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**Statement of Lutheran Immigration and Refugee Service and
Bishops of the Evangelical Lutheran Church in America**

**Submitted to the House Subcommittee on Immigration, Citizenship, Refugees, Border
Security, and International Law of the Committee on the Judiciary
October 4, 2007**

Lutheran Immigration and Refugee Service (LIRS) and the undersigned bishops of the Evangelical Lutheran Church in America (ELCA) submit this joint statement for the October 4, 2007 hearing on “Detention and Removal: Immigration Detainee Medical Care.”

LIRS is the national agency established by Lutheran churches in the United States to carry out the churches' ministry with uprooted people. LIRS is a cooperative agency of the ELCA, the Lutheran Church-Missouri Synod, and the Latvian Evangelical Lutheran Church in America, whose members comprise about 7.5 million congregants nationwide. Founded in 1939, LIRS has assisted and advocated on behalf of refugees, asylum seekers, unaccompanied children, immigrants in detention, families fractured by migration, and other vulnerable populations. With respect to detention of immigrants, LIRS helped start the Detention Watch Network and provides services through 25 grassroots legal service partners. LIRS also serves detained unaccompanied children and has advocated for alternatives to detention and access to legal counsel for detainees through the Legal Orientation Program.

Grossly Substandard Medical Care Puts Immigrants at Extreme Risk

The U.S. Customs and Immigration and Enforcement (ICE) *Detention Operations Manual* states that all individuals in detention “shall have access to medical services that promote detainee health and general well-being,” and that facilities should provide both primary and emergency medical and dental care. LIRS research shows that ICE is falling far short of these standards. In February 2007, LIRS and the Women’s Commission for Refugee Women and Children released “Locking Up Family Values: The Detention of Immigrant Families,” which documented grave problems with the medical services for immigrant families in Department of Homeland Security (DHS) detention. (go to <http://www.lirs.org/LockingUpFamilyValues.pdf>). In addition, Lutheran volunteers regularly visit detainees in New Jersey facilities and have obtained firsthand knowledge of those facilities’ failure to provide adequate health services to detainees. Urgent attention must be paid to the following:

- 1. Withholding Medical Care and Pain Relief to Children and Women**
- 2. Denying Prenatal Care to Pregnant Women**
- 3. Misdiagnosing or Mistreating Serious Health Conditions**

1. Withholding Medical Care and Pain Relief to Children and Women

The “Locking up Family Values” report found that families detained in the T. Don Hutto Residential Treatment Center in Taylor Texas, which has capacity for 512 individuals, often waited several days before receiving medical services after having submitted written requests for such care. Guards frequently told detainees not to bother them with sick requests. New Jersey ELCA congregation members visited with detainees in the Elizabeth and Monmouth, New Jersey facilities and reported that detainees must wait several days before obtaining a health visit of any kind.

Rebecca, a detainee in Hutto, reported that her child was suffering from repeated vomiting. When she asked for medical attention, the staff told her that they would need to see the vomit to believe that her son was sick. When the woman’s son had a toothache, she submitted a request slip to see the dentist. Her son waited three weeks before seeing the dentist. At that appointment the dentist pulled the rotten tooth without any anesthesia. “My son was in terrible pain,” Rebecca said. On another occasion, Rebecca experienced uterine pain and went to see the nurse who said she was not permitted to prescribe medicine. Her condition was not deemed an emergency. As a result, Rebecca waited more than one week before seeing the doctor who was called in on another case at 3:00 a.m. in the morning.¹

2. Denying Prenatal Care to Pregnant Women

Several pregnant women provided LIRS with direct accounts of the Hutto facility’s failure to provide prenatal care. One pregnant woman recounted that she was given an x-ray to screen for TB without a lead protective cover, even after she told the technician she was five months pregnant. Another woman, Carmen, did not receive her first prenatal exam until she was seven months pregnant:

Carmen’s pregnancy was confirmed while she was in detention on August 18, 2006. But the Hutto staff gave her no further exam or treatment. On September 23, more than thirty days later, she fainted and was taken to the hospital. She was told that she had a kidney infection and that she should drink lots of water. She was not given any antibiotics for the infection. It was not until October 20 that she received her first prenatal exam. On this occasion she and several other pregnant women were transported by van to a clinic together. By that time she was seven months pregnant, but was given no prognosis of the status of her or the child’s health. The Hutto staff did not give her prenatal vitamins or any special diet.²

3. Misdiagnosing or Mistreating Serious Health Conditions

Detainees are sometimes provided medicines and treatments that are inappropriate for their medical needs. Church volunteers at the Elizabeth, NJ facility reported that the medical staff provide only aspirin to address nearly all requests for medical assistance and treatment no matter what is the nature of the condition. Detainees complained of being given only two choices for their ailments: the blue pill or the red pill. Similarly, in “Locking up Family Values,” LIRS

¹ Lutheran Immigration and Refugee Service and the Women’s Commission for Refugee Women and Children, *Locking Up Family Values: The Detention of Immigrant Families* (February 2007) p. 22.

² *Ibid.*, p. 15.

reported that a young boy who had stomach problems and was vomiting almost every day was given only acetaminophen.

In the Hutto facility, several parents reported that medical personnel provided improper treatment for skin rashes. One mother complained that her children began developing skin rashes.

Lily, a five-month-old girl, developed a rash while in Hutto. At first, the facility staff told her mother that Lily's condition was caused by an allergy to an antibiotic that had been prescribed to her at another facility. The staff took the antibiotic away. But the rash only became worse. The staff gave her a cream but the rash continued to worsen. After Lily and her mother were released from custody, a pediatrician told her that the rash was not related to any allergy and prescribed a different medication which resolved the rash.³

The Inhumane Detention of Immigrants Is Contrary to Biblical Instruction

The Bible teaches us to “Welcome one another, just as Christ has welcomed you, to the glory of God” (Romans 15:7). Every human being is a child of God made in God’s image and deserving to be treated with dignity and respect. We are deeply concerned that our government’s poor treatment of immigrant detainees is eroding our country’s values and fundamentally inconsistent with basic Christian values.

From within our congregations, we are receiving an increasing number of inquiries about the government’s use of detention. A Lutheran youth group that visited the Elizabeth, NJ facility was shocked to learn that the U.S. government has incarcerated hundreds of people so close to where they live. In 2005, ELCA’s New Jersey Synod issued a resolution in response to the harsh treatment of immigrants that parishioners and pastors observed in the detention facilities. (See attached) Now, on a monthly basis, Lutheran church-goers hold a vigil outside the Elizabeth facility standing side-by-side members of other faiths and religions. The interfaith community maintains the vigil on a weekly basis. At just that facility, more than 200 volunteers minister to those in detention.

The Grossly Inadequate Medical Care is a Systemic Problem

The research of LIRS and the Women’s Commission and the accounts from congregation members are corroborated by reports from the DHS Office of the Inspector General, the American Bar Association, and Human Rights Watch. Together they are shocking evidence of sub-standard and inhumane conditions and poor medical treatment in federal immigration detention facilities nationwide. We are dismayed that, in our nation’s detention facilities, a pregnant mother was given x-rays without a proper lead protection pad; expecting mothers are waiting months before receiving proper prenatal exams; a child with a toothache waited more than a week before seeing a dentist who pulled a tooth without anesthesia; children are being denied treatment or given inappropriate treatment for severe skin rashes that cause bleeding; and most disturbing is the evidence that immigrants have died in detention when such deaths likely could have been avoided with better care.

These gruesome accounts are not exceptions but common occurrences which demonstrate the extremely poor quality of medical care that DHS provides to immigrant detainees. Moreover,

³ *Ibid.*, p. 22.

these reports show that the government continues to violate its own detention standards. Finally, they show that the system has failed to protect the health and well-being of families, children, asylum seekers, and other vulnerable populations.

Congress Must Stop the Inhumane Detention of Immigrants

Despite this documentation, Congress appears intent on placing more and more immigrants who pose no threat to the community in jail-like settings. With the exception of the rare hearing, such as this one, Congress has paid scant attention to improving conditions of medical treatment for those detained.

We cannot condone our government's skyrocketing use of detention of immigrants who pose no threat to public safety or flight risk, especially when many have come here seeking asylum and other relief. Such practices cannot continue in the United States, a country founded upon principles that uphold the liberty and fundamental dignity of every human being. Each year, LIRS serves thousands of refugees and asylum seekers, many who have suffered government persecution, including detention by repressive regimes that commit unspeakable human rights atrocities. They have come to our shores seeking protection and freedom from oppression. To subject them to harsh detention without adequate health care services and medical treatment is nothing short of stripping them of their dignity and humanity. Such treatment is little better than that of those countries from which many have fled.

Moreover, such detention is extremely costly, ranging from \$100 to \$200 dollars per day for each person detained. We wonder why our government is not implementing other alternative methods that are more humane, less costly, and have been proven to be just as effective at ensuring enforcement of our laws and public safety.

Recommendations

In light of these serious systemic problems, we call upon Congress to mandate immediate improvements to the health and medical services in any facilities detaining adult and child immigrants. Until these problems are solved, we urge Congress to suspend consideration of any legislation that would further expand the practice of detention. Moreover, Congress should enact laws that limit the use of detention unless absolutely necessary and mandate the nationwide use of alternatives to detention.

1. Congress should adequately fund health care for immigrant detainees and mandate DHS to make improvements to medical services in detention facilities.
 - Improve access to medical care that includes mandatory screening, primary care, emergency care, and sick call for health, vision, dental, and mental health needs.
 - Strengthen internal quality controls to assure timely and professional provision of health, mental health, and nutrition services to detainees.
 - Offer specialized care and hospitalization as medically necessary.
 - Provide translation assistance to facilitate medical services.
 - Implement vigorous outside review of the DHS health care system by medical experts.

2. Congress should suspend consideration of any legislation that would further expand the practice of detention and enact laws that limit the use of detention to be consistent with international law and standards.
 - Congress should mandate codification of the current ICE detention standards that were drafted in collaboration with the American Bar Association. Only by codifying specific standards will Congress ensure that detention conditions are humane and that individuals have meaningful access to quality medical, legal, social, and pastoral services.
 - Congress should enact laws guaranteeing that immigrants have access to judicial review to consider release on bond, parole, or to an alternative program. Congress should increase the authority of immigration judges to make discretionary decisions regarding detention by narrowing the mandatory detention provisions in the Immigration and Nationality Act (INA), including INA §§ 235 and 236 (8 U.S.C. 1225 and 1226).
 - Congress should establish a process to review ICE parole decisions so that detainees, including asylum seekers, are not unnecessarily held in detention.
 - Congress should provide oversight of DHS's implementation of the August 2007 settlement agreement on the detention of immigrant families at the Hutto facility.

3. Congress should mandate the development and immediate implementation of nationwide use of alternatives to detention. Alternative community-based or monitoring programs have been shown to assure high court appearance rates. These programs are effective because they provide released immigrants with access to vital, emergency services such as housing and legal assistance. These services provide guidance, monitoring and appearance assistance programs for the released individual and instill confidence that the process will be fair thereby dramatically increasing appearance rates. Such alternatives to detention come with a price that is a fraction of the cost of detention. Congress should invest in such programs, which would be more humane for asylum seekers and all immigrants, more cost-effective for U.S. taxpayers, and more consistent with international law regarding the use of detention.

We thank Chairwoman Lofgren and the Subcommittee members for devoting time to this important issue. Any questions regarding this statement may be directed to Gregory Chen, LIRS Director for Legislative Affairs, (202) 626-7933, gchen@lirs.org.

Sincerely,



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