

DIVIDING FAMILIES: THE DEPARTMENT OF HOMELAND SECURITY'S PLAN TO SEPARATE CHILDREN FROM PARENTS

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On March 6, Department of Homeland Security (DHS) Secretary John Kelly mentioned in an interview¹ that DHS was considering separating children from their parents when they are apprehended at the U.S. border in an effort to deter families and their children from travelling to the United States to seek safety. This practice would needlessly separate children from their parents and would have drastic consequences for child safety and well-being.

In FY 2016, Customs and Borders Protection (CBP) encountered **77,674 children and their parents**² at the border, many of whom were from Guatemala, Honduras and El Salvador and seeking asylum, a form of immigration relief for which individuals cannot apply from outside of the United States. Currently, women and children who are apprehended together are placed in one of three family detention centers for up to 21 days before being released on bond, recognizance or participation in an Alternative to Detention (ATD) program while their case is pending before an immigration judge. Under Secretary Kelly's proposed plan, these families would be needlessly separated—parents would be placed in detention while their children are referred to the Office of Refugee Resettlement (ORR).

Under current law, children who enter the United States without a parent and encounter CBP agents must be transferred to the custody of the Office of Refugee Resettlement (ORR) within 72 hours of their apprehension. ORR then works to reunify these children with a parent or family member or place them in short- or long-term foster care – to be clear, these placements are not the same as foster care homes licensed and monitored through state child welfare agencies. In Fiscal Year (FY) 2016, DHS referred **59,170 unaccompanied children**³ to ORR. In that same year, ORR reunified a majority (88 percent) of these young people with their parents or other family members in the United States and placed 12 percent in temporary or long-term foster care while they awaited the outcome of their immigration court proceedings.⁴ Oversight and funding for foster care for unaccompanied children is not done through the child welfare system but rather through ORR and its subcontractors.⁵

As we highlighted in our brief, [Healthy, Thriving Communities: Safe Spaces for Immigrant Children and Families](#),⁶ family separation due to immigration detention places children at greater risk of psychological trauma, aggression and toxic stress responses. According to the American Academy of Pediatrics (AAP),⁷ separating children from their parents as they seek refuge in the United States **risks exacerbating an already emotionally and physically stressful time with additional trauma**. Instead, the AAP recommends that children remain with parents, family members and caregivers during any time of anxiety or stress. Additionally, as a recent report from Kids in Need of Defense (KIND), the Women's Refugee Service and Lutheran Immigration and Refugee Service (LIRS) highlights,⁸ current practice to separate families as a means of deterring other immigrants, known as the DHS Consequence Delivery System (CDS), has not been shown to be effective through evidence-based evaluation and often contradicts what we know about humanitarian protection needs, due process and the importance of family unity.

Immigration experts attest that children who enter the United States with their parents are less likely to have other family members already living in the United States,⁹ meaning that a majority of children separated from their parents and referred to ORR under this proposed plan would **likely need to be placed in short- or long-term foster care**. This would massively increase ORR's foster care caseload, which is concerning given that it is an already over-burdened and under-funded system. Last year, the Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations found¹⁰ that ORR is unable to safeguard children from sponsors attempting to "accumulate multiple children," often fails to require background checks on non-sponsor adult household members or backup sponsors, does not adequately use home studies or provide post-release services and often does not ensure a sponsor has adequate income to support an unaccompanied child. Furthermore, the report found that sponsors often inflict legal hardship on unaccompanied children by not ensuring their appearance at immigration proceedings, among other findings.

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While ORR has made efforts to increase oversight and ensure child protection, increasing ORR's foster care caseload without a requisite increase in agency resources **increases the risk that children will be placed in settings that can be harmful to their well-being**, such as placement in congregate care facilities or with unsuitable sponsors or human traffickers who claim to be family members.¹¹ The inability to monitor and ensure safety for children may result in an **increase in child referrals to state and local child welfare agencies** – and possible placement in the child welfare foster care system. Without a requisite increase in funding, ORR cannot work to develop and implement rigorous screening, review, training and certification requirements for foster homes and more importantly any group facilities where children are placed and ensure strong accountability and quality monitoring to ensure child safety and well-being.

Instead of separating children and families in the hope that it will deter families from trying to enter the United States, DHS should work to ensure that children and families remain together throughout the entirety of their immigration court case. In addition, DHS should make the following administrative policy changes:

- **Require the hiring of child welfare professionals at the border to supervise child protection and ensure families are separated only in cases where it is in the best interest of the child;**
- **Prioritize family unity when determining whether or not to place an individual in detention; and**
- **Consider the best interests of the child in all decisions impacting the custody, release or removal of family members.**

For more information on these and other policy recommendations to protect family unity at the border, please see **Betraying Family Values: How Immigration Policy at the United States Border is Separating Families**.¹² For more information on the costs and implications of separating children from their parents at the border, please see **Separating Mothers from their Children at the Border is Wrong and Costly**¹³ by KIND and the Center for American Progress.

This is a continually evolving issue and our analysis and specific recommendations will change as we continue to learn new information. Please check back with our blog at www.cssp.org for the latest information.

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