

Is family detention about to end?

By [Amy Frykholm](#)

May 18, 2015

A federal judge [ruled recently](#) that the three U.S. detention centers currently holding more than 2,000 women and children seeking asylum from Central America have three choices:

1. Release just the children, leaving their mothers incarcerated.
2. Entirely reform the detention center environment so that it's not longer like a prison.
3. Release everyone. Instead of holding women and children asylum seekers in detention centers, use a different system to track them.

At play in this decision is a 1997 ruling that children must be held in the least restrictive environment possible. This is why the government releases children who cross the border alone into the custody of a relative or, in rarer cases, uses the foster care system. This is also why the judge in this month's decision ruled that at the very least, the children must be released. But option #1, separating mothers and children, is an obvious non-starter.

The second option—reforming the detention centers into non-prison-like environments—would not be a bad idea if there were no way for civil society to absorb these asylum seekers. But in the absence of government intervention, these women and children would not be homeless or without resources. The vast majority have relatives and friends in the United States who could support them while they gather the resources to make their cases for asylum. (This is the case for most asylum seekers from around the world.) There is no reason to spend money rebuilding and licensing these detention facilities. They are already a stunning waste of government resources—though they've been a big win for the Corrections Corporation of America.

Only the third of these options makes sense. There is a system already in place that includes court appearances, nonprofit organizations, and family support to help people seeking asylum in the U.S. get a fair hearing. Early last year, the Department of Homeland Security made it perhaps too obvious that its primary reason for detaining women and children under prison-like conditions was to “send a message” to other asylum seekers that they would not be welcome here. As a federal judge [ruled](#) this February, you can’t imprison people to send a message to other people. That violates basic rules of justice.

The bottom line is that the women and children currently being held in detention centers are not criminals. They are asylum seekers in a venerable tradition that allows threatened people to flee their countries in order to find help somewhere else. This tradition is precious and must be carefully guarded.

An agreement between the government and the Center for Human Rights and Constitutional Law, which brought the lawsuit, must be reached by May 24.