

CHAPTER THREE – CASE STUDY: T. DON HUTTO FAMILY RESIDENTIAL FACILITY, WILLIAMSON COUNTY, TX, AND THE CORRECTIONS CORPORATION OF AMERICA

What happened at Hutto cannot be excused. It serves as a reminder of the responsibility we assume when we decide to detain people, and highlights, once again, the need to drastically reduce the use of detention in all but the most extreme cases. What DHS learns from this terrible occurrence and how these learnings shape future decisions about detention policy will serve as a benchmark of our progress towards detention reform.
-Emily Butera, Women’s Refugee Commission, 2010 (Butera, 2010)

The History and Purpose of the T. Don Hutto Family Residential Facility⁸ and the Corrections Corporation of America

In May of 2006, ICE opened the T. Don Hutto Family Residential Facility (TDHFRF) in Taylor, Texas, at a retro-fitted medium-security county prison formerly known as the T. Don Hutto Correctional Center. In late 2009, ICE renamed the facility T. Don Hutto Residential Center (TDHRC). The center is owned by Williamson County, Texas, (WilCo) and operates under an Intergovernmental Service Agreement (IGSA) between ICE and the County. Day-to-day operations at TDHRC are sub-contracted to the publicly-traded (NYSE: CXW) and privately-run for-profit Corrections Corporation of America (CCA) (Immigration and Customs Enforcement, 2010b) – the “largest owner and operator of privatized correctional and detention facilities and one of the largest prison operators in the United States, behind only the federal government and three states,” (Corrections Corporation of America, 2009). Because of the IGSA, all funding passes through the County before reaching the CCA. This organizational

⁸ TDHFRF, or *the facility*, refers to the May 2006 to September 2009 period during which families were detained at the facility. TDHRC, or *the center*, refers to the September 2009 to present period during which the center has been used to house only women. Any reference to *Hutto* refers to the entire May 2006 to present period at the facility/center.

structure continues to operate the center today, with the most recent IGSA and contract negotiations having become effective as of February 1, 2010 (*ibid.*).

From May, 2006, until September 17, 2009, the official purpose of the T. Don Hutto Family Residential Facility was to maintain the family unity of detained immigrants, to provide special detention programs for children, and generally to accommodate non-Mexican “alien families in ICE custody.... who [had] been placed in administrative immigration proceedings” including all those proceedings listed in Chapter Two (Immigration and Customs Enforcement, 2008a). This purpose was necessitated by a number of factors, including ICE’s effort to comply with the stipulated court settlement *Flores v. Meese* (1997), which set “minimum standards and conditions for the housing and release of all minors in federal immigration custody” (American Civil Liberties Union, 2007a), as well as the immediate and indirect effects of dramatic immigration enforcement policy changes enacted by the Bush Administration in 2006.

Historically, the Immigration and Naturalization Service released a majority of apprehended alien families on their own recognizance (ROR) in a program that became known colloquially as “catch and release,” (The Least of These, 2009a). By early 2006, the Bush Administration announced plans to end catch-and-release immigration enforcement practices in border-states by October of that year (Gelatt, 2006) (Strohm, 2006). The immediate strain on immigration detention facilities, which was caused by the increased detention population, pressured ICE to detain only adults and to turn any children over to the Department of Health and Human Services’ Office of Refugee Resettlement, Division of Children’s Services (The Least of These, 2009a) for the sake of conserving detention beds. While the Berks County Family Residential Center in Leesport, PA, had been operational since 2001 for alien family detention, its capacity is capped at 85-beds (Department of Homeland Security, 2007), thus ICE

turned to Hutto and its 470 (now 512) bed capacity to alleviate some of the public pressure for family unity and humane detention practices. ICE has touted both facilities – Berks and TDHFRF – as “an effective and humane alternative to maintain the unity of alien families as they await the outcome of their immigration hearings or return to their home countries,” (Immigration and Customs Enforcement, 2008a). DHS credited TDHFRF as one of the major reasons they were able to end “catch and release” along the southern border (*ibid.*).

While “[t]he Bush administration highlighted the family detention facility as a symbol of its immigration crackdown efforts, ... it became a lightning rod for litigation over the government's treatment of children,” (Hsu, 2009). A sampling of media coverage of TDHFRF between 2006 and 2010 revealed nicknames for Hutto including “a maximum-security day care”⁹ (Meyer, 2007), an “internment camp” (Watson & Watson, 2008), “America’s Family Prison” (Trevino, 2010), and “America’s li’l kiddy prison” (Lloyd, 2007), and a long list of others, as well as general descriptions of the facility as “family unfriendly” (Del Bosque, Family Unfriendly, 2009) and “Draconian” (Blumenthal, 2007).¹⁰ ICE officials defended family detention at Hutto, claiming that TDHFRF was a “model facility ‘primarily focused on the safety of the children,’” and that, once superficial changes to the center were completed—such as

⁹ This nickname, in particular, is interesting because TDHFRF has been criticized for failing to ever be licensed under Texas state-law to provide childcare services.

¹⁰ On the other side of the spectrum, a November, 2010, story covered by an local news station in Atlanta reported on detention reforms and upgrades—including those that were partially influenced by litigation and public-pressure sparked by conditions at Hutto—at facilities in Arizona, calling them “*luxury* detention centers for illegal immigrants” (WSB-TV Channel 2 Action News Atlanta, 2010) [*emphasis added*].

removing the controversial concertina razor-wire—TDHFRF would “look more like a community college with a very high chain-link fence,” (Blumenthal, 2007). Under the Bush Administration in late 2008, ICE began preparing to expand its self-declared “effective and humane” family detention network, and started accepting bids for three new family detention centers to be located on both coasts and along the Southwestern border; however, the Obama Administration scrapped these plans, leaving only the Berks facility to house detained families (Gorman, 2008) (Keber, 2009).

As a result of criticism and reforms which the following sections of this chapter will address, ICE took a step back from family detention and released the last family from TDHFRF on September 17, 2009. No new family detention facility has been established to absorb the families which would have been detained by TDHFRF, essentially setting the alien family detention procedures back to where they were before TDHFRF opened in 2006 – family ROR or forcible separation of families. As family detention was transitioned-out at Hutto, the facility was re-purposed as TDHRC with the objective of detaining “only females... and [consolidating] the female populations from three disparate facilities¹¹... allowing ICE to better monitor the needs of and develop programs specific to this population,” (Department of Homeland Security Press Office, 2009). In addition to the basic ICE immigration-enforcement purposes shared

¹¹ ICE decided to consolidate the female populations from three detention facilities at Hutto, in part, because of fallout from the September, 2009, conviction of a Port Isabel Detention Center guard for sexually abusing female detainees. Since the conviction, Port Isabel has housed only male detainees, and the entire female population was transferred to TDHRC. (Del Bosque, Point of No Return, 2010)

between TDHFRF and TDHRC (as well as NWDC), since its transition, the center is intended to provide effective, humane, and specialized residential services for detained women.

Beyond the immigration enforcement purposes of Hutto, the facility is controlled by Williamson County, TX, and run by CCA under a sub-contract with the County. Both WilCo and CCA financially benefit from detaining immigrants at Hutto; however, such capitalist financial motives purportedly play only a small role in the corporate structure of CCA, which succinctly states as its mission: “In partnership with government, we provide a meaningful public service by operating the highest quality adult corrections company in the United States,” (Corrections Corporation of America, 2008a). Of course, CCA does mention its economical considerations in its guiding principles, which, in close parallel to the mission of The Geo Group, Inc., the Corrections Corporation of America lists alongside its mission statement:

...As corrections professionals:

1. Integrity – Be honest and highly ethical. Always do the right thing, with honorable intentions.
2. Respect – Treat each other and inmates as we want to be treated. Appreciate the authority given to us and always use it appropriately.
3. Trust – Be competent and reliable. Build positive relationships.
4. Loyalty – Dedicate ourselves to our profession, our responsibilities and each other.

...As a company:

- Safety and Security – Dedicate every action to safe and secure correctional facilities – our highest priority. Through training, skill and courage, protect our communities, individuals in our care and each other.
- Quality – Provide excellent correctional services every day. Offer positive programs to help offenders.
- Accountability – Hold ourselves responsible for every action – accountability to our partners in government, to the taxpayers and to our inmates.
- Service-Driven – Serve our government partners and communities with pride and dedication. Be flexible. Be great problem-solvers. Deliver on our promises.
- *Cost Effectiveness* – Provide honest, fair and competitive pricing to our partners. Deliver value to taxpayers.
- Teamwork – Share, inspire and help one another daily. Don’t let others down, because together we make greater contributions.
- Communication – Listen well. Share information. Speak honestly and openly with intent to always improve our efforts.

- Innovation – Think creatively and boldly. Value resourcefulness. Embrace our heritage as the partnership corrections founder and leader.

(*ibid.*, emphasis added). Just as GEO sets itself up, CCA also highlights its efforts to provide innovative and productive services, while still mentioning cost-effectiveness and raising economical considerations.

Facility Design, Daily Living, and Detainee Demographics

Unlike NWDC, which was purpose-built for immigration detention, Hutto was originally designed as a medium-security prison facility. The original signs for TDHFRF, which CCA and ICE have since replaced, were the T. Don Hutto Correctional Facility signs, from which the lettering had been scraped-off and replaced—though the sun-stains left the old lettering plainly visible. After ICE hurriedly opened TDHFRF in May of 2006, the tall fences and concertina razor wire used for prison security were still in place, despite the apparent contradiction to the human-rights-driven immigration detention reform goals such as moving away from prison-like facilities. In a 2006 interview on the University of Texas at Austin radio station, KUT Austin, regional ICE spokesperson Nina Pruneda explained the reason why ICE had kept the razor-wire surrounding Hutto—because the residents are not native English speakers:

People are... are under the impression that this is a prison. This is not a prison; this is not a jail; it's a family facility where they're being detained. This barbed wire that you see out here is for the safety of those that we have housed inside of the facility. We have to protect them because English is not their first language—it's their second language—and so we have to make sure that they're secure and that they're safe and then, uh, we return them safely back to their home country.

(Lyda & Lyda, 2009) (Kahn, 2010, p. 157). One ICE enforcement agent indicated to NGO-representatives on a facility tour that the agency planned to take down the wire, but “noted that the cost of such refurbishment is prohibitive,” (Women's Commission for Refugee Women and Children and Lutheran Immigration and Refugee Service, 2007, p. 12). The outside of the

facility is also routinely patrolled by guards in vehicles, and all entrances to the grounds have security checkpoints. Following negative publicity brought-on by media and advocacy-group exposés, and particularly as a result of high-profile lawsuits¹² brought-on primarily by the American Civil Liberties Union on behalf of Hutto residents, the concertina razor wire was slowly removed—though the chain-link fence remains up—beginning in early 2007 while other conditions at the facility slowly changed, as well: “The center underwent more than 100 changes. ICE said those changes came about more as a result of trial and error, rather than neglect,” (Robuck, 2008).

ICE advertises that residents have freedom of movement within the facility for twelve hours daily, and that “[s]ecure doors are never used within residential areas” (Immigration and Customs Enforcement, 2010b), though doors between residential areas—separating the pods from each other—and to other parts of the facility are kept secured and monitored by a guard (Women's Commission for Refugee Women and Children and Lutheran Immigration and Refugee Service, 2007, pp. 12-13). DHS Secretary Michael Chertoff bragged on a television interview that doors inside Hutto are kept unlocked (Lyda & Lyda, 2009); however, he left out the facts that the locks on the cell doors were completely disabled and, more importantly, that “there is a laser beam that shoots across the line of cells so that if a door is opened [more than 4 inches], an alarm would go off,” (Democracy Now! News, 2007) (Women's Commission for Refugee Women and Children and Lutheran Immigration and Refugee Service, 2007, p. 17).

¹² A series of ten lawsuits representing 26 detained children at Hutto was filed in the U.S.

District Court for the Western District of Texas over early- and mid- 2007. The lawsuits resulted in a consolidated settlement agreement titled *In re Hutto Family Detention Center*.