options for these children.

2. Child Care and Pre-Kindergarten Programming

Recommendation 4-4: Pre-kindergarten teachers and infant and toddler caregivers should:

a) **create learning environments and provide age- and developmentally-appropriate art, music, play, and literature activities to engage young children who may be unfamiliar with out-of-home care or a formal education program;**
b) **routinely incorporate parents in play and learning activities when parents want to participate; and**
c) **encourage parents to participate in programming as much as they want in order to help their child, especially at the onset, adjust to separating from them while in child care or pre-kindergarten.**

Recommendation 4-5: The FRC pre-kindergarten and child care programs should follow the best practices guidelines for media use (e.g., watching television, using a tablet or computer) by young children set by the American Academy of Pediatrics and endorsed by the Mayo Clinic. The guidelines discourage media use by children younger than age 2 and limiting older children's screen time to no more than two hours daily. However, this should not

infringe on a parent's right to make independent choices regarding media use for their children when in their care.

Recommendation 4-6: Pre-kindergarten teachers and infant and toddler caregivers should update parents informally about their children's activities and skills during daily drop off and pick up times. Formal progress reports should be issued weekly, like at Dilley, and not every six weeks, which is the current practice at Karnes, resulting in the likelihood of families with shorter detention stays not receiving formal reports. Progress reports should be reviewed with parents in a language they understand well (ideally in their primary language).

Recommendation 4-7: Pre-kindergarten teachers and infant and toddler caregivers should understand:

a) **the value of acknowledging and reinforcing cultural and family strengths;**
b) **the way stress, trauma, and coping affect infant and toddler adjustment to the detention environment;**
c) **the way stress, trauma, and coping affect parenting in the detention environment; and**
d) **that parents' cultural values or lack of formal education do not invalidate good parenting skills, but that they may need additional information to orient them to U.S. parenting norms.**

Recommendation 4-8: Pre-kindergarten teachers and infant and toddler caregivers should have the training and skills to encourage learning and good behavior. Practices that grant or deny young children food or playtime as rewards or punishments should be prohibited.

3. **Program Quality**

Recommendation 4-9: Pre-kindergarten teachers and infant and toddler caregivers should be bilingual in Spanish or another language frequently spoken at the FRCs and should be credentialed in early childhood education.

Recommendation 4-10: Pre-kindergarten teachers and infant and toddler caregivers should be monitored by:

a) **a contractor representative with pre-kindergarten content expertise, using multiple monitoring techniques: unscheduled weekly walkthroughs, scheduled quarterly observations, and mid-year and end-year performance reviews with feedback and professional development support for corrective action; and**
b) **a qualified independent, impartial oversight authority annually for contract compliance and for quality, and all monitoring reports should be submitted directly to ICE and available to the public.**

4. **Pre-Kindergarten Preparation and School Readiness**

Recommendation 4-11: Since learning one language does not impair the ability to learn a second language in the long run, pre-kindergarten teachers should partner with parents to promote dual language learning. For example, pre-kindergarten teachers should encourage retention of children's primary language at the same time children are learning English.

Recommendation 4-12: Pre-kindergarten teachers should encourage young children to use trial-and-error speech in both their primary language and in English.

Recommendation 4-13: Pre-kindergarten teachers should continue to base their curriculum on their respective state's early childhood education standards and guidelines, and should teach:

a) **pre-literacy skills through interactive storybook reading;**
b) **mathematical knowledge and skills through exposure to number words, names of shapes and sizes, and comparison of quantities;**
c) **science literacy through interaction with the natural world. (For example, water and earth; hot and cold; motion and gravity; liquids and solids; living and inanimate objects; and day and night);**
d) **cultural and self-expression through music, art, movement, and play in activities;**
e) **learning readiness skills: waiting, sitting, attending to others and materials, changing responses based on prompts, following individual instructions, and following group instructions; and**
f) **young children how to draw pictures of themselves and write their names.**

Recommendation 4-14: Pre-kindergarten teachers should allow young children to participate in activities silently or as quiet observers since apprehension is normal for those inexperienced with out-of-home care or early education programs and for those who experienced trauma or are adjusting to disorienting circumstances.

Recommendation 4-15: Pre-kindergarten teachers should label bulletin boards, toys, and educational materials with visual icons and in English, Spanish, and other languages frequently spoken at FRCs.

Recommendation 4-16: Pre-kindergarten teachers should assess young children using a validated kindergarten readiness indicators checklist that minimally assesses: expressive and receptive language, approaches to learning and cognition, phonological awareness and print knowledge, mathematics, social-emotional learning, physical development, and self-care. An example of a best practices readiness checklist is developed by the National Center for Learning Disabilities.

Recommendation 4-17: Pre-kindergarten teachers should prepare an early learning passport for each child transitioning from FRCs to kindergarten in U.S. schools. This best practice is a folder that contains information about a young child's skills and development, including assessment results and work samples to share with prospective teachers.

5. **Early Childhood Development**

Recommendation 4-18: Pre-kindergarten and infant and toddler child-care activities should foster young children reaching normative developmental milestones at certain ages regarding how they play, learn, speak, behave, and move. The FRCs should use the best practices checklist of the Centers for Disease Control and Prevention on developmental milestones from birth through age 5 and the best practices formative assessment of developmental milestones, the *Desired Results Developmental Profile: A Developmental*

***Continuum from Early Infancy to Kindergarten Entry*, produced by the California Department of Education.**

Recommendation 4-19: Young children with special education or special health needs should be included in all infant and toddler child-care and pre-kindergarten activities to the extent possible.

Recommendation 4-20: Young children should have safe, structured, and age-appropriate opportunities to play daily.

B. K-12 School Location and Schedule

Recommendation 4-21:

a) **The FRCs should allow K-12 students who are detained for over a month to receive educational services in the community, with the child's and the parent's informed consent and when it is in the child's best interest. FRCs should assist parents to understand the available services at the FRCs and in the community, and should facilitate parental participation in the child's education in the community.**
b) **FRC schools should operate on a year-round, full-day schedule. If limitations to expansion from a half-day schedule are due to classroom capacity or the number of teachers, then the library or other buildings should be utilized and additional staff hired.**

C. K-12 Curriculum and Instruction

1. Qualified Staff

Recommendation 4-22: FRC schools should continue to only hire credentialed teachers who are bilingual in English and Spanish or another language frequently spoken at the FRCs and who are credentialed in bilingual education or in English as a Second Language (ESL), and staffing at each facility should include at least one credentialed special education teacher.

2. Curriculum

Recommendation 4-23: FRC schools should continue to provide a self-paced curriculum adapted to student skill and knowledge levels.

Recommendation 4-24: For the first month in detention, FRC schools should provide students with grade-level proficiency in the core content areas (e.g., language arts, math, science, social studies) an English language learning and literacy development curriculum that integrates content-based teaching.

Recommendation 4-25: After students have been in detention for one month, FRC schools should provide students with grade-level proficiency in the core content areas (i.e., language arts, math, science, social studies) a standards-based curriculum that fully integrates English language learning and preparation to transition at grade level to U.S. schools in post-release communities.

Recommendation 4-26: For students with below grade-level proficiency in the core content areas (e.g., language arts, math, science, social studies), or with histories of interrupted schooling in their country of origin, FRC schools should use an English language learning and literacy development curriculum that integrates content-based teaching.

Recommendation 4-27: Teachers should develop and use a curriculum that:

- **a) integrates the content and instructional approaches in best practice curricula such as Do the Math, Math Upgrade, Math Pathways and Pitfalls, Language Central for Math, ST Math, MasterPieces, Step Up to Writing, WriteToLearn, and WRiTE BRAiN BOOKS, Fast ForWord, and Reading Apprenticeship;**
- **b) emphasizes 21st century learning skills:**
  - **i. critical thinking (e.g., analyzing, classifying, explaining);**
  - **ii. creative thinking (e.g., brainstorming, designing, imagining, questioning);**
  - **iii. communicating (e.g., analyzing the situation, evaluating messages, following conventions, listening actively); and**
  - **iv. collaborating (e.g., goal setting, delegating, managing time, resolving conflict);**
- **c) focuses on the components of reading (i.e., phonemic awareness, phonics, fluency, vocabulary, and text comprehension) and increasingly unifies instruction in English language and the core content areas;**
- **d) explores in-depth real-world issues (e.g., communities, migration, ecosystems, climate, use of energy) thematically across the core content areas;**
- **e) integrates learning readiness skills for transitioning to U.S. schools in post-release communities. For example:**
  - **i. developing an identity as a student (e.g., knowing strengths, interests, and learning styles);**
  - **ii. understanding classroom routines (e.g., daily attendance, completion of homework and assignments);**
  - **iii. engaging in learning (e.g., participating, asking questions, learning from mistakes, taking academic risks, persevering); and**
  - **iv. basic school study skills (currently, Dilley is the only FRC that reports integrating learning readiness skills across the curriculum); and**
- **f) Incorporates student interests, strengths, cultures, and self-expression.**

Recommendation 4-28: FRC curriculum should be offered as "mini-lessons" so that students can experience completion and mastery of parts of lessons if their detention stay is short in duration. This can include experiential learning such as field trips outside of FRCs or project-based activities that can be completed in short time frames such as composing music in GarageBand, building small robots, conducting science experiments, and gardening.

Recommendation 4-29: FRC schools should include safe, structured, and age-appropriate opportunities to play daily. This includes offering inclusive team games, developing basic sports skills, teaching fitness principles, and modeling fair play.

3. Instruction

Recommendation 4-30: Teachers should consistently use instructional practices that education experts widely agree hold promise or have high-levels of effectiveness such as:

a) **using mastery learning instructional techniques so all students can achieve the same level of learning, including advanced organizers, guided practice, modeling, nonlinguistic representations such as symbols and physical models to convey information, teaching to learning objectives, and providing feedback and corrective strategies to students;**
b) **providing ample wait time for students to respond to instructions or questions to ensure adequate time to process new content and information in a new language;**
c) **modeling effective learning to read instructional techniques: previewing text, visualizing the story, asking questions, predicting what will happen, inferring from cues, making connections to other texts or the real world, summarizing, and discussing what was liked or disliked in the text;**
d) **incorporating extensive oral language development in literacy instruction;**
e) **encouraging students to explore the meaning of their ideas by practicing language skills. For example, instruction should use open-ended questions, asking students to elaborate on their ideas using additional descriptors and more complex language to summarize or explain what they understood; and**
f) **directly teaching math vocabulary and using drawings, diagrams, graphs and other visual aids to help English language learner students develop math concepts and understanding.**

Recommendation 4-31: Teachers should focus their instruction on growth, not ability. For example, teachers should communicate high expectations for learning and performing and a belief in the ability of students to grow and improve, routinely providing students with opportunities to relearn content, revise work, and re-take tests.

Recommendation 4-32: Teachers should explicitly teach students study skills across the curriculum.

4. **English Language Instruction**

Recommendation 4-33: Teachers should use instructional approaches that have a record of success with English language learners with limited and/or interrupted formal education. The Sheltered Instruction Observation Protocol (SIOP) Model is a set of best instructional practices for designing and delivering lessons for English language learners. Currently, Dilley is the only FRC that reports using SIOP.

Recommendation 4-34: Teachers should use a wide variety of instructional strategies to develop language and literacy in both a student's primary language and in English. Examples of best practices include:

a) **instruction that incorporates English language and literacy development (e.g., listening, speaking, reading, and writing) across the core content areas (e.g., language arts, math, science, social studies);**
b) **for students without basic literacy skills, literacy instruction that focuses on the fundamentals such as the alphabet, vowel and letter sounds, phonemic awareness, phonics, and syllables. Using wordless picture books can also promote vocabulary, speaking, and writing;**

c) **for students with basic literacy skills, literacy instruction that incorporates chanting vocabulary words, guided reading groups, choral reading, interactive read-alouds, echo reading, and silent, independent reading;**
d) **instruction that incorporates academic English such as vocabulary, word parts, grammar, punctuation, syntax, discipline-specific terminology, and rhetorical conventions;**
e) **instruction that incorporates sheltered English-language instruction techniques such as the use of gestures; graphics, maps, and other visuals; collaborative learning activities, demonstrations, and other interactive instructional tools such as the SMARTBoard, videos, and manipulatives;**
f) **instruction that routinely uses online dictionary features that in addition to definitions include images, audio pronunciation, and related words. An example is the Merriam-Webster Visual Dictionary; and**
g) **instruction that integrates the use of English-language audiobooks as an assisted reading strategy for introducing new vocabulary and concepts and giving students access to content and literature above their reading fluency levels.**

Recommendation 4-35: Since learning in one language does not impair the ability to learn a second language in the long run, teachers should partner with parents to promote dual language learning by encouraging retention of the primary language at the same time K-12 students are learning English.

D. Assessing and Communicating K-12 Student Progress

1. Grade-Level Placements

Recommendation 4-36: FRC schools should continue to make grade-level placements based on a student's age to align with U.S. schools practices.

Recommendation 4-37: Given the special circumstances and often short duration of attending school in FRCs, students should be assessed for grade level readiness and shortfalls for age-based placements should be identified and addressed to prepare students to transition to U.S. schools in post-release communities.

Recommendation 4-38: FRC schools should continue to include documentation about grade placements in student education records that are shared with students and parents upon release, to facilitate enrollment and the transition to U.S. schools in post-release communities.

2. Feedback to Students and Parents about Progress

Recommendation 4-39: Teachers should routinely use multiple informal teacher-made assessments to measure student English language skills and content knowledge such as journal writing, oral presentations, and writing tasks in the primary language.

Recommendation 4-40: Teachers should supplement the currently used quarterly assessment that tracks academic progress from baseline results with a weekly report-card-in-progress that is completed with student participation and shared with parents since most students

have shorter stays in detention. Currently, Dilley is the only FRC that reports providing weekly progress reports.

Recommendation 4-41: Teachers should routinely use a basic rubric to measure achievement of learning targets to enable students and parents to easily understand and monitor progress. A recommended rubric is: exceeding a target, meeting a target, approaching a target, and not yet approaching a target. The rubric should use icons to help supplement the text that describes the performance levels.

Recommendation 4-42: Formal parent-teacher conferences to discuss student adjustment to school, classroom behavior, and achievement should be scheduled at the end of the first week of enrollment with guidance about how to support student progress. Thereafter, formal conferences should be scheduled monthly and continue to be available upon request from a parent, a student, or a teacher.

E. Special Education Services

1. Eligibility

Recommendation 4-43: In accordance with federal law (IDEA):

a) **FRC schools should not exclude children on the basis of a diagnosed long term or temporary disability or unexplained academic, behavioral, or health challenges at school.**
b) **Parents should be informed of their child's right to be referred to and assessed for special education and, if eligibility for special education is determined, to receive services.**
c) **Special education assessment results should be reviewed with parents in a language they understand well (ideally their primary language).**

Recommendation 4-44: Students with obvious signs of cognitive or physical disabilities such as known brain damage, impaired hearing or vision, impaired mobility or dexterity, polio, cerebral palsy, cleft palate, malnutrition, or traumatic stress should be immediately assessed for special education needs and, if eligibility for special education is determined, FRC schools should provide services from a credentialed special education teacher.

Recommendation 4-45: Students should be assessed by FRC medical and mental health staff or, upon parental request, by medical or mental health staff outside of FRCs, for Section 504 accommodations. These plans fall under Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against public school students with disabilities and specify accommodations to ensure that students can participate in the general education program. Additionally, FRCs should have a process for teachers and school administrators to refer students to medical and mental health staff for screenings based on behaviors observed in school.

Recommendation 4-46: Students should be assessed for a disability if a parent requests it or if health or education professionals suspect a need for special education services.

Recommendation 4-47: With respect to special education and trauma, FRC schools should ensure that qualified special education professionals who are also familiar with the cultural background and trauma experiences of the FRC student population oversee the determination if a student qualifies for special education services and is eligible for an IEP or 504 accommodation. Special consideration should be given to the needs of students who present trauma symptoms that may impede learning and functioning in school, including symptoms that may mask or amplify other disabilities.

Recommendation 4-48: With respect to special education and limited English proficiency, assessing for special education needs is especially complex when students are English language learners and may also exhibit trauma symptoms. A best practice for determining if a student is struggling in the classroom due to language barriers or disabilities is to document if their academic progress advances at the same rate as other English language learners with similar linguistic, cultural, educational, and immigration experiences. Students who progress much more slowly should be assessed for unidentified special needs.

2. **Provision of Services**

Recommendation 4-49: In accordance with IDEA:

a) **The IEP team should be composed of a parent, a student, at least one general education teacher, at least one special education teacher, a district staff member who can supervise special education services, an educator who can interpret evaluation results such as a school psychologist, a parent advocate, and a translator if needed. Currently, Dilley is the only FRC that reports having this kind of IEP structure.**
b) **IEP accommodations, modifications, and supports should be developed timely, and with parents and the contents explained to them in their primary language or in a language in which they are proficient as defined by federal law.**
c) **A skilled interpreter should be present at all IEP meetings to explain the process and to ensure parental consent to special education services.**
d) **Parents of children classified with a disability should be allowed to examine all education records and participate (e.g., provide input, make requests, refuse provisions, and be informed in their primary language) in all meetings regarding the identification, evaluation, and educational placement of their child.**
e) **Parents with children classified with a disability and provided with an IEP or a 504 accommodation should receive a thorough explanation of the plan(s) and their purpose in a language they understand well, ideally their primary language, and should receive written and electronic copies of the plans for continuity of services in schools in post-release communities.**

F. K-12 Student Orientation to Transition to U.S. Schools

Recommendation 4-50: FRC schools should orient K-12 students about:

a) **conventional school routines and expectations such as sitting still for periods of time, riding a school bus, attendance and report cards, raising a hand to speak, co-educational classes, using a locker, changing clothes for gym classes, school discipline, following a schedule and rotating classes and teachers, working independently or in a**

group, participating in activities, and completing in-class and homework assignments; and

b) immigrant discrimination and bullying in the form of taunts and slurs, threats, aggression, cyber bullying, social exclusion, dating violence, sexual assault, stalking, and human trafficking that may occur in U.S. schools. Acculturation about peer and cultural norms related to hygiene, dress, personal space, gestures, mannerisms, expressions, and how to make friends may ease the transition, reduce victimization, and increase student safety.

Recommendation 4-51: FRC schools should inform students ages 16+ that they may not be able to accrue the required high school credits to graduate by the time they reach the maximum age of enrollment in U.S. schools (which varies by jurisdiction from age 19-21), but that this fact does not negate their right to a free education until they age out. Related, secondary students who are over-age for their grade level should be informed about alternative education options including alternative high school completion certificates, alternative schools, community college programs, and job training programs.

Recommendation 4-52: FRC schools should provide each exiting student with a backpack containing school supplies, a checklist detailing the steps for enrolling in U.S. schools, and information on troubleshooting enrollment challenges; how to get additional help with school issues or abuse, threats, bullying, or other discrimination in school; and how to file a complaint.

G. Trauma-Informed Education Practices

1. Social-Emotional Learning

Recommendation 4-53: FRC schools should require explicit instruction in social-emotional skills. Best practice social-emotional learning curricula focus on five general research-based competencies endorsed by the Collaborative for Academic, Social and Emotional Learning (CASEL): self-awareness, self-management, social awareness, relationship skills, and responsible decision-making. Curricula recommended by CASEL are listed in the guides Effective Social and Emotional Learning Programs: Preschool and Elementary School Edition and Effective Social and Emotional Learning Programs: Middle and High School Edition.

Recommendation 4-54: Teachers should:

a) develop core content curriculum, deliver instruction, and manage classrooms in ways that incorporate the development of social-emotional skills. (For example, they should model and expect from students effective listening, conflict resolution, problem solving, personal reflection and responsibility, and ethical decision-making.);

b) encourage positive social skills and self-image development by both respecting the various cultural attributes and backgrounds of their students and providing exposure to U.S. cultural norms; and

c) provide a space and routine for students to manage their emotions in age-appropriate ways in the classroom using, for example, a cool-down corner for younger students or

writing in a journal or talking into a recorder for audio journaling for older students.

2. **Classroom Management Practices**

Recommendation 4-55: Teachers and students should jointly establish and maintain classroom behavior expectations, rules, and routines that reinforce caring and safety.

Recommendation 4-56: FRC classroom behavior management practices should never:

a) **punish or penalize students for behaviors that are associated with experiencing trauma such as falling asleep during class, having difficulty concentrating on an assignment, or being reluctant to participate in an activity;**
b) **use exclusionary sanctions that remove students from the classroom or reduce instructional time, including detention or suspension, unless under exigent circumstances;**
c) **use punishment-based strategies, including reprimands, ultimatums, loss of privileges, or office referrals, absent positive behavior support strategies; or**
d) **reward or punish students with food or play for learning or behavior.**

Recommendation 4-57: FRC schools should adopt best practice classroom behavior management strategies including:

a) **Positive Behavioral Interventions and Supports (PBIS). Instead of being reactive to misbehaviors, including disengagement, PBIS introduces, models, reinforces, and rewards positive social behaviors and creates a more positive school climate.**
b) **Restorative justice approaches to behavior disruptions with the goals of repairing harm and restoring relationships between those impacted. This includes teachers collaborating with parents and mental health professionals to design and carry out agreed upon consequences.**

3. **Trauma-Informed Practices**

Recommendation 4-58: Teachers should take into account:

a) **the impact of childhood trauma on learning, development, and behavior. For example, teachers need to understand how trauma can impair concentration and memory; cause intrusive thoughts, frustration, aggression, perfectionism, or withdrawal; and dysregulate executive functioning such as goal setting, organizing, or anticipating consequences; and**
b) **student expressions of trauma and dysregulation in classrooms, and that coping behaviors should not be viewed as misconduct and addressed with punishment but rather they should elicit trauma-informed supportive responses.**

Recommendation 4-59: Teachers should maintain a classroom culture and climate that ensures students have: physical, social, and emotional safety at school; and academic safety to encourage students taking educational risks and learning from mistakes.

Recommendation 4-60: FRC schools should have protocols for educators and mental health practitioners to routinely collaborate and to provide integrated trauma-informed

interventions for students exhibiting trauma symptoms in the classroom such as inattentiveness, agitation, hypervigilance, persistent anxiety or depression, preoccupation, helplessness, detachment, or suicidal thoughts.

Recommendation 4-61: FRC school schedules should be routinized and predictable, and changes should be clearly communicated to students in advance, including changes in teachers, routines, or the student composition of the class.

Recommendation 4-62: Students should have small daily jobs that directly communicate that they are valued and belong in the school community. Examples include tending to indoor plants, a garden, or pets; setting up activities; or helping younger students or peers with their school work.

H. Educator Professional Development

1. Instruction

Recommendation 4-63: Teachers and school administrators should be trained and supported to use the curriculum, instructional strategies, and classroom management techniques recommended above.

Recommendation 4-64: Secondary teachers should receive specialized training for teaching adolescent students since these students are just developing proficiency in academic English without the foundation of academic literacy and grade-level schooling in their primary language, and students need targeted preparation to transition to U.S. schools in post-release communities.

2. Performance Evaluation

Recommendation 4-65: ICE should ensure that a qualified independent, impartial oversight authority formally monitors the performance of FRC-contracted teachers and school administrators annually, and that all monitoring reports are submitted directly to ICE and available to the public. Given the high mobility and the low grade-level proficiency of students in FRC schools, teachers should not be evaluated primarily on student achievement outcomes but through a combination of measures such as multiple classroom observations, curriculum and lesson plan reviews, student work, teacher self-reflections, and student and parent surveys that assess instructional effectiveness in context. These evaluations should identify teachers in need of improvement and provide feedback and corrective support to teachers to help them improve their practice. Ineffective teachers and administrators should be terminated.

Recommendation 4-66: Teachers should be monitored by the contracted school administrators using multiple techniques: weekly unscheduled walkthroughs, quarterly scheduled classroom observations, and mid-year and end-year performance reviews with feedback and professional development support for corrective action. Ineffective teachers should be terminated.

3. **Trauma**

Recommendation 4-67: Teachers and school administrators should receive in-depth, ongoing training about the effects of childhood trauma on learning, development, and behavior, which can be provided by the National Center for Trauma-Informed Care. The reported level of training on trauma that educators are offered is inconsistent across the FRCs.

Recommendation 4-68: Teachers and school administrators should be trained and accountable to:

a) **identify behaviors that may indicate current or past traumas that impact student success and safety; and**
b) **routinely use evidence based trauma-informed school practices that are documented in The National Child Traumatic Stress Network's Child Trauma Toolkit for Educators and the Massachusetts Advocates for Children and Harvard Law School's Helping Traumatized Children Learn.**

Recommendation 4-69: Teachers and school administrators should be trained to routinely collaborate with mental health practitioners to provide complementary trauma-informed interventions for students.

Recommendation 4-70: Teachers and school administrators should be trained to understand the basics of the U.S. immigration system and the rights of families to request protection, a hearing, and due process. They should also be trained to never provide students and their families with legal advice or to comment about their prospects for release.

4. **Prevention and Reporting**

Recommendation 4-71: Teachers and school administrators are required under the ICE PREA standards to complete training in all topics for PREA employee training. They should understand the standards and develop skills to prevent, detect, and report sexual and physical abuse, including human trafficking.

Recommendation 4-72: Teachers and school administrators should be trained to prevent, detect, and report bullying.

Recommendation 4-73: Teachers and school administrators should know about appropriate referral resources for parents and students who show signs of stress, distress, or trauma.

I. K-12 School Performance

Recommendation 4-74: ICE should ensure that a qualified independent, impartial oversight authority monitors the performance of school contractors twice annually for compliance with ICE education standards and contract obligations, and that all monitoring reports are submitted directly to ICE and available to the public. These performance audits should include information from classroom observations, curriculum and lesson plan reviews, administrative and financial document reviews, and interviews with students, parents, teachers, and school administrators and should hold contractors accountable to address infractions.

Recommendation 4-75: ICE should ensure that a qualified independent, impartial oversight authority monitors the overall quality of the FRC K-12 education program twice annually for consistency with education best practices for English learners, students behind grade level, students who experience trauma, and students with interrupted formal schooling, and that all monitoring reports are submitted directly to ICE and available to the public. These evaluations should include information from classroom observations, curriculum and lesson plan reviews, administrative and financial document reviews, and interviews with students, parents, teachers, and school administrators and should hold contractors and their teachers and school administrators accountable for corrective actions.

J. Education Records

Recommendation 4-76: Education records should be standardized across FRCs. Currently there is variation. Minimally, records should include: grade placement; assessment results; progress reports and report cards; special education referrals, assessments, and IEP and 504 accommodation plans; earned credits; student work; and parent-teacher conference notes.

Recommendation 4-77: A hard copy and access to an electronic copy of each student's education records should be available to each family upon release from FRCs. This currently varies across FRCs.

Recommendation 4-78: Education records should be available to families and receiving schools through an electronic record system to ensure expedited and secure access to information for enrollment, grade placement, and continuity of special education services and other education programming. If, as planned, according to ICE staff during the ACFRC site visits, ICE develops and implements a web-based portal for the transmission of FRC detainees' medical records, it should also be used to transmit education records. For example, the education and health records of migrant students enrolled in U.S. schools are managed through a web-based platform to enable the national exchange of information for highly-mobile students through the Migrant Student Information Exchange (MSIX) by the U.S. Department of Education.

Recommendation 4-79: Education records should provide a detailed accounting of the credits each student earns while in detention, and these credits should be equivalent to those earned in U.S. schools and transferable to schools in post-release communities.

Recommendation 4-80: In addition to complying with FERPA's requirements, disclosures made by children and parents to teachers should not be used in immigration procedures without the child's or parent's consent.

K. Parent Education

1. Information about K-12 Schooling

Recommendation 4-81: Parents should be informed in a language they understand well (ideally their primary language) about:

a) the curriculum, instructional strategies, and classroom management techniques, expectations, and requirements of their children's education program;

b) **their right to a free, public education notwithstanding their child's country of origin, child's best or first language, or child's disability, and their concurrent responsibility to send their school-age children to school daily and on time, to make sure they complete homework assignments, and to monitor their school performance;**
c) **their right to have a written translation or an interpreter translate school paper work and communications. Their children should not serve as translators about education issues; and**
d) **the contents of their child's education records.**

Recommendation 4-82: Parents should be notified immediately of any student behavior issues or disciplinary measures, including exclusion from activities or assignment of extra work. Disciplinary measures should be determined with input and approval from parents.

2. **Orientation to Transition Children to U.S. Schools**

Recommendation 4-83: Parents should receive information in a language they understand well (ideally their primary language), about:

a) **the U.S. school system, in particular: the preschool, kindergarten, middle school, and high school curricula and grade-level expectations; and services for English language learners and newcomer students, before- and after-school care, special education, and free-reduced price school meal programs;**
b) **the U.S. school calendar, compulsory school attendance laws, consequences of violating these laws, where to go for help when children are not attending school, and daily school attendance requirements;**
c) **U.S. school operations and procedures. For example, enrollment, transportation, absences, grades and report cards, parent-teacher conferences, interpreters for meetings, fees for events and activities, school events, and school rules and discipline;**
d) **the option of enrolling their children in a newcomer school or program if one is available in their post-release communities. Newcomer programs are specialized academic environments that serve newly arrived, immigrant English language learners for a limited period of time and focus on: acquisition of English language skills, limited instruction in the core academic areas, cultural adjustment to the U.S. school system, and development of literacy in the primary language; and**
e) **the importance of completing a high school degree to increase postsecondary education and employment options and high school transitions such as dropping out, earning alternative diplomas, job training, vocational certificate programs, and college.**

3. **Parenting Support**

Recommendation 4-84: Parents should receive evidence-based, culturally sensitive information about U.S. parenting norms in a language that they understand well (ideally their primary language). An example is the Nurturing Skills for Families curriculum offered at Dilley, which is recognized by the Child Welfare League of America and the Substance Abuse and Mental Health Services Administration.

Recommendation 4-85: Parents should be informed in a language that they understand well (ideally their primary language) about the therapeutic supports available at FRCs to alleviate trauma symptoms caused by their immigration and detention experiences such as the struggle to manage their families or protect their children from the uncertainty of their situation and FRC rules and regulations that may conflict with family or cultural traditions and preferences.

Recommendation 4-86: Parents should have access to self-care and stress reduction activities that focus on maintaining good nutrition, simple exercise routines (e.g., walking, stretching), and therapeutic mindfulness breathing exercises.

4. **English Language Instruction**

Recommendation 4-87: ICE should provide daily scheduled English language classes taught by credentialed English as a Second Language (ESL) adult education teachers to learn basic conversational English. Language instruction should focus on speaking practice, pronunciation improvement, and vocabulary expansion.

Recommendation 4-88: Parents should have structured opportunities to practice English language skills during hands-on activities such as playing with children, preparing food, or making crafts.

5. **Newcomer Education**

Recommendation 4-89: ICE should provide parents with information about key newcomer issues (e.g., learning English, receiving an education, finding housing, searching for a job, securing child care, using public transportation, banking and managing personal finances, and accessing legal and health, mental health, and dental services) to ease the transition to post-release communities.

5. LANGUAGE ACCESS

A. Non-Spanish Speakers: Overarching Recommendation

Recommendation 5-1: When DHS encounters an individual who speaks a rare language that poses severe language access difficulties – such as a Central American indigenous language – such a person should not be detained, but should rather be released with a Notice to Appear, on their own recognizance or with the support of a case management support program. In the rare event that this approach is inappropriate or impossible, such persons should be provided with appointed counsel who can facilitate both effective language access and fair immigration proceedings.

B. Disability Access

Recommendation 5-2: Immediately upon taking custody of a potential detainee, ICE should assess each such person to determine if his or her ability to communicate is impaired by a disability – because he or she is deaf or hard-of-hearing, low-vision, speech-impaired, or has a developmental or intellectual disability. Absent extraordinary circumstances, such persons

should not be detained, but should be released to the community with a Notice to Appear and if feasible, enrolled in a family case management-based program or other support program. If ICE declines to adopt this recommendation, it is urgent that policy and practice be modified and individualized for every type of communication for any detainee with a communications disability, and that adequate monitoring and oversight policies be put into place to ensure that such individualized plans are followed.

C. Identification

Recommendation 5-3: ICE should ensure that each adult detainee can effectively communicate to DHS, ICE, and FRC staff what language she and her children speak (these may differ). This information should be tracked individually for both the adult and children, by ICE and by FRC staff, and the appropriate language used whenever necessary for meaningful access to ICE programs, activities, and services. The current audio slideshow is a good step towards the goal of language identification. But it should be augmented with other languages that detainees have used since the FRCs opened, including, e.g., Akateko and other indigenous languages, Portuguese, various Chinese dialects, and Urdu. ICE policy and procedure should cover the possibility that a detainee may not confirm any language covered by the slideshow. In that event, ICE should undertake additional individualized steps to identify the language need. ICE should utilize language line diagnostic services as needed. All detainees without exception – children – and adults – should have a primary language noted in their file, and on their ID.

Recommendation 5-4: ICE should track the languages spoken by FRC detainees, and their needs for interpretation and translation services, so that statistical information on the frequency of language needs is readily available to ICE and throughout DHS. This will facilitate planning and service provision.

Recommendation 5-5: For each document provided with FRC detainees, ICE should create versions that are as accessible as possible, using simple language, flowcharts, graphics, and similar non-text strategies that assist in comprehension and understanding for a variety of potential obstacles including literacy level, education level, intellectual capacity and disabilities of any kind.

Recommendation 5-6: ICE should assess and track the literacy of each adult FRC detainee, in each language she speaks, noting low literacy in detainees' files. Whenever ICE communicates in writing with a detainee whose literacy is low, it should use documents that are both (a) in a language the detainee understands and (b) adapted to be more accessible, in light of her literacy level. In addition, oral communication of rules, procedures, and expectations is particularly important for detainees with low literacy and should be conducted, using simple and direct phrasing, in a language detainees understand or using a qualified interpreter.

D. Orientation

Recommendation 5-7: After tracking the languages spoken and the language access needs for several months, ICE should ensure that the FRC resident handbooks are translated into any additional languages that are used by the lower of 0.5% or more detainees, or 50 detainees in the course of a year. ICE should ensure that video or audio taped summaries of the

handbooks are available for any detainees who are not highly literate in any language for which a translation is available, and should offer an opportunity to listen to or watch such a recording to all detainees.

E. General Provision of Language Access Services

Recommendation 5-8: For all detainees, ICE should facilitate effective communication and meaningful access to programs, benefits, and services by using clear, simple language whenever possible.

Recommendation 5-9: ICE should ensure that facility policy, resident handbooks, and oral orientation (whether live or recorded) clearly communicate the overarching policy that detainees have a right to language assistance that provides meaningful access to programs, benefits, and services, and that this right includes interpretive services, if necessary, for all important conversations with ICE and contractor staff.

Recommendation 5-10: ICE should ensure that all routinely used documents are translated into all languages read by the lower of 0.5% or more detainees, or 50 detainees in the course of a year. Documents should also be adapted into a summary bullet point or into graphics when possible, to facilitate understanding by detainees with low literacy. Every document should be tested with detainees to ensure understanding and effective communication before being finally adopted.

Recommendation 5-11:

a) **ICE should provide qualified interpretation whenever necessary to provide meaningful access to programs, benefits, and services. This right includes interpretive services, if necessary, for conversations involving DHS or contractor staff. Interpretation can be provided using telephonic or, preferably, video interpretation, but in addition, ICE should investigate the option of local interpretive service providers who specialize in regional dialects and indigenous languages.**
b) **Qualified interpretation means interpretation that is effective, accurate, and impartial, both receptively (understanding what the LEP person is saying) and expressively (conveying information), using any necessary specialized vocabulary. Qualified interpreters adhere to applicable ethical codes (such as the American Translators Association Code of Ethics, or the National Association of Judicial Interpreters and Translators), which require confidentiality, impartiality, and accuracy.**

Recommendation 5-12: Having identified what non-Spanish languages are frequently needed, ICE should explore various ways to provide live interpretation or bilingual staff, by, e.g., hiring contractors and bringing in detailees.

Recommendation 5-13: ICE should record each time a detainee receives qualified interpretation services, whether by language line or in-person interpreter, and should conduct frequent checks of detainees' language needs against language line and interpreter usage, systematically auditing when detainees who do not speak Spanish are receiving communication in a language they understand and when they are not, and then implementing resources, training, and other supervision to improve language access as the

audit reveals various needs. The audits should pay particular attention to orientation, medical and mental health care, case processing, and release conditions.

Recommendation 5-14: ICE should track and report monthly statistics relating to interpretive services, including how many times interpreters – telephonic or in-person – are used, for how many detainees, and the languages and situations involved. The statistics should include how often per week in detention interpretive services are provided to non-Spanish speakers.

Recommendation 5-15: Children should not be used as interpreters. With proper planning and staffing, the exigent circumstances that are the prerequisite to such use under ICE policy can be entirely avoided.

F. Access to Fair Immigration Procedures: Law Library

Recommendation 5-16: As much as possible of the FRC law library material should be in Spanish and other languages detainees read, in addition to English.

Recommendation 5-17: ICE should provide language access services for detainees who use the law library, including translation and interpretive services. Bilingual paralegal services may prove necessary to meet language access needs. Facility policy and the resident handbooks should state clearly that language access services are available if needed for access to the law library, and that these include necessary translation and interpretive services. Signs conveying this information should also be placed in FRC law libraries and housing units.

Recommendation 5-18: Printing in the law library may be limited to appropriate legal documents and supporting materials, but non-English documents should not be categorically excluded. ICE should ensure that the Karnes Resident Handbook so reflects, and if the same rule is imposed at another FRC, it should be changed.

G. Access to Fair Immigration Procedures: Credible and Reasonable Fear Processes

Recommendation 5-19: DHS should avoid use of telephonic Spanish interpreters, developing and implementing policies and practices to instead provide in-person Spanish interpretive services, except in unusual or exigent circumstances, at each and every stage of the immigration proceedings, including, e.g., legal orientation; Asylum Officer interviews; and conversations with ICE personnel about matters such as procedures and release conditions. EOIR should do the same for appearances in immigration court.

Recommendation 5-20: DHS should undertake systematic efforts to improve the quality of language line interpretation.

a) **For each use of telephonic interpretation, DHS should ask DHS staff, facility staff, court staff, interpreters (when appropriate) and the assisted detainee to rate the effectiveness of interpretation and describe any problems; when a rating is low, DHS staff should review the circumstances and take corrective steps.**
b) **DHS should track the ratings/problems and address them. For example, if cell phone usage by interpreters emerges as an issue, the contract terms should be quickly**

modified to bar cell phone usage.

Recommendation 5-21: DHS should provide interpretive services to indigenous-language speakers at each and every stage of the immigration proceedings, including, e.g., legal orientation; asylum interviews; and conversations with ICE personnel about matters such as procedures and release conditions. EOIR should do the same for appearances in immigration court. For non-Spanish speakers, each and every encounter that can impact the detainee's liberty or safety should be interpreted.

Recommendation 5-22: DHS should systematically monitor and improve the quality and availability of language access for indigenous-language speakers, ensuring that interpretive services are offered and that they are effective. For each use of interpretation services:

a) **DHS should ask DHS staff, facility staff, court staff, interpreters (when appropriate) and the assisted detainee to rate the effectiveness of interpretation and describe any problems and when a rating is low, DHS staff should review the circumstances and take corrective steps;**
b) **DHS should track the ratings/problems and address them; and**
c) **DHS should make every effort to avoid "two step" telephonic interpretation, e.g., from English to Spanish to a third language.**

H. Grievances and Requests

Recommendation 5-23: ICE should ensure that all grievance and request forms, including specialized request forms (e.g., Program Request, Talton telephone resolution form, 14-100G Lost/Damaged/Stolen Personal Property Claim) are provided to detainees routinely in both Spanish and English. In addition, written translations for other languages that tracking reveals are prevalent in any significant numbers should be conducted and made readily available, using the same cutoff for translation as described in Recommendation 5-7.

Recommendation 5-24: ICE should ensure that facility policy and the resident handbooks state expressly that both grievances and request forms filed in Spanish or any other written language will be accepted and processed. ICE should ensure there is a process in place for response to such non-English written requests/grievances, including for any needed language assistance in communicating that response with the resident who submitted the request.

Recommendation 5-25: ICE should ensure that resident handbooks expressly state that interpretation services are available if needed for grievances and requests and that there is a zero tolerance policy for retaliation by ICE or facility staff; this also should be part of the oral orientation provided non-Spanish speakers, and should be printed on the grievance and request forms. For any oral communication conducted with a detainee in connection with the grievance or request, interpretation services should be offered without waiting for a request by a detainee.

Recommendation 5-26: ICE should conduct audits of requests and grievances made by non-Spanish speakers, to ensure that (a) such requests are actually being made at approximately the same rate as Spanish speakers (because under-use of the system likely indicates a failure of language access); (b) language assistance is being used when useful for such requests.

I. Medical and Mental Health Care

Recommendation 5-27: ICE should notify all detainees – using resident handbooks and signs posted in medical clinics for those who read Spanish or English, and orally in a language that others understand – that they have a right to language-related services needed to meaningfully access medical and mental health care.

Recommendation 5-28: ICE should attempt to meet most FRC detainees' need for Spanish-language medical and mental health services by adjusting its staffing decisions to prioritize Spanish-language skills among medical and mental health staff.

Recommendation 5-29: ICE should audit the medical and mental health encounters of detainees who speak indigenous languages, to see how their language access needs are being met. Whenever the audits reveal a problem, ICE should promptly develop particular policy, resource, or training solutions.

J. Discipline

Recommendation 5-30: ICE should ensure that FRC policy and practice is to provide limited English proficient detainees needed translation and interpretation services not only during disciplinary hearings but during investigations as well. Detainees should be notified of their entitlement to such services in the resident handbook and by other orientation methods.

Recommendation 5-31: ICE should ensure that FRC policy and practice is to automatically assign LEP detainees facing disciplinary charges a staff representative to help prepare a defense. If the staff representative needs interpretation services to talk to the resident, these should be provided.

Recommendation 5-32: ICE should conduct audits of disciplinary proceedings and investigations involving non-Spanish speakers, to ensure that language assistance is being used.

K. Release

Recommendation 5-33: DHS should ensure that all detainees are given clear instructions in a language they understand well (ideally their primary language) – written as well as oral – about their release obligations and options. To facilitate understanding, the materials should include easy-to-follow visual indications that explain the simultaneous obligations to report to both ICE and the court. Release materials should also include information (telephone numbers, websites, and the like) in a language a detained individual understands well to assist with language access for immigration encounters and proceedings after the resident arrives to her post-release community, as well as information about services to assist victims of sexual abuse, assault and human trafficking.

Recommendation 5-34: DHS should audit the language services used for limited English proficient individuals – including, particularly, non-Spanish speakers – in communicating with them about their release to ensure that detainees are receiving communication in a language they understand well, and should implement resources, training, and other supervision to improve language access as the audit reveals various needs.

Recommendation 5-35: DHS should review the files of indigenous language and other non-Spanish speakers who have been issued *in absentia* removal orders. If no language access services were provided to ensure that the conditions of release were communicated to the former detainee in a language she could understand, DHS should reopen the immigration proceeding, without waiting for a request.

L. Training

Recommendation 5-36: DHS should ensure that ICE staff, IHSC staff, contractors and volunteers receive high quality training on language access requirements and procedures, with an emphasis on application of the policies to particular situations where they are likely to arise, and on how to communicate effectively with detainees who do not speak English, and with detainees who speak neither English nor Spanish.

Recommendation 5-37: DHS should share with this Committee or (if the Committee is no longer in operation) with stakeholder groups the orientation and refresher language training provided ICE staff, the IHSC training currently in development, and any training provided FRC contractors, in order to obtain feedback.

M. Quality Monitoring and Improvement

Recommendation 5-38: ICE should complete and solicit public comment on its LEP assessment tool and language access quality monitoring plan. These should include criteria for prevalence of a language in a given population that justifies translation of orientation and other documents. The quality monitoring plan should include systematic solicitation of anonymous feedback from detainees.

6. MEDICAL, MENTAL HEALTH AND TRAUMA-INFORMED CARE

Recommendation 6-1: ICE should update the Family Residential Standards to include all of the additional protections, medical treatment, and opportunities for assistance included in the PBNDS 2011, without shrinking any existing Family Residential Standard requirements. In the many areas in which both the PBNDS 2011 and the Family Residential Standards are inadequate and not aligned with current best practices in the medical, mental health, and trauma fields, ICE should update both sets of standards to include these best practices.

A. Medical Assessment and Care

1. Essential Health Care Screenings

Recommendation 6-2: All appropriate health screenings and tests should be offered to detainees, free of charge. This includes health screenings and tests recommended by the CDC and HHS, as well as the preventative health services required by PBNDS 2011; more detail is included in subsequent recommendations. To facilitate access to all of the health screenings listed below, ICE and the FRCs should either provide the screenings and tests or contract with nearby federally qualified health centers and/or organizations that provide mobile health screenings. Consent laws of the state in which the FRC is located should govern patient consent, including parental consent for testing children and adolescents.

Recommendation 6-3: All FRC detainees should receive medically indicated health screenings and tests including any tests or screenings indicated by a thorough medical history or other information provided by the detainee verbally or through documentation:

a) **All women should be offered: breast examinations, mammograms, pelvic examinations, pap smears, blood pressure tests, cholesterol tests, and diabetes screenings.**
b) **Women age fifty or older, should receive bone mineral density tests and colorectal cancer screening.**
c) **Adults and adolescents over age 13 should be offered STD testing, including for Chlamydia, Gonorrhea, Syphilis, Hepatitis B, Hepatitis C, Human Papillomavirus (HPV), Trichomonas, and HIV.**
d) **Medical screening tests should be administered to each adult and child detainee based on the infectious diseases endemic in their country of origin or in countries through which they may have travelled en route to the U.S. The World Health Organization (WHO) provides up-to-date information on relevant infectious diseases that are endemic internationally.**

Recommendation 6-4: FRC medical providers should continue to offer pregnancy tests to every female of child-bearing age who is newly detained at an FRC. In addition, all requests for a pregnancy test during the period of detention should be promptly granted. Vaccines related to pregnancy should be offered pursuant to CDC guidelines and all states recognize adolescents right to consent for sexuality care including laws governing age of consent of adolescents for pregnancy and STD testing. Additional screening for pregnant women, including for anemia, gestational diabetes, Rh incompatibility, urinary tract infection, and cystic fibrosis should be provided. Pregnant women should always be offered lead protection or alternatives to x-ray screenings. ICE should comply with its recent *Memo on the Identification of Pregnant Detainees*, and with guidelines laid out in the PBNDS 2011 for women's health, including with respect to access to abortion, and should consider release. If detention continues ICE should ensure timely referral for appropriate pre-natal and medical care, reporting of detention to ICE Headquarters and continued review of the need to detain.

Recommendation 6-5: Every potentially sexually active detainee (male or female), including any detainee who requests testing, and any detainee who may have been sexually assaulted either during detention or prior to detention – whether or not the assault took place in the U.S. – should be offered tests for sexually transmitted diseases (STDs), including HIV. Testing should be offered whether or not the detainee has a history of symptoms, pursuant to guidelines of the CDC for sexually assaulted women in order to identify, prevent, and treat STDs.

Recommendation 6-6: ICE should amend the Family Residential Standards to conform with Recommendations 6-1 through 6-4 and to meet the CDC's guidelines for testing of sexual assault victims.

Recommendation 6-7: All FRCs should offer all medical screenings and tests using a trauma-informed approach that recognizes that some exams, like pap smears, can re-traumatize victims of sexual assault. Medical screenings/tests should be conducted as a multi-part process. An educational video should be developed in English, Spanish, and other primary

languages spoken by detainees that describes the testing and screening offered, and explains that there is no cost, how the testing is useful to adult detainees and their children, and the screening and testing process. The video should additionally explain that detainees will be informed of test results in a timely manner and provided with copies of the test results to take with them when they are released from detention. Finally, the video should inform detainees that they may choose not to have certain tests (e.g., pap smears) or can ask medical personnel to stop at any point during the screening/testing if they wish. For detainees who do not understand a language used in the video, qualified interpretive services should be provided.

Recommendation 6-8: ICE should update the Family Residential Standards to include the following PBNDS 2011's requirements relating to follow-up to sexual assault:

a) **"Prophylactic treatment, emergency contraception and follow-up examinations for sexually transmitted diseases shall be offered to all victims, as appropriate."**
b) **"Following a physical examination, a mental-health professional shall evaluate the need for crisis intervention counseling and long-term follow-up."**

The detainee has the right to refuse treatment, counseling, and follow-up if she is competent, unless failure to receive such services poses an imminent danger to the detainee or others.

2. **Medical Screenings for Children**

Recommendation 6-9: In order to provide appropriate health care to each child detainee, a standardized screening and physical examination should be conducted to assess the child's physical health based on medical standards. This examination should include a history taken from the child's parent, including any chronic illnesses or medications taken by the child; a review of any medical records or medicine the detainee has brought from his or her home country, and a review of any medical records created for the detainee by Customs and Border Protection (CBP). The FRC pediatrician should review the child's immunization records if the family brought copies with them from their home country; children without existing immunization records, and children behind on their immunizations according to their records, should receive age-appropriate immunizations recommended by the Centers for Disease Control and Prevention.

Recommendation 6-10: All child detainees should be tested for tuberculosis. PPD should generally be used for children younger than 5 years old and IGRA (Interferon-Gamma Release Assays) for children 5 years and older. However, IGRA is preferred for children under 5 years old who have a history of BCG vaccine (as well as those with inconsistent follow-up), which covers the majority of children in family detention.

3. **Children's Health Care**

Recommendation 6-11: Medical services by a licensed professional should be available 24 hours per day, 7 days per week.

Recommendation 6-12: The Family Residential Standards should be updated to include the provisions for Sick Call and Emergency Medical Services and First Aid from the PBNDS 2011, modified to require response within two hours by a licensed medical professional to requests by parents for treatment of sick children. This two-hour triage response is in

addition to the requirements in the PBNDS 2011 to needs for emergency medical services and first aid.

4. **Parents Accompanying Children Needing Hospital Care or Mental Health Residential Treatment**

Recommendation 6-13: Parents should be allowed to accompany their child to a hospital or to another health facility and remain with the child for medical services that are provided outside the FRC.

Recommendation 6-14: If a child is placed in a mental health treatment facility, parents should be given ready access to visit the facility to see their child and meet with the mental health providers as needed.

Recommendation 6-15: Children and their accompanying parents should not be shackled during transport to hospitals and other health facilities or during treatment or resulting stays.

Recommendation 6-16: When a detainee's family member is provided medical or mental health care, ICE and the FRCs should provide information and support to the detainee in order to communicate what is happening and to avoid further traumatization. The family should be immediately reunited upon the patient's release from medical care.

Recommendation 6-17: When medical or mental health needs require separation of a detainee parent from a child for over 72 hours, ICE should consider the best interests of the child and should proceed under the policy developed pursuant to Recommendation 2-18.

5. **Communicable Screening for the Zika Virus**

Recommendation 6-18: All FRCs should continue to screen for Zika in accordance with best practices set out by current CDC guidelines. The FRCs should keep abreast of CDC guidelines in terms of screening for communicable diseases applicable to detainees. Any pregnant female who tests positive for Zika should be provided with appropriate counseling and any related follow-up services.

6. **Sexual Assault, Domestic Violence, and Human Trafficking Screenings**

Recommendation 6-19: FRCs should conduct an initial medical intake screening for sexual assault, domestic violence, child abuse, human trafficking, and gender-based abuse as part of the initial required medical and mental health screenings of all detainees over the age of three using a separate form for each detainee, adult and child.

Recommendation 6-20: The tools to be used by FRCs for screening should be selected from the following list:

a) For domestic violence and/or sexual assault, ICE should use:
   i. one of the assessment instruments listed by the CDC in *Intimate Partner Violence and Sexual Violence Victimization Assessment Instruments for Use in Healthcare Settings*;

ii. **screening tools developed by the National Health Resource Center on Domestic Violence; or**
iii. **tools developed by Kaiser Permanente's Family Violence Prevention Program.** http://www.cdc.gov/violenceprevention/pdf/ipv/ipvandsvscreening.pdf

b) **For human trafficking, ICE should use the *HHS Screening Tool for Victims of Human Trafficking*.**
c) **For trauma victims, ICE should use tools developed by the National Technical Assistance Center on Trauma Informed Care (NCTIC); these include but are not limited to training videos on medical interviews of trauma victims.**

Recommendation 6-21: If the initial medical/mental health intake indicates that a detainee has suffered sexual assault, domestic violence, child abuse, human trafficking, or gender-based abuse, an initial health/mental health appraisal should be completed within 24 hours regardless of when the victimization occurred. That appraisal should comply with the following:

a) **All screening and appraisal for sexual assault, domestic violence child abuse, human trafficking, and/or gender-based abuse should be conducted in a private, safe environment.**
b) **Mothers should be screened/appraised separately and without their children present. Mother should be offered the opportunity to have their children within their line of sight, in a nearby room, or to place the child in childcare – whichever the mother prefers.**
c) **Information on gender-based violence and abuse obtained during screenings should be both noted in a detainee's medical records and provided to the victim's current and future attorneys in a manner that is HIPAA compliant and provides swift access to the screening results.**
d) **ICE/FRC staff should not infer, assume, conclude, or note in medical or immigration records, that, because a detainee failed to self-identify during screening as a victim of violence, abuse, or trauma, the detainee is not a trauma victim.**
e) **To ensure that detainee victims are connected with proper continued treatment and services, ICE/FRC staff should provide identified victims with information about their rights as crime victims, existing services statewide and nationwide, and safety planning for post-release.**

7. **Prison Rape Elimination Act Implementation**

Recommendation 6-22: ICE and the FRCs should come into full compliance with the DHS PREA regulation and the PBNDS 2011's Sexual Abuse and Assault Prevention and Intervention Section requirements; the Family Residential Standard is insufficient.

Recommendation 6-23: FRCs should contract with a nationally accredited organization in the community that provides a coordinated community response to sexual violence, such as Sexual Assault Response Teams (SARTs) or Sexual Assault Response and Resource Teams (SARRTs) for forensic evidence collection, treatment and support.

Recommendation 6-24: FRCs should transport recent victims of sexual assault to the contracted community-based program whether or not the recent sexual assault occurred in

the FRC. Victims should not be required to have their children accompany them but should have that option if they are anxious about separation. If a child remains at the FRC while the mother is takes to the program, the child should be left with qualified childcare staff or with another parent of the mother's choice. The contracted programs should include victim advocate involvement and informed choice and should have standards for victim-centered sexual assault evidence collection that meet or exceed the following standards:

a) **U.S. Department of Justice, Office on Violence Against Women, National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents, and all updates.**
b) **U.S. Department of Justice, Office on Violence Against Women, National Protocol for Sexual Assault Medical Forensic Examinations: Pediatric, and all updates.**

8. **Communication of Medical Screening and Test Results**

Recommendation 6-25: The results of medical and mental health screenings and tests should be delivered to detainees in a sensitive and HIPAA compliant manner. Specifically:

a) **Results should be delivered to detainees in a confidential location, outside of the presence of the detainees' children, in a language the detainee understands well (ideally her primary language), and with the appropriate involvement of mental health professionals at the FRC.**
b) **Information about pregnancy or test results that are positive for an STD or other disease or mental health condition should be delivered in a culturally competent manner as defined by the CDC and should involve staff with expertise in trauma-informed care. Adolescents under 18 should receive information independent of their parent.**
c) **Mechanisms should be implemented to ensure that information about test results are communicated to former detainees in a manner that is confidential, safe, and secure, and in compliance with HIPAA.**
d) **In the case of victims of sexual assault and/or abuse perpetrated at the FRCs, victims should receive information about test results from the same external independent and qualified health care personnel who performed the testing or screening.**

9. **Dental Health**

Recommendation 6-26: Adult and child FRC detainees should receive appropriate dental screening and care:

a) **A dental examination should be conducted of each adult and child as part of the FRCs' general health examination at intake.**
b) **For adults, dental care should adhere to the standards promulgated by the CDC and the American Dental Association.**
c) **For children, dental care for children should adhere to standards promulgated by the American Academy of Pediatric Dentistry.**

10. **Pharmaceutical Management**

Recommendation 6-27: Policies and procedures for pharmaceutical management should comply with national accreditation, such as JCHAO or NCQA, state laws, and licensure

standards. The Family Residential Standards should be updated to include each of the requirements in the PBNDS 2011; to cover pharmaceutical management and medication requirements imposed by national accreditation surveyors such as JCHAO or NCQA; and to ensure continuing compliance with relevant State standards.

11. **Care of Pregnant Women**

Recommendation 6-28: Barring extraordinary circumstances, no pregnant woman or her children should be detained in an FRC.

Recommendation 6-29: A detainee who is pregnant should be informed in a balanced manner by medical staff of all options – including raising the child herself, placing the child up for adoption, and terminating the pregnancy – and the relevant risks of each option. Discussion of options should proceed with cultural awareness and sensitivity. An unwanted pregnancy always requires responsive and expeditious care. Pregnancy termination is generally to be performed as safely and as early in pregnancy as possible. ICE and FRC staff should be required to swiftly facilitate access to whatever option each woman chooses, including emergency contraception if medically appropriate and other pregnancy termination methods. Termination of pregnancy should not depend on whether or not the specific procedure is available on site. Each woman will decide what option to choose depending on her unique circumstances and preferences; this decision is to be made without undue interference by outside bodies, including governmental bodies.

12. **Emergency Medical Services and Procedures**

Recommendation 6-30: ICE should amend the Family Residential Standards to include the PBNDS 2011 provisions relating to emergency medical services, and additional provisions required for national accreditation surveys. FRC medical emergency policies, procedures, services, and training should comply with national accreditation organization requirements, state laws, and licensure standards.

Recommendation 6-31: In the case of the deteriorating physical or mental health of a detainee, FRCs should consider the possibility of release into the care of a nationally accredited hospital to stabilize the patient, followed by release to the community. Other possible options could be intensive out-patient care and utilization of stable housing services, depending on the needs of the detainee. In the event of hospitalization, when discharged the resident should be discharged to the community and provided with the same services, referrals, and legal rights information received had the individual been discharged directly from the FRC.

13. **Accreditation and Compliance with Joint Commission on the Accreditation of Health Care Organizations (JCAHO) Standards**

Recommendation 6-32: Each FRCs should comply with health care accreditation standards issued either by JCHAO or NCQA. All professional staff should comply with credentialing standards of national and state accreditation and professional licensure bodies. This includes the requirement that accreditation surveys be conducted on a regular basis. Maintenance of national accreditation standards should be part of any ICE contract or sub-contract relating to medical or mental health care.

Recommendation 6-33: The Family Residential Standards should be amended to include the PBNDS 2011 requirement that copies of documents verifying the licenses, certifications, credentials and/or registrations of medical and mental health personnel be maintained on site and readily available for review, and that personnel with restricted licenses may not provide health care at FRCs.

B. Mental Health Assessment and Care

1. Mental Health Screening

Recommendation 6-34: All adult detainees should undergo systematic mental health screening using evidence-based tools immediately upon intake during their health screening and evaluation, and every three months, or as requested by detainees or their attorney teams, or concerned staff. The following tools should be used:

a) **Patient Health Questionnaire-9 item (PHQ-9, which screens for depression and suicidality);**
b) **General Anxiety Disorder 7-item (GAD-7, which screens for clinical anxiety);**
c) **Mood Disorders Questionnaire (MDQ), which screens for bipolar disorder);**
d) **CAGE-AID, which screens for both alcohol and substance abuse); and**
e) **Abbreviated Post-Traumatic Stress Check List (PCL), which screens for post-traumatic stress disorders.**

Recommendation 6-35: All child detainees should undergo systematic mental health screening using evidence-based tools immediately upon admission during their health screening and evaluation, and every three months, or as requested by parents, youths, teachers or other concerned staff, or attorney teams. Tools to be used should include:

a) **Pediatric Symptoms Checklist (PSC-35), for children ages 6 to 17;**
b) **Survey of Wellbeing of Young Children (SWYC) for children 5 years old or younger; and**
c) **CAGE-AID as a substance abuse screen for all youth 12 to 17 years of age.**

Recommendation 6-36: The FRCs should fully implement the guidelines for mental health screening embedded within the health screenings section in PBNDS 2011, as well as those listed above. Validated Spanish versions should be used for Spanish speakers, and the tools should be administered orally for detainees who lack reading literacy. For those detainees whose primary language is neither English nor Spanish, all the screening tools should be translated into languages regularly used by FRC detainees (using the cutoff described in Recommendation 5-7), or communicated by oral interpretation by a qualified interpreter. The record should reflect in what language and how the tool was administered. The administration of mental health screening tools should be conducted by credentialed health care providers who are trained in culturally and developmentally appropriate interaction around their administration with detainees.

2. Mental Health Referrals and Response

Recommendation 6-37: When a detainee's mental health screening results indicate positive total scores or sub-scores or positive items on the historical screen within health forms, or a

history of psychiatric symptoms or conditions, the detainee should be referred by the primary care provider conducting the screening for a comprehensive evaluation by qualified mental health professionals. These qualified health professionals may work either at the FRCs or at a community-based programs.

Recommendation 6-38: Psychiatric evaluation of FRC detainees should at least conform to the outline in PBNDS 2011, plus include a full psychiatric review of systems, developmental history, and collateral history (from the parent present for children), any prior treatment history, a full mental status examination, and a DSM-5 diagnostic assessment. If the FRC does not have on staff a qualified mental health professional with expertise in using these instruments, the FRC should have a contract with a qualified mental health professional in the community who can conduct the evaluations described here. In particular:

a) **A detainee identified through the screening process should be seen by a qualified mental health professional within 24 hours of screening and within 72 hours of admission into the FRC.**
b) **Referrals for mental health evaluation involving suicidality or psychotic symptoms should occur within 4 hours of identification.**
c) **Detainees identified with mental health needs should all have a comprehensive treatment plan developed to meet their unique needs, with collaboration between the mental health professional, primary care physician, and psychiatrist outlining treatment modalities during detention and recommended treatment modalities and services upon release. The treatment plan should be a permanent part of the detainee's health record and updated every 4 weeks if the detainee has a longer stay (for outpatient level care) and every week if the detainee is referred to more intensive services (such as inpatient care).**

Recommendation 6-39: Given the special origins and contextual circumstances of detained families, the comprehensive mental health evaluation and treatment plan needs to incorporate and address multiple cultural elements of cultural competence as outlined in the American Academy of Child and Adolescent Psychiatry, *Practice Parameter for Cultural Competence in Child and Adolescent Psychiatric Care*, for both adults and children. This should include linguistic support, cultural context of symptoms, impact of immigration trauma history, treatment selection, and parental involvement for children.

Recommendation 6-40: FRCs should have on-site crisis response capabilities by masters (or higher) level therapists, including on-call response 24/7, possibly including after-hours tele-video accessibility. Detainees or detention staff should be able to access this resource 24/7 without need for a prior mental health diagnosis or mental health treatment plan. This will facilitate the decision to call outside, nationally accredited, mental health crisis services.

Recommendation 6-41: If the FRC cannot provide the appropriate level of mental health care, detainees should be transferred to receive that care in the community.

a) **The Level of Care Utilization System (LOCUS, for adults) or Child and Adolescent Level of Care Intensity Instrument (CASII, for children 6 years of age and over) should be used to determine the appropriate level of care.**

b) If a detainee is determined to need an inpatient or residential level of care, he or she should be sent to inpatient services first for comprehensive evaluation and stabilization, then transferred to a nationally accredited residential mental health facility.

c) If clinicians at the mental health facility believe that remaining in the FRC or returning to the FRC post-discharge would be deleterious to the detainee's health, then ICE should release the detainee to a post-release community with the following:

i. safe and reliable transport to the post-release community;

ii. stable housing once the detainee arrives; and

iii. clear arrangements and appointments to receive the recommended level of care in the post-release community (using the LOCUS or CASII to determine level of care), arranged by ICE case management. ICE should collaborate with any outside clinical facility in making these arrangements.

Any minor released for mental health reasons should be accompanied by his/ her parent to a post-release community.

Recommendation 6-42: ICE and FRC staff should receive crisis intervention training about on-site prevention and management of mental health crisis and agitation, and about formation of a behavioral rapid response team, including training on mental health restraints and medications for acute management.

Recommendation 6-43: ICE should amend the Family Residential Standards on use of restraints to incorporate the provisions of the PBNDS 2011. The FRCs should immediately follow the PBNDS 2011 both as to procedures and the substantive decision with respect to restraints.

Recommendation 6-44: ICE should amend the Family Residential Standards to specify policies governing external mental health crisis services for detainees. Provisions should cover: communication with crisis mental health services and first responders (including, particularly local/state police); safe method for transport; appropriate interpretation services; procedures for communication of results and recommendations from crisis evaluations back to on-site mental health providers, and communication with an inpatient facility if a detainee is hospitalized. The standard should also require formal review of sentinel events (e.g., suicide attempts, episodes of agitation/ aggression, and psychotic episodes), including debriefing with all involved staff, root causes analysis, and practices improvement based on the review. FRCs should be required to develop specific procedures and training to implement the policy, including developing contacts in advance with nationally accredited external providers.

Recommendation 6-45: ICE should treat detainees with mental health needs, including suicidality, in a non-punitive, therapeutic manner. Use of isolation cells or other isolated housing should be avoided for anyone exhibiting suicidality or symptoms of mental illness; any such use should be only in response to a threat to the physical safety of the detainee or others, if no other less restrictive option is appropriate, and for the shortest time practicable; and only if authorized by a mental health professional. Use of isolation cells and segregation should particularly be avoided if such use would separate parents from their children. In lieu of isolation cells, FRCs should practice a policy of heightened observance of at-risk detainees.

In cases of suicidality or aggressive behavior, FRCs should institute special observations and therapeutic interventions, or, if the circumstances require, admit the detainee to a mental health facility.

3. **Psychiatric Management and Pharmacotherapy**

Recommendation 6-46: All available formularies of psychiatric medications should follow the Texas Medication Algorithm Project (TMAP). This nationally accepted professional standard should set the minimum requirements for the FRCs. Should state licensing laws or best practices of professional affiliations require compliance with standards of care that are higher than those contained in the TMAP, then FRC staff operating in the state should meet the higher standard. FRC medical providers, in collaboration with the psychiatric/ behavioral health providers and the ICE Medical Director, should develop and reliably implement a collaborative care algorithm using a stepped care model. Such algorithm should at minimum include the following levels of care:

a) **Entry-level pharmacological treatment for depression or anxiety should be performed by primary care providers (PCPs), in collaboration with the on-site mental health professional serving the detainee.**
b) **Management of detainees with moderate complexity mental health problems (including PTSD) should be managed jointly by the PCP and the consulting psychiatrist, in collaboration with the on-site mental health professional serving the detainee.**
c) **Management of highly complex patients, including those with severe depression or anxiety, bipolar disorder, psychosis, and autism spectrum, should be overseen by a consulting psychiatrist, with PCP input, in collaboration with the on-site mental health professional serving the detainee.**

Recommendation 6-47: Criteria for psychiatric evaluation should include psychiatric evaluation under integrated behavioral health models, guided by the above -mentioned stepped care algorithm and using offsite resources when the patient's needs for stepped care cannot be managed by on-site primary care providers, mental health professionals, or psychiatrists at the FRC. Psychiatric evaluation and management can be conducted either live or via televideo; the latter should follow the applicable provisions of the Family Residential Standard, PBNDS 2011, and practice parameters for telepsychiatry from the American Psychiatric Association and the American Academy of Child and Adolescent Psychiatry.

Recommendation 6-48: As recommended by the Texas Medication Algorithm Project, the FRCs should have "as clinically necessary," psychiatric medication on formulary in the dispensary (including injectables as last resort to manage severe agitation). These should be used only for clinically necessary, not detention related, reasons.

Recommendation 6-49: FRCs should be cautious about ethopsychopharmacology issues given the high percent of detained families from indigenous ethnic groups (who are often slow metabolizers of psychotropics). The Addendum to the Texas Medication Algorithm Project provides specific guidance on this issue.

4. **Credentials of Mental Health Professionals**

Recommendation 6-50: FRC should develop full credentialing procedures and standards as per the Joint Commission for Accreditation of Healthcare Organizations (JCAHO) or the National Council for Quality Assurance (NCQA) standards, state licensure requirements and best practices. Facilities should comply with both national and state standards. If the state in which the FRC is located has higher standards in a given area, then the state standards should be followed. Further standards that should be applied include:

a) **Credentialing procedures should include original source verification of credentials (i.e., education, licensure for the state in which the FRC is located, added training and certificates).**
b) **A Credentialing Committee for the FRC should review credentials and grant clinical privileges.**
c) **Credentials should be specific to the scope of practice and procedures/practice for each level and type of professional.**
d) **Credentials should address the professional's language competency for clinical services, taking account that few detainees are proficient in English.**
e) **Credentials should address the professional's continuing education in cultural competence and cultural literacy and training around the populations at the FRCs.**
f) **FRC therapists should have documented training in basic brief Cognitive Behavioral Therapy for depression and anxiety.**
g) **Credentials of medical and mental health professionals should be on file and posted on the ICE website (with appropriate privacy protections for staff) and made available for inspection at each FRC by CRCL, Danya, and others.**

Recommendation 6-51: ICE should enter contracts for FRC mental health services with clinical entities that have established credentialing and quality assurance processes and can establish satellite offices within the FRCs. (In Texas, two possible options are the University of Texas Health Sciences Center in San Antonio and the Center for Health Care Services under the Bexar County Mental Health Department in San Antonio; in Pennsylvania, Reading Hospital and Medical Center, Lehigh Valley Health System, and Lancaster General Medical Center are potential partners.)

5. **Psychotherapies**

Recommendation 6-52: ICE should consider a detainee's fragile health or mental health, and trauma experiences and potential re-traumatization caused by detention, as factors favoring non-admission to or release from detention. For detainees – adults or children –found to have significant mental and physical health conditions, release of the whole family from detention is probably the most appropriate outcome.

Recommendation 6-53: FRCs should provide detainees with care by master's or doctoral level therapists who:

a) **have documented training in Psychological First Aid, Trauma-focused Cognitive Behavioral Therapy and other evidence-based modalities for PTSD, Acute Stress**

Disorder (both for adults and children); and treatment of domestic violence, sexual violence and child abuse;

b) are certified through post-professional training; and

c) are certifiably bilingual with significant experience with Latino patients.

Recommendation 6-54: FRCs should establish a formal connection between the ICE Medical Office and the National Child Traumatic Stress Network technical assistance centers to provide training resources for local therapists in evidence-based therapies for psychological first aid, trauma-focused cognitive behavioral therapy and other evidence-based modalities for PTSD (many of these online). A similar relationship should be established with the National Center for Trauma Informed Care funded by SAMHSA and SAMHSA experts at HHS.

Recommendation 6-55: FRCs should provide, or contract with outside service providers, the above-mentioned psychotherapy to detainees as indicated by their mental health assessments and also incorporated into their individualized treatment plans.

6. **Support/Therapeutic Groups**

Recommendation 6-56: FRCs should create individual and group support opportunities, which may include individual counseling as well as support group sessions. FRCs should also recognize that trauma victims need access to these programs, but their autonomy to decide whether they are ready, able, or interested in participating in such programs needs to be respected.

Recommendation 6-57: FRCs should develop a psychoeducational group program to educate detainees about basic mental health concepts, diagnoses, and treatments, especially around PTSD and domestic and sexual violence. This can be done in collaboration with the state and local chapters of the National Alliance for the Mentally Ill (NAMI), which has considerable experience in outreach to and engagement with Latino populations and could provide group facilitators from the Latino communities and with organizations with expertise in running group sessions for victims of domestic violence and/or sexual assault These should be made available to all detained mothers and to interested teenagers who opt to participate in a psychoeducational group program. Groups may also be staffed with FRC Trauma Informed Care Coordinators with the credentials and experience to run these groups.

Recommendation 6-58: FRCs should develop longer term cognitive behavioral psychotherapeutic groups for trauma, depression, anxiety, and parenting issues for children with behavioral difficulties and for families who have longer term stays.

Recommendation 6-59: FRCs should offer brief cognitive behavioral therapy for individual detainees experiencing symptoms related to, e.g., trauma, PTSD, flashbacks, and suicide risk. This cognitive behavioral therapy needs to be available at each FRC; it should be provided in Spanish (and interpreted into other needed languages) by someone with training, qualifications, and experience to provide cognitive behavioral therapy to trauma victims.

Recommendation 6-60: FRCs should develop a list of practical topics that can be covered pre-release to facilitate resilience, follow-up treatment, and services for the short- stay detainees. Topics should include stress management, including breathing exercises.

C. Trauma-Informed Care

1. Implementing a SAMHSA Trauma-Informed Approach

Recommendation 6-61: ICE and the FRCs should holistically implement a trauma-informed approach, in coordination with relevant federal agencies and their recommended subject matter experts:

- **a) ICE and the FRCs should coordinate with the Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Justice Office on Violence Against Women (OVW), and/or the Department of Health and Human Services Family Violence Prevention and Services Program (FVPSP) in as many arenas as possible, to take advantage of their deep expertise.**
- **b) ICE and the FRCs should consult with SAMHSA-recommended experts about general policies and procedures, and in particular about sensitive approaches to management of agitation, distress, or other adverse behaviors.**
- **c) All trauma-informed care polices developed by FRCs and ICE should be reviewed and approved by experts at SAMHSA and OVW; ICE should secure consensus from SAMHSA and OVW that the policies meet trauma-informed standards.**
- **d) ICE and FRC staff should contract to receive technical assistance on trauma-informed care and work with immigrant-crime-victims subject matter experts on trauma-informed care recommended and/or funded by SAMHSA, OVW, and/or FVPSA.**
- **e) ICE and FRC staff should contract with FVPSA-recommended subject matter experts to receive training, technical assistance, and ongoing support on trauma-informed care and care for victims of domestic violence, sexual assault, child abuse, and human trafficking.**
- **f) ICE and FRC staff should contract with SAMHSA-recommended subject matter experts, with particular expertise and experience in trauma-informed training, to provide ongoing staff training and education on trauma-informed care for all ICE and FRC staff who have contact with actual or potential FRC detainees or supervise staff who have such contact.**

Recommendation 6-62: ICE and FRC trauma-informed training should have the objectives of increasing staff understanding of trauma, awareness of the impact of trauma on behavior, and how to implement trauma-informed responses.

Recommendation 6-63: ICE should designate Trauma Informed Care Coordinators for each FRC. The Coordinators should conduct environmental scans based on SAMHSA guidelines, identifying gaps and needs for trauma-informed care, and should develop a plan for the facilities to operate in a trauma-informed manner, taking corrective steps that prioritize the most readily-accomplished reforms and then moving on to more difficult areas. Coordinators should report to and coordinate with a staff member at the national leadership level at the ICE Enforcement and Removal Operations. Technical assistance on trauma-informed care and trauma-informed environmental scans can be provided by the National Center for Trauma Informed Care.

Recommendation 6-64: ICE and the FRCs should use SAMHSA guidelines for recognizing the signs and symptoms of trauma in detainees and families. The FRCs should implement programs that provide support for women and children who have experienced trauma, while avoiding "caretaking" or "rescuing" responses, and should foster an environment that encourages self-care by maximizing opportunities for choice and control in their daily lives.

Recommendation 6-65: The FRCs should provide a culturally appropriate environment that is as non-institutional as possible, with special attention to language access, diet, customs and traditions, daily routines, ambiance and decor (of housing units and of common areas), and adult parenting tasks, so as to minimize culture shock and to create as normal a daily structure as possible.

2. **Trauma-Informed Approach: Elimination of Nighttime Bed Checks**

Recommendation 6-66: All FRCs should immediately discontinue the practice of nightly bed checks, which are intrusive, harmful to parents and children, and undermine the provision of trauma-informed-care at FRCs.

3. **Trauma-informed Approach: Supports for Parenting**

Recommendation 6-67: FRC Trauma Informed Care Coordinators should coordinate trauma-informed care for parents and children detained at the FRCs. The FRCs should provide and/or facilitate access to services and programming that support parents' and children's resilience and prevent re-traumatization, such as educational and information sessions, support groups, self-esteem building, and other activities that help parents and children heal from trauma and build upon their own strengths and resiliency. The Coordinators should track the numbers of detained mothers who participate in such programs.

Recommendation 6-68: FRC Trauma Informed Care Coordinators should regularly offer – and should reach out to detainees to invite them to participate in – informational sessions for detainees on domestic violence, sexual assault, human trafficking, and child abuse and providing an overview of help available to victims in the United States. This should include handing out the USCIS brochures discussed in Recommendation 3-35 and 3-38, above. Alternatively or additionally, these information sessions could be provided through contract with a community-based organization with expertise serving victims of domestic violence and sexual assault.

Recommendation 6-69: Each FRC should conduct systemic surveys of detainees to document and assess family experiences in FRCs and to identify services that could help minimize re-traumatizing parents and children.

Recommendation 6-70: ICE and the FRCs should transparently communicate to detainees their rights and responsibilities with respect to parenting their children while in detention. The policies and communications materials should be developed with a trauma-informed approach to normalize the parent-child relationship and create the greatest possible opportunities for parental responsibility, choice, and control over their children's lives, within the confines of detention.

Recommendation 6-71: ICE should ensure that the best interests of child detainees are considered in all decisions related to their care and custody, and that children are not subjected to further trauma by the decisions related to the care and custody of children in the FRCs. Children should not be present for their mother's credible or reasonable fear interview, mental health screening, or delivery of the results of mental health screenings or tests.

D. Release Preparation, Case Management, Continued Care and Access to Mental Health Professionals

Recommendation 6-72: ICE should enroll all released detainees who need support in a community-based support program, such as ICE's Family Case Management Program, and should expand the scope of such programs to include health and mental health case referrals. Communication between detainees and counselors and mental health providers should be privileged, and their participation in counseling and mental health treatment should be entirely voluntary.

Recommendation 6-73: Case management for detainees as they approach release should include the services described below – but inability to secure a post-release appointment for a detainee should never delay a detainee's release.

a) **Referral to community-based mental health programs, social services, victim services, and community support organizations in their post-release communities. FRC staff should consult the SAMHSA mental health locator and National Council for Behavioral Health to locate mental health providers in post-release communities. FRC staff should also provide detainees with the information about the Federally Qualified Health Center (FQHC) in post-release communities, because FQHC staff can either provide care or provide information about low-cost mental health services available in their communities.**
b) **Provision of information and education shortly before release about community mental health resources, Federally Qualified Health Centers, victim services programs, and social services programs in their post-release community, including the rationale for the mental health, victim or social services referral; a description of the help and support offered by the programs; program income eligibility; and an explanation of the programs' intake and enrollment procedures.**
c) **Referral calls to community mental health and social service agencies, with a goal of securing an intake appointment for each detainee within 7 to 14 days after release.**
d) **For detainees who have been identified (including who have self-identified) as victims of domestic violence, sexual assault, child abuse, human trafficking or other gender-based abuse, provision of the names of and appointments with programs in post-release communities that have expertise in working with immigrant victims of gender-based violence. Staff preparing detainees for release can identify programs with the requisite expertise using the directory of program and services available developed with funding from the Office on Violence Against Women, U.S. Department of Justice.**
e) **For detainees with medical care needs, the names and contact information and appointments made with the Federally Qualified Health Center in post-release**

communities.

Recommendation 6-74: All referral information should be provided to each detainee in a language that detainee understands well (ideally her primary language).

E. Medical, Dental, and Mental Health Records

Recommendation 6-75: Disclosures made to counselors and psychotherapists should be confidential and never used in immigration procedures. Violations of this provisions should be reported to and investigated by the DHS Office for Civil Rights and Civil Liberties. Medical, dental, and mental health records should be kept in secured and locked locations that ensure confidentiality and privacy protection, consistent with HIPAA as well as all local or state confidentiality regulations. The latter may require added privacy protections for psychotherapy notes and for addiction history and treatment records.

Recommendation 6-76: Policies and procedures should be developed and established specifying the clearance for accessing medical, dental, and mental health records by appropriate health and mental health professionals who are directly involved in a detainee's care. As per HIPAA, any access to records by any professional should be tracked either on paper or electronically. Specifically:

a) **Policies and procedures should be established specifying which non-health care staff have access to any medical, dental or mental health information, specific reasons for such access, and the level of detail for such sharing or access. The policies should balance maintaining confidentiality versus clinical or emergent need to know for effective care.**
b) **Any non-health care staff accessing records, including interpreters and other support staff, should sign an appropriate confidentiality protection oath per HIPAA.**
c) **Policies and procedures should be established that prevent any individual who has any personal or outside relationship with a detainee from access to their health records unless the detainee gives signed informed consent.**

Recommendation 6-77: On request when in detention and automatically upon release from detention, detainees should be provided with a full copy, not a summary, of medical, dental and mental health records for themselves and their children, both in an accessible electronic format such as a CD or flash drive, and in hard copy. This includes documents relating to both initial screening, immunization, and health care they received while in detention (including lab tests and any radiograph readings). To facilitate requests for records:

a) **ICE should develop, translate into the languages spoken in the FRCs (using the cutoff described in Recommendation 5-7), and make easily accessible in hardcopy at all FRCs and on its website a uniform form to be used by former detainees seeking copies of their medical, dental and mental health records. This request form should be HIPAA-compliant and should not include questions about the purpose, need or reason for the request for medical, dental and mental health records. If the form is unavailable in a needed language, interpreter services should be offered to provide language access.**

b) **Within one business day of receiving a HIPAA-compliant request to release detainee medical, dental, and mental health records, ICE should provide a copy of such records – whether to a detainee still in custody, a former detainee, or any individual or agency the detainee or former detainee designates in the request, including health care and mental health care professionals, schools, attorneys and others.**

7. INSPECTIONS, COMPLAINTS, AND OVERSIGHT

Recommendation 7-1: DHS should immediately identify each ACFRC recommendation it intends to adopt and then monitor the extent to which the FRCs and ICE implement those recommendations.

Recommendation 7-2: DHS should require that ICE's contracted inspections (currently performed by Danya International) incorporate the recommendations contained in this Report, along with the PBNDS 2011 and the Family Residential Standards, and are routinely provided to ICE and DHS leadership, to CRCL, and to the public.

Recommendation 7-3:

a) **CRCL should conduct investigations two times a year at each FRC for the first two years following the issuance of this Report. In these investigations CRCL should investigate and report on the extent to which the FRCs and ICE are implementing the ACFRC recommendations DHS has adopted.**
b) **Each year thereafter CRCL should conduct an annual inspection of each FRC.**
c) **CRCL inspection teams should minimally be composed of physicians with expertise on Joint Commission on the Accreditation of Health Care Organizations (JCAHO) inspections and compliance, and expertise on medical care for women, children and adolescents; psychiatrists with specialized expertise on immigrant and detained populations; trauma-informed-care experts; educators with expertise on students with interrupted educations and immigrants; and experts in non-correctional congregate care.**
d) **CRCL inspections should pay particular attention to areas in which the Family Residential Standards and PBNDS 2011 differ, to ensure that FRCs are aware of and complying with the higher standard.**
e) **Inspections should include not only detention conditions but the processes and outcomes relating to decisions to detain and release, and the conditions and service referrals related to release.**
f) **DHS should ensure that CRCL has full access to the FRCs and to ICE and FRC files, including complaint records, and is able to speak confidentially with FRC staff, ICE officers, and detainees.**
g) **CRCL should provide ICE leadership investigation memos (by its experts) following its inspections at FRCs within 60 days of its inspections, and with a final CRCL recommendation memo within 90 days of its inspections.**

Recommendation 7-4: Upon receipt of a CRCL recommendation memo:

a) **Within 30 days, ICE should inform CRCL and the DHS Secretary whether it concurs with each CRCL recommendation. In that response ICE should provide an explanation for any non-concurrence.**
b) **Any ICE non-concurrence should be reported to the DHS Secretary; the Secretary should promptly determine whether to direct ICE to reconsider or reverse its non-concurrence.**
c) **Any non-concurrences that remain should be reported to the chair and ranking minority member of all congressional committees with relevant oversight responsibilities (including budgetary jurisdiction), and included in CRCL's public (and web-posted) quarterly reports to Congress.**
d) **For each CRCL recommendation with which it concurs, ICE should provide CRCL within 60 days with an implementation plan, and then should report every 60 days until completion on implementation progress.**
e) **Every quarter, CRCL should inform the DHS Secretary of any outstanding implementation issues.**

Recommendation 7-5: ICE should create an ombudsperson office to receive complaints and reports from detainees and their attorneys, or other knowledgeable entities, about problems arising for detainees at FRCs and to ensure that complaints and reports are appropriately investigated and responded to. The ombudsperson office should be located within the ICE Director's Office, and should address all the subjects covered in this report, including but not limited to decisions to detain and release, alternatives to detention, detention conditions, VAWA compliance, conditions of release, community supervision, and prosecutorial discretion. All complaints and reports and resulting actions or declinations to act should be reported weekly to a senior official within the DHS Secretary's Office. At least annually, ICE should analyze complaints and reports more systematically, considering any need for systemic responses, and should report the results of that analysis to DHS.

Recommendation 7-6: DHS and ICE leadership should routinely review and analyze information – from contracted inspections, CRCL inspections, ombudsperson office complaints, NGO reports, and any other credible sources – about problems and areas of needed improvement relating to policies on family detention in general (e.g., decisions to detain and decisions to release) as well as detainee treatment at FRCs, and should direct immediate corrective action when appropriate.