



Bill de Blasio
Mayor

Mayor's Office of
Immigrant Affairs
Bitta Mostofi
Commissioner

July 12, 2018

Testimony of Commissioner Bitta Mostofi
NYC Mayor's Office of Immigrant Affairs

Before a hearing of the New York City Council Committees on General Welfare, Health, and Immigration:

**"Oversight – The Impacts of Trump Administration Family Separation Policy
on New York City"**



Thank you to Speaker Johnson, Chair Levin, Chair Levine, and Chair Menchaca, and the members of the Committees on General Welfare, Health, and Immigration. My name is Bitta Mostofi and I am the Commissioner of the Mayor's Office of Immigrant Affairs (MOIA). I am joined today by my colleagues from the Administration for Children's Services (ACS), the Department of Health and Mental Hygiene (DOHMH), NYC Health + Hospitals, and the Human Resources Administration's Office of Civil Justice (OCJ), who along with myself are happy to answer questions.

In my testimony today, I will describe the effects of the cruel and inhumane separation of immigrant families by the Trump Administration on New York City, detail the steps the City has taken to fight against this immoral policy, explain what we've done to address the needs of children in New York City who have been separated from their parents, and identify what work remains to be done.

I want to note at the outset how grateful I am for the many New Yorkers who responded to this crisis with donations of money, supplies, and time. This is a reflection of the spirit of New York City, the quintessential city of immigrants, and I am proud to be able to serve and work alongside such welcoming and generous people.

Background

I speak for the City when I say that I am appalled by the Trump Administration's callous disregard for the humanity of immigrant families and children.

The Trump Administration has risked causing permanent harm to thousands of immigrant children, including those already suffering trauma from experiences they faced in their home countries. Studies have shown that even short-term family separation negatively affects the long-term health of children.

The family separation crisis was deliberately engineered by the Trump Administration. Federal officials freely admitted that they intended to separate families as an attempt at deterrence of entry in to the United States. The separation has been accelerated by the Trump Administration's "zero tolerance" policy, announced by the Attorney General on April 6, which directed criminal prosecution of all individuals caught crossing the border without proper documentation outside ports of entry. In many cases, the people being prosecuted by the Trump Administration are immigrants seeking asylum.

The sheer injustice and cruelty of the family separation policy prompted a tremendous outcry across the country, forcing the federal government to end its family separation policy. In addition, a federal court ordered the federal government to reunify immigrant parents with their children. The federal government failed to meet the court's deadline to reunify children under age five by this past Tuesday, but the latest update from the federal government is that 57 of the 103 separated children under age five have been reunified with their parents as of 7 a.m. this morning, but the remaining 46 are not being reunified because the adults have been found ineligible due to criminal history or other concerns, or because they have already been deported.



We remain very concerned that the federal government has failed to create an effective, comprehensive, and immediate reunification plan.

Addressing the needs of separated immigrant children

The effects of the Trump Administration's cruel policies and practices have been most acutely felt at the southwest border. But the children separated from their parents at the border have been sent all over the U.S., and hundreds of separated children have been placed in temporary residential facilities and foster care arrangements in New York City. According to the best information we have, since May there are about 300 children who were separated from their parents and are being temporarily housed or in foster care in New York City at a given time.

This is not the City's first effort to address the effects of a humanitarian crisis for immigrant children originating at the border. Starting in 2014, this Administration and the City Council worked together to address a rise in unaccompanied minors placed in New York City. We worked to provide legal services, enroll children in health insurance and public school, and share information about crucial city services available to all. At that time, the federal government assisted in some of those efforts: the Office of Refugee Resettlement (ORR) offered regular and thorough information and distributed our resource guide, for example. The Trump Administration, in contrast, has failed to communicate with the City about immigrant children separated from their parents who have been placed with federal providers in New York City.

It is inexcusable that the federal government has failed to fully answer our questions about the scope of this current crisis. By refusing to share the number and location of children, the federal government posed a challenge to the City's ability to respond and help care for these children. Extraordinarily, the federal government has not been able to provide definitive numbers on how many children have been separated from their families. These failures demonstrate the federal government's negligence in caring for the thousands of children separated from their families.

Despite the federal government's unwillingness to share information, the City has nonetheless been able to help children and families affected by family separation and provide additional supports.

In fact, it was through one individual that the City first learned about separated children housed here in the city. A relative of a nine-year-old child separated from his mother at the border told us that the child was in New York City in the custody of ORR. Through MOIA's work with the child and his loved ones, we were able to learn more about his situation and the challenges he faced due to his separation from his mother.

The Mayor, the Commissioners of ACS and DOHMH, and I visited Cayuga Centers, the nonprofit provider responsible for the child's well-being here. The three commissioners also met with the other local ORR-contracted organizations and learned that at that time there were about 300 children separated from their families housed or in temporary foster care in New York City, many of whom are between ages four and twelve. This includes multiple preverbal toddlers and babies as small as nine months.



Once we learned that separated children were being sent to New York City, we immediately launched a multi-agency, multi-pronged response to both understand and help address the needs of these children. Relying on the experience and work of the federally contracted providers, including Catholic Charities, Cayuga Centers, and others, MOIA, ACS, and DOHMH learned how the City could assist in the care and well-being of the children in our city. We coordinated with the Mayor's Fund to Advance New York City, NYC Health + Hospitals, the NYPD, the Human Resources Administration's Office of Civil Justice, and the Department of Parks & Recreation to respond to identified needs.

Through this interagency coordination, the support and services that City agencies are providing include:

- On-site child and adolescent psychiatric consultation services to mental health staff caring for the children;
- Health care for children at public hospitals citywide, through expedited referrals and a 24-hour hotline;
- Training for foster parents and staff at the nonprofit agencies on how to work with young people who have been through severe trauma;
- Parenting coaching for teenage mothers who were separated from their adult mothers and are with infants;
- Increased security at day facilities and during transportation from intake centers to foster homes, through specialized NYPD patrols;
- Delivery of toys and art supplies, including teddy bears, soccer balls, children's books, and paint; and
- Weekly recreational activities, and field trips to educational and cultural institutions in the city, including museums and zoos.

We have also provided language access support in some instances. In one recent case, for example, MOIA was alerted by a local provider about language access needs and was able to help secure interpretation for a six-year-old child who spoke only Chuj, a native Mayan language.

Additionally, the Mayor's Fund has taken the lead in soliciting donations of supplies as well as financial support from the incredible outpouring of support from New Yorkers. I want to thank the Council Members for also coordinating many generous donations from across the City, helping to fulfill the requests we received from providers.

Seeking to meet additional needs for legal representation and assistance that are unmet by federal funding through ORR, MOIA and the Office of Civil Justice are working to connect children, their parents, and their potential sponsors to free, safe, and confidential City-funded legal services. The services are being funded through the Administration's Immigrant Opportunities Initiative and include representation for separated and unaccompanied children, representation for separated parents, and free and confidential advice and assistance for family and loved ones applying to be sponsors for children in the custody of ORR.



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In addition to the terrible effects on newly arriving children and families, the recent news on family separation may also heighten fears among New York City's immigrant parents who may be at risk of immigration enforcement. On this issue, I am pleased to report that a recently passed state law, supported by the Mayor's Office, will help immigrant parents in New York plan for the future and achieve a greater peace of mind about their children's well-being, by allowing them to designate a "standby guardian" for their child if they are detained or deported. Immigrant New Yorkers can call 311 and schedule an appointment with ActionNYC to get free, confidential immigration legal assistance, including help to appoint a standby guardian.

The City is committed to ensuring that the children brought to our city receive the services that are crucial to their well-being. We are thankful for the collaboration with the nonprofit providers in advancing a shared goal to provide as much comfort to these children as we can.

The City is providing a range of critical additional services and will continue to do so. The reality of family separation is not over despite the recent court orders, and the federal government has offered no clear path towards reunification in many cases. MOIA and our partner agencies are working to support reunification efforts by providing legal services, connecting engaged community members to advocates and service providers with expertise, and offering logistical support to national partners working to reconnect parents and their children.

Advocacy

In addition to providing services, the City has fought against the practice of family separation, and we continue to advocate for immediate reunification of parents and children and against indefinite family detention.

Mayor de Blasio has publicly spoken out against the policy of family separation, condemning the policy as heartless and called on the federal government to reunify families. In June, after President Trump signed an Executive Order purporting to end family separation, the Mayor and 20 other mayors traveled to a federal facility housing separated children in El Paso in order to bring awareness to the ongoing humanitarian crisis. When the federal government failed to provide information about the number of separated children in New York City, the Mayor sent a letter to Department of Health and Human Services Secretary Alex Azar to demand transparency.

We have also worked with our partners to support litigation on family separation and family detention. In early July, the City joined Los Angeles, Chicago, and San Francisco in submitting an amicus brief in *Flores v. Sessions* to oppose the federal government's attempts to strip protections from immigrant children. A few days ago, the court rejected the federal government's request to be allowed to indefinitely detain immigrant children. In addition, I recently filed a declaration in support of *Washington v. Trump*, a multi-state lawsuit against family separation.



We support bipartisan efforts on the federal level to require Secretary Azar to provide a detailed reunification plan to Congress. This is one of several pending measures in Congress addressing family separation. We strongly support efforts to reunify families, including S. 3036, and we reject efforts by some opportunistic lawmakers to link family reunification to other anti-immigrant provisions. We similarly condemn the President's executive order purporting to end family separation by indefinitely holding children, including infants, with their parents in detention facilities, and we condemn efforts by Republicans in Congress to link appropriations to the long-term detention of immigrant children.

Conclusion

The separation of children from their parents is abhorrent and runs counter to who we are and ought to be as a city and country. The Trump Administration has not yet articulated a plan to reunify family members that have been torn apart and placed hundreds of miles away from each other. Without a concrete plan to reunite parents with their children, the federal government's claim that it has "ended" family separation rings hollow.

The de Blasio Administration will fight in every way it can to ensure that families are reunited. In addition, the City will continue to be responsive to critical service needs identified for the separated children in New York City.

Even prior to this immediate crisis, the City Council has been a crucial partner in the work to support immigrant children and families. The City Council's continuing support for the Immigrant Children Advocates' Relief Effort (ICARE) Coalition has ensured that unaccompanied minors facing deportation receive the legal support that they need. This effort, alongside the Administration's historic investment in legal services for immigrants, has allowed the City to effectively respond to this unique and profoundly disturbing crisis.

We look forward to working with the Council and our partners in the community to continue to fight on this issue.



Letitia James

Public Advocate for the City of New York

**Testimony Before the New York City Council
Committees on Immigration, Health and General Welfare
Oversight Hearing on the Impacts of the Trump Administration
Family Separation Policy on New York City**

July 12, 2018

Good afternoon Chairs Levin, Menchaca and Levine and committee members.

Melanie Weniger

My name is ~~Michelle Kim~~, and I work in the Office of Public Advocate Letitia James. Thank you for convening this very important hearing and allowing me to speak on behalf of Public Advocate James today.

At this very moment, our country is witnessing a human rights crisis--one that we have not seen the likes of in this country in generations. Last month, a new policy established by President Trump and Attorney General Sessions caused the separation of more than twenty-three hundred (2,300) children from their parents at the Mexican border.

Here in New York State, Governor Cuomo estimates that 700 children who have been separated from their parents as part of this inhumane policy have been brought to our state. These children, many of whom are babies, have been ripped away from everyone and everything they know, to be used as bargaining chips for a pointless wall whose only purpose is to demonstrate the blind xenophobia of our president and his supporters. The City of New York must find a way to resist this historical injustice and do everything in our power to provide comfort and safety for the families impacted by it.

Public Advocate James wants to thank Mayor de Blasio and the City agencies who are providing a range of services to help the estimated 300 children that were separated from their parents at the border and brought here to New York City. Most of the separated children are living in foster homes around the city, and, thanks to our City government, they are now receiving education, recreation, and health care services in the daytime at nonprofit agencies. Public Advocate James joined City Council Speaker Corey Johnson and State Senator Brian Benjamin at a meeting with Edward Hayes, the president and CEO of the Cayuga Center for Children, to offer our support and ensure that these children are safe, healthy and well cared for.



Letitia James

Public Advocate for the City of New York

As City elected officials we must continue to push the federal government to reunite these children with their families. That is why our office sent a letter to Attorney General Jeff Sessions demanding the Trump administration release a plan that ensures these families are reunited immediately. But as of now, all we have is chaos. We cannot and must not tolerate the incompetence of this administration and their inability to clean up a humanitarian mess of their own making.

On behalf of the Public Advocate, I want to state our office's strong resolve to do anything we can to help this body or this City to make the lives of these children and their families better, and to ensure that they are reunited as quickly as possible.

Thank you again for inviting me to speak today and for your time and attention on this important issue.



NEW YORK CITY COUNCIL
COMMITTEE ON GENERAL WELFARE
COMMITTEE ON IMMIGRATION
COMMITTEE ON HEALTH

Thursday, July 12, 2018

Testimony by Msgr. Kevin Sullivan

Executive Director, Catholic Charities Archdiocese of New York

Good Morning Chair Levin, Chair Menchaca, Chair Levine and fellow Council Members. Thank you for the opportunity to provide testimony before you today. I am Msgr. Kevin Sullivan, Executive Director of Catholic Charities of the Archdiocese of New York and am pleased to speak about the work and experience of Catholic Charities with respect to the forced and unnecessary separation of children from their parents. Catholic Charities supports the City Council Resolution calling on the United States Congress to pass, and the President to sign, the Keep Families Together Act.

The Catholic Charities of the Archdiocese of New York seeks to uphold the dignity of each person as made in the image of God by serving the basic needs of the poor, troubled, frail and oppressed of all religions. We collaborate with parishes and Catholic and non-Catholic partners to build a just and compassionate society. Through a network of administered, sponsored and affiliated agencies, Catholic Charities delivers, coordinates and advocates for quality human services and programs touching almost every human need.

Catholic Charities helps immigrants reunite legally with their families, obtain proper work authorization, learn English and civics, and prepare to pass citizenship exams. Catholic Charities

also assists immigrants in avoiding exploitation by unscrupulous practitioners by providing correct information and realistic counsel about immigration status. Last year **5,215** vulnerable immigrants were provided with expert counsel and safeguarded from exploitation, **52,790** calls for help were answered promptly with accurate information in multiple languages, **296** breadwinners helped to obtain authorization to work, **160** immigrants reunited with their families, **820** newcomers taught English and civics, **4,047** unaccompanied children given legal orientation, **701** refugees and asylees provided with employment and resettlement support, and **4,160** adults and children provided with legal representation.

For over a decade, Catholic Charities has been providing legal representation, consultation and orientation to thousands of unaccompanied children in shelter care, deportation defense for hundreds of children in immigration court, and reunification and legal assistance to children separated from their parents at the border. In the New York area, we have provided Know Your Rights and one on one legal orientation to these children. For some, Catholic Charities represents them in their legal immigration proceedings.

Most recently, with the policy decisions that have needlessly and cruelly separated children from their parents under the pretext of national security, Catholic Charities has continued to provide these much needed services to every child we encounter. Along with our Immigrant Children Advocates' Relief Effort (ICARE) collaborative partners and others, we will continue to provide services needed by immigrant children and youth, including representation, reunification, and respect for privacy rights.

Our attorneys have seen the stress, pain and anxiety these children are experiencing as we meet to advise them of their legal rights and seek to obtain the information needed to represent them. Many of these children are fleeing poor socioeconomic conditions, gang violence, family violence and sexual abuse. Some have been working from a young age, with little to no formal education. Our attorneys have also witnessed the dedicated, professional and compassionate care given to these children by social services staff at New York child care agencies.

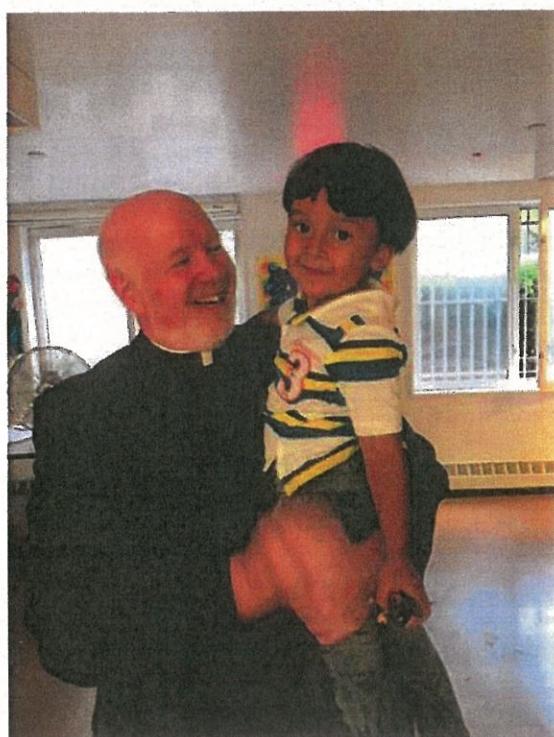
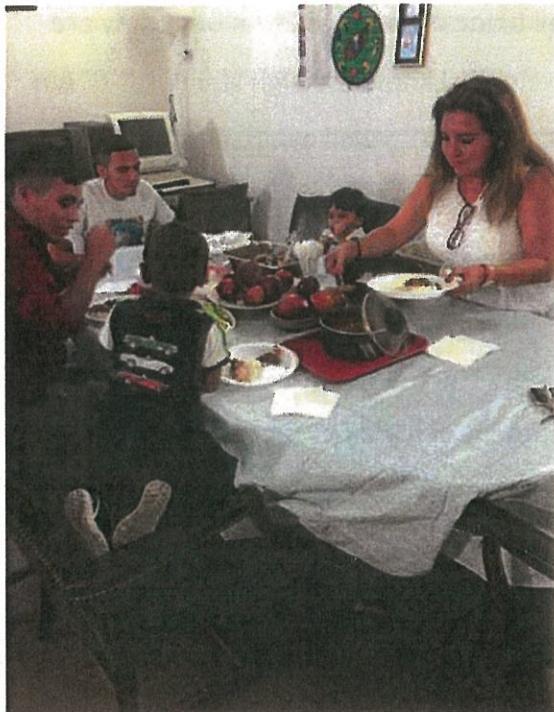
Our Catholic Charities agencies, together with other human services agencies, have been serving unaccompanied minors for the past decade. They share a unique understanding and expertise on how to care for minors who have suffered trauma, including young children who were taken away from their parents. The educational, recreational, therapeutic and social services they provide are committed to ensuring the well being of these children until they are reunited with their families as quickly as possible. While clearly I know the high standards of our own Catholic Charities agencies in providing these services, I am also well aware of the high quality of services of other child care agencies, with whom we often collaborate.

While recent decisions call for the reunification of parents and children, Catholic Charities calls for these reunifications be done in a way that serves the best interests of the children and their parents. Their separations have already caused unnecessary trauma. Timely assessment of these families' legal and social service needs and development of a plan to meet them is critical. Catholic Charities is committed to lending its experience and expertise providing ongoing legal and social services to assist these reunited families in their transition to New York or relocation elsewhere. We are working with national partners to coordinate information and are continuing to engage with our local partners to deliver necessary support. We will also be looking to our partners in government to continue to provide these critical services over time – case management, English as a second language classes, emergency food, legal services, medical and mental health services.

Let me close by acknowledging the Council members who continue to fight with us for just and humane immigration policies, and for appropriate community supports not just for these separated children and their parents, but for all immigrants here in our city. We are also grateful to the Council for investments in immigration funding initiatives – ICARE, IOI, and Action NYC (MOIA). We value your partnership and thank you for your support over the years.

Catholic Charities has long worked to welcome and integrate immigrants and refugees. Today we face considerable challenges, but we will continue to serve those who need our help, non-Catholic and Catholic alike. Catholic Charities remains undeterred in our commitment to serve newcomers to the United States – especially those seeking to be reunited with their families or seeking safe haven in the United States -- and to advocating for fair and humane immigration

policies that continue the welcoming attitude that has made this country strong, vibrant and innovative.





FOR THE RECORD

TESTIMONY OF:

**Nyasa Hickey – Supervising Attorney, Immigration Practice
BROOKLYN DEFENDER SERVICES**

Presented before
The New York City Council

**Oversight Hearing on the Impacts of the Trump Administration Family Separation
Policy on New York City**

July 12, 2018

I. Introduction

My name is Nyasa Hickey. I am a Supervising Attorney of the Immigration Practice at Brooklyn Defender Services (BDS). I thank the City Council for this opportunity to testify about the work that legal service providers across New York City, including Brooklyn Defender Services, are doing to assist families harmed by the Trump Administration's Family Separation Policy. I will also speak about the ramifications of the policy on New York City residents with pending immigration cases.

BDS is a full-service public defender office in Brooklyn, representing nearly 35,000 low-income New Yorkers each year who are arrested, charged with abuse or neglect of their children or face deportation. Since 2009, BDS has counseled, advised or represented more than 10,000 immigrant clients. We are a Board of Immigration Appeals-recognized legal service provider.

Our immigration practice consists of more than 40 staff that work in three distinct teams that handle different aspects of immigration law:

- **The BDS Padilla Team** advises BDS's criminal defense and family defense attorneys and their noncitizen clients on the immigration consequences of a guilty plea to help avoid or minimize negative immigration consequences.

About a quarter of BDS's 30,000 criminal defense clients are foreign-born, roughly half of whom are not naturalized citizens and therefore at risk of deportation or loss of opportunity to obtain lawful immigration status as a result of their criminal case. Our criminal-immigration specialists provide support and expertise on thousands of cases, including Padilla advisals, advocacy regarding enforcement of the NYC detainer law, as well as with ICE officials to secure the release of our clients while charges are pending against them.

- The **New York Immigrant Family Unity Project (NYIFUP)** is the New York City Council-funded first-in-the-nation program providing counsel to immigrant New Yorkers who are detained and facing deportation and separation from their families and communities. BDS is proud to be a NYIFUP provider, along with The Bronx Defenders and The Legal Aid Society. Since the project's inception three years ago, BDS NYIFUP attorneys have defended more than 1,000 people in deportation proceedings. Jointly the NYC NYIFUP providers have won release from ICE custody for over 900 clients and won the cases of over 500 clients, with hundreds of cases still pending. The Vera Institute of Justice's comprehensive November 2017 study found that 48% of NYIFUP cases end successfully – a 1,100% increase from the rate for unrepresented cases before NYIFUP.
- **BDS' Immigrant Youth and Communities Team** has represented thousands of Brooklyn immigrants in their applications for lawful immigration status and in non-detained removal proceedings, including motions to reopen. Highlights of our work include representing young clients in their pursuit of Special Immigrant Juvenile Status (SIJS) or Deferred Action for Childhood Arrivals (DACA) and working with Haitian and Central American New Yorkers to file or renew applications for Temporary Protected Status (TPS). We regularly provide Know Your Rights trainings for the community, including information on encounters with ICE and family preparedness planning. We also produced four short animated films as part of a national empowerment campaign called *We Have Rights* that informs community members how to prepare for and safely defend their rights during encounters with ICE.¹

II. Background

On May 5, 2018 U.S. Attorney General Jeff Sessions instituted an official zero tolerance policy for people who enter or attempt to enter the U.S. without prior authorization. The federal government's new policy was to prosecute people crossing the U.S.-Mexico border with illegal entry and separate the adults from any children traveling with them.²

¹ Learn more about the campaign at www.wehaverights.us.

² Aric Jenkins, *Jeff Sessions: Parents and Children Illegally Crossing the Border Will Be Separated*, TIME, May 7, 2018, available at <http://time.com/5268572/jeff-sessions-illegal-border-separated/>.

In fact, the policy was the continuation of a 2017 pilot program separating migrant families. NBC News reported last month that 1,786 children were separated from their parents between October 2016 and February 2018, with an additional 2,342 children separated from their parents after the zero tolerance policy went into effect.³ In June, in response to massive and unified public pressure to rescind the policy, the President issued an Executive Order rescinding his prior policy of separation, instead ordering the Secretary of Homeland Security to "maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members."⁴ In short, the Administration would continue to pursue a zero tolerance approach, but would detain families and children in camps together, not separately.

A week later, a federal judge in California ordered U.S. immigration authorities to reunite separated families on the border within 30 days and families with children younger than age five within 14 days.⁵ The administration failed to make the first deadline and seems unlikely to make the second. The administration stated last week that they have a list of nearly 3,000 children who might have been separated but they are still trying to figure out exactly which ones had parents taken away.⁶ In the wake of the court order to reunite separated families, the Trump administration stated that they plan to release the majority of families on ankle bracelet monitoring rather than detain the migrant children and parents together.⁷

We are already feeling the effects of the Administration's policy change here in New York City. Just yesterday, BDS helped reunify a family at the request of a partner legal services provider in Texas. This simple matter of bringing a mother together with her children, who had been housed in a NYC facility, took a full two days because of utter incompetence and lack of concern by immigration authorities for these families.⁸ BDS is committed to helping other families, including by sending qualified immigration attorneys

³ Lisa Riordan Seville & Hannah Rappleye, *Trump admin ran 'pilot program' for separating migrant families in 2017*, NBC News, June 29, 2018, available at <https://www.nbcnews.com/storyline/immigration-border-crisis/trump-admin-ran-pilot-program-separating-migrant-families-2017-n887616>.

⁴ Executive Order: *Affording Congress an Opportunity to Address Family Separation*, June 20, 2018, available at <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>.

⁵ See American Civil Liberties Union, Ms. L v. ICE, available at <https://www.aclu.org/news/court-rules-trump-administration-must-adhere-family-reunification-deadlines>.

⁶ Dara Lind, *The Trump administration just admitted it doesn't know how many kids are still separated from their parents*, Vox, July 5, 2018, available at <https://www.vox.com/2018/7/5/17536984/children-separated-parents-border-how-many>.

⁷ Eliza Fawcett & Victoria Kim, *Trump appears to walk back 'zero tolerance' immigration policy as family reunification deadline looms*, L.A. TIMES, July 10, 2018, available at <http://www.latimes.com/local/lanow/la-me-deadline-separated-20180710-story.html>.

⁸ See Melanie Grayce West & Arian Campo-Flores, *A Day After Court Deadline, a Round of Family Reunifications at 26 Federal Plaza*, WALL ST. JOURNAL, July 11, 2018, available at https://www.wsj.com/articles/a-day-after-court-deadline-a-round-of-family-reunifications-at-26-federal-plaza-1531347140?tesla=y&mod=article_inline;

Annie Correal, *'Mi Amor!': Tearful Scenes as Immigrant Reunions Begin in New York*, N.Y. TIMES, July 11, 2018, available at <https://www.nytimes.com/2018/07/11/nyregion/immigrant-children-reunited.html?rref=collection%2Fsectioncollection%2Fnyregion&action=click&contentCollection=nyregion®ion=rank&module=package&version=highlights&contentPlacement=2&pgtype=sectionfront>;

to supervise the interviews of detainees in Albany over the next couple of weeks and working with our pro bono partners to ensure everyone receives legal counsel.⁹

Our one experience so far speaks to the enormous challenges befalling the families that were separated and the authorities who have custody of these children. Now penniless and traumatized, this family is thrust into our country even more unprepared than they were when they crossed the border to adjust to life in the United States. One very positive aspect of the reunification we worked on was the fact that there was a safe house, provided by a local volunteer, with food and showers so these families could get themselves ready to travel to their next destination in California to live with relatives.

Other service providers will likely speak to the challenges of representing hundreds of children¹⁰ and adults¹¹ who have been transferred to detention facilities in and around the New York City area. I would like to take to this opportunity to focus my testimony today on two other issues: potential sponsors for the unaccompanied children and the elimination of in-person court appearances at Varick Street Courthouse.

III. Sponsor Advisals

The federal Office of Refugee Resettlement (ORR) has custody of children who are not accompanied by a parent or legal guardian or, more recently, who have been forcibly separated from their parent or guardian. Federal law requires that ORR feed, shelter and provide medical care for migrant children until the office is able to release them to safe settings with sponsors (usually family members).¹²

According to ORR, in order for a family member or other person to be approved as a sponsor, they must pass a background check, possibly undergo a home visit and, among other responsibilities, consent to ensure the child's presence at future immigration hearings.¹³ Previously, ORR had protections in place for sponsors to ensure that their background check information was not shared with ICE. The Trump Administration, however, is rolling back many of these policies.

A May 2018 Memorandum of Agreement (MOA) between ICE, ORR and Customs and Border Protection (CBP) clarified that going forward, "ICE will run background checks

⁹ Massarah Mikati, *Uphill battle for volunteer attorneys for ICE detainees at Albany County jail*, ALBANY TIMES-UNION, July 9, 2018, available at <https://www.timesunion.com/local/article/Some-ICE-detainees-at-Albany-jail-separated-from-13060830.php>.

¹⁰ Jesse McKinley, Liz Robbins & Annie Correal, *16 and Alone, Inside a Center for Separated Children in New York*, N.Y. TIMES, June 21, 2018, available at <https://www.nytimes.com/2018/06/21/nyregion/cuomo-separated-families-children.html>.

¹¹ Mikati, *Uphill battle for volunteer attorneys for ICE detainees at Albany County jail*

¹² Office of Refugee Resettlement, *Unaccompanied Alien Children Released to Sponsors by State*, June 30, 2017, available at <https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state>.

¹³ *Id.*

(criminal and immigration) and then provide that information to ORR for their determination of the suitability of the sponsor.”¹⁴ As the U.S. Conference of Catholic Bishops notes, “The MOA stipulates that ORR will also provide ICE with the name, date of birth, address, fingerprints, and any available documents or biographic information about not only the sponsor but also all adult members of the potential sponsor’s household.”¹⁵ This policy change on information sharing went into effect concurrently with other decisions by the federal government making clear that they intend to use any and all available information to increase deportations.¹⁶

Consequently, if a potential sponsor or someone in their household is themselves undocumented or potentially at risk for deportation, undergoing the background check may pose specific risks.¹⁷ Further complicating this matter is the fact that many low-income people in New York City live with many individuals in a single apartment because of the lack of affordable housing. When any person in the home refuses to undergo the background check, for good reason, the sponsor must choose between leaving the home, at great personal expense, or leaving their minor family member in federal detention.

To address some of these concerns and limit harm to potential sponsors, the City has taken the bold step of contracting with providers like Brooklyn Defender Services to advise sponsors of the specific immigration risks of undergoing the background check and to help them identify alternative sponsors in their community, if necessary to protect the sponsor and their family from deportation by ICE.

With additional funding from the City through the Immigrant Opportunities Initiative (IOI), we will also be able to offer sponsors or their family members comprehensive immigration representation to help them to minimize the risk of deportation. This new initiative will allow the City to reach out directly to communities and individuals who

¹⁴ U.S. Conference for Catholic Bishops, Justice For Immigrants, ORR and DHS Information-Sharing Agreement: The Unintended Consequences, 2018, available at <https://justiceforimmigrants.org/what-we-are-working-on/unaccompanied-children/orr-and-dhs-information-sharing-agreement-the-unintended-consequences/>.

¹⁵ *Id.*

¹⁶ See, e.g., U.S. Citizenship and Immigration Services, Policy Memorandum: Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, June 28, 2018, available at <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

¹⁷ One specific concern, for example, is that federal authorities have issued memoranda prioritizing immigration enforcement and prosecution of “alien smugglers,” a term that they have interpreted to target parents or sponsors who may have relied on smugglers to help bring their children to the U.S. See John Burnett, *ICE Has Arrested More Than 400 In Operation Targeting Parents Who Pay Smugglers*, NPR: ALL THINGS CONSIDERED, Aug. 18, 2017, available at <https://www.npr.org/2017/08/18/544523231/arrests-of-undocumented-parents-sparks-debate-between-federal-officials-and-immi>; Camila Domonoske & Joel Rose, *What's New In Those DHS Memos on Immigration Enforcement?*, NPR, Feb. 22, 2017, available at <https://www.npr.org/sections/thetwo-way/2017/02/22/516649344/whats-new-in-those-dhs-memos-on-immigration-enforcement>.

otherwise may not know how to access free city-funded legal services and expand the scope of New York City's already robust provision of immigration services.

We are also in the process of fundraising to help alleviate costs imposed on sponsors by the federal government. The *New York Times* recently reported on the high costs of transportation that ORR is imposing on sponsors in order to have the children transferred to their care. For example, one sponsor in the article was told that he would have to pay \$1,800 to fly his cousin's 14-year-old daughter and an escort from Houston to his home in Los Angeles.¹⁸ Such prohibitive costs imposed on families who are desperately trying to survive the harmful policies and practices already inflicted on immigrant communities by the federal government are simply unjust and wrong. We call on the City Council and the Mayor to determine how best to alleviate some of the financial burdens on sponsors or families who are eventually reunited after this devastating and traumatic experience.

Our hope is that every child currently detained in the New York City area will be settled with his or her family or with a family friend before the end of the summer and in time for the new school year. We look forward to working with our community partners, city agencies and the City Council to make this goal a reality.

IV. Clients Denied In-Person Hearings at Varick Street

BDS' NYIFUP team represents detained immigrants facing deportation, thanks to the support of the City Council and the City. Purportedly in reaction to #OccupyICE demonstrations at the Varick Street Courthouse protesting the federal government's family separation policy, ICE instituted a new policy refusing to bring any detained individuals to immigration court for their hearings.¹⁹ Even though the protest began and ended within one business day, the exclusive use of Video Teleconferencing (VTC) hearings continues without any plan to go back to in-person hearings for detainees.²⁰

The new policy is already harming BDS's NYIFUP clients, especially new clients awaiting their first court date. Prior to this policy, NYIFUP attorneys met with detained clients scheduled for intake at the Varick Street Courthouse three times per week. For the past four years BDS, The Legal Aid Society and The Bronx Defenders have been staffing intake shifts and representing all of the detained immigrants who cannot afford or do not already have an attorney. It is important to note that due to the extreme increase in pre-adjudication detention, people who are detained wait for up to three

¹⁸ Miriam Jordan, *Sponsors of migrant children face steep transport fees and red tape*, N.Y. TIMES, July 1, 2018, available at <https://www.nytimes.com/2018/07/01/us/migrant-children-families.html>.

¹⁹ Emma Whitford, *ICE Limits Access to Lawyers for NYC Immigrants in Detention, Citing Protests*, THE APPEAL, June 27, 2018, available at <https://theappeal.org/ice-limits-access-to-lawyers-for-nyc-immigrants-in-detention-citing-protests/>.

²⁰ Gerald Porter, Jr., *Manhattan's Immigration Court Begins Video Only Hearings*, WALL ST. JOURNAL, June 29, 2018, available at <https://www.wsj.com/articles/manhattans-immigration-court-begins-video-only-hearings-1530274855?mod=searchresults&page=1&pos=1>.

months for their first court date and their chance to meet with a NYIFUP attorney. Intake is a chance for our NYIFUP attorneys to familiarize themselves with complex cases and begin exploring potential relief options, such as filing a green card application or a motion for cancellation of removal. NYIFUP has a small area with interview rooms on the building's 11th floor, where attorneys are able to individually interview and screen each new client in person.²¹ Now that ICE is no longer bringing our clients to the court building, this opportunity is lost. Our ability to ascertain the facts that we need to build a strong case for relief from deportation is greatly inhibited already and continues to affect more and more of our clients. Now, we must do the first court appearance without any client interview and adjourn the case for another date, usually a few weeks in the future. Our clients are detained now for four to five months before they get a meaningful opportunity for even a bond hearing. Through this period, people remain in detention facilities that lack proper health care, separated from family members, often children, with very limited visitation.

VTC also makes it more difficult for our non-English speaking clients to understand and participate in their court proceedings. As affirmed by the American Bar Association, the exclusive use of video appearances makes it difficult for people facing deportation to understand interpreters and often discourages people from asking questions.²² The use of VTC rather than in-person appearance prevents an interpreter from translating the proceedings in real time (simultaneously), but must wait to interpret. This ensures that the person facing the accusations does not really know what is happening in the courtroom—they are left to receive a summary of the proceedings after they are over. In our experience, the interpreters in this type of situation are not able to provide a meaningful understanding of what happened. More importantly, our client is not able to catch an inaccuracy or otherwise address ongoing discussions with his or her attorney or with the court.

Our clients are effectively excluded from their removal hearing when they are not in the courtroom. They cannot lean over and ask their attorney a question, they cannot pass their attorney a note while a witness is testifying, and their emotions and essential human dignity are obscured to the court. As the American Bar Association noted, "VTC also makes it harder for parties, attorneys, and the immigration judge to communicate and connect emotionally, which compounds difficulties faced by vulnerable individuals such as juveniles and individuals diagnosed with severe mental illnesses."²³

The shift to teleconferencing also harms families who are desperate to see each other after months of separation. Family members frequently attend court dates because it may be their only chance to see their loved ones and maintain critical family bonds

²¹ Whitford, *ICE Limits Access*.

²² American Bar Association, ABA Concerned About Videoconferencing in Immigration Courts; Urges Allowing Requests for In-Person Hearings, March 2012, available at https://www.americanbar.org/publications/governmental_affairs_periodicals/washingtonletter/2012/march/immigrationcourts.html.

²³ *Id.*

despite their separation. When families, friends and neighbors attend hearings this also shows the judge and the prosecuting attorney that the person facing deportation has deep community ties, strengthening the argument for release on bond or relief from deportation.

In short, ICE has taken advantage of public protest to advance its cruel agenda—creating an inhuman deportation machine. We hope to work with the City Council to actively oppose this policy change and to join with us to ensure that in-person appearances are restored immediately.

V. Resolution 2018-2418

Resolution 2018-2418 calls on the federal government to pass the federal Keep Families Together Act (S. 3036) to immediately stop the Department of Homeland Security from taking children from their parents at the U.S. border, except with express directive from a child welfare expert. While we strongly support the sentiment behind this legislation – keeping immigrant families together – we have concerns about the child welfare language in the bill.

In addition to defending people in criminal and immigration court, Brooklyn Defender Services represents about 3,000 parents accused of neglect and abuse in family court – a system that many are calling the New Jane Crow for its sharp racial disparities. *In supporting this bill, we ask that the Council articulate in the resolution that the bill language must clearly state than any removal of a child from his or her parent at or near the border must be subject to state laws governing removal.*

As currently written, the statute could be interpreted to allow state family court judges to authorize separation of migrant families under unconstitutional standards for removal. S.3036 states that federal officers cannot remove a child from his or her parent or legal guardian, at or near the port of entry or within 100 miles of the border of the United States, unless “a state court...determines that it is in the best interests of the child to be removed from his or her parent or legal guardian, in accordance with the Adoption and Safe Families Act of 1997.” This particular language is problematic because the “best interests” standard is not a legal basis for removing a child from their parent under state or constitutional law. It also does not make sense that the bill references the Adoption and Safe Families Act of 1997, as this legislation does not define the standard for removal; it governs what happens to a child once they are removed from their families and placed in foster care. Our fear with the bill as currently written is that state court judges, if they interpret the law in this manner, may summarily remove children from their parents simply because the parents are detained, as detention would not be in the child’s best interests, and parents would be left with no recourse to meaningfully challenge this decision or to ensure regular visitation. In short, the bill could be used by the current federal administration, in coordination with willing state family court judges, to legalize the continued separation of migrant families at the border.

However, if the bill language were clarified to ensure that separation may not occur in any case unless removal would be authorized under state law, these concerns would be ameliorated. The custody of children is an issue squarely within the discretion of the state, subject to constitutional limitations. This is why state law should govern these separation proceedings. Pursuant to the same laws governing removal, parents would be afforded robust due process protections, including the right to an experienced family defense attorney and the right to regular visitation. These due process protections are critical to ensure that parents have a fighting chance to assert their constitutional and statutory rights to remain with their children and children equally get to be with their parents absent abuse or neglect.

The harm to children removed from their parents, in any context, is severe and irreparable. Many experts have weighed in on the harm to children separated from their parents at the border over the past few months, including the American Academy of Pediatrics and the American Psychological Association. Harmful effects range from future depression, anxiety and post-traumatic stress disorder (PTSD) to violent tendencies, substance abuse and difficulty forming relationships down the line.²⁴ As we know from the foster care system, removing children from their parents, even in cases involving abuse or neglect, generally leads to worse outcomes for children across the board. As the VERA Institute of Justice noted, "research shows that entry into foster care raises the risk of long-term adverse effects on children compared to socioeconomically similar children who are not removed, including poor school performance, homelessness, arrest, chemical dependency, and mental and physical illness."²⁵ Child-protection-involved children tend to leave foster care with more problems than when they entered care. Children exiting foster care have significantly more behavioral problems when compared with their own pre-placement measures of adaptation. Former foster children experience additional negative life outcomes, including higher teen birth rates and lower career earnings.²⁶ Former foster children are also disproportionately likely to experience homelessness compared to the general population.²⁷

Brooklyn Defender Services strongly supports federal legislation that meaningfully ensures that families fleeing violence and hardship in other countries are allowed to remain together, in the community, while they litigate their right to live, work, and

²⁴ See, e.g., Jamie Ducharme, '*What This Amounts to Is Child Abuse.' Psychologists Warn Against Separating Kids from Their Parents*', TIME, June 19, 2018, available at <http://time.com/5316030/kids-separation-parents-psychological-harm/>.

²⁵ Reva I. Allen, Alex Westerfelt, Irving Piliavin, & Thomas Porky McDonald, ASSESSING THE LONG TERM EFFECTS OF FOSTER CARE: A RESEARCH SYNTHESIS (Child Welfare League of America, 1997), cited in Allon Yaroni, Ryan Shanahan, Randi Rosenblum, & Timothy Ross, *Innovations in NC Health and Human Services Policy: Child Welfare Policy*, VERA INSTITUTE OF JUSTICE POLICY BRIEFS, Jan. 2014, available at <http://www.nyc.gov/html/ceo/downloads/pdf/policybriefs/child-welfare-brief.pdf>.

²⁶ Joseph J. Doyle, *Child Protection and Child Outcomes: Measuring the Effects of Foster Care*, 97 AM. ECON. REV. 1583, 1584 (2007) [hereinafter "Doyle 2007"].

²⁷ See Patrick J. Fowler et al., *Pathways to and From Homelessness and Associated Psychosocial Outcomes Among Adolescents Leaving the Foster Care System*, 99 AM. J. OF PUB. HEALTH 1453 (2009).

support their families in the US. New York ensures families due process protections in cases of possible removal. Any federal law that aims to keep migrant families together must be subject to existing state court procedures that protect families. The Council should call on Congress to make these amendments to limit any unintended consequences.

VI. Conclusion

The Council plays a critical role in safeguarding the vibrancy and safety of New York City's immigrant community. This Council has been a national leader in the creation of a first-in-the-nation assigned counsel, the NYIFUP program. Your investment in NYIFUP, IOI and other initiatives has provided service providers like BDS with the support and agility to respond to crises like this. We look forward to continuing to work with the Council to protect the rights and well-being of our communities and help all New Yorkers thrive.

Thank you for inviting me to testify and for considering my remarks today. Please reach out to Andrea Nieves, Senior Policy Attorney at anieves@bds.org or 718-254-0700 ext. 387 if you have any additional questions.



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TESTIMONY BEFORE THE NEW YORK CITY COUNCIL'S COMMITTEE ON IMMIGRATION

Presented on July 12, 2018

Over more than 140 years, the Legal Aid Society has been a tireless advocate for marginalized New Yorkers. Our Civil Practice represents low-income individuals and families facing a range of civil legal issues, including those affecting immigration, housing and homelessness, health care, government benefits and disability benefits, family law and domestic violence, aging, HIV/AIDS, tax and consumer, education, and employment. Over the last fiscal year, the Civil Practice worked on nearly 48,500 individual cases and legal matters, benefitting almost 126,000 low-income children and adults. At the same time, the Society's law reform representation benefits millions of low-income families and individuals in New York City, and the landmark rulings in many of these cases have a statewide and national impact.

In a year in which the federal government has espoused hostile anti-immigrant rhetoric, coupled with policies that have become increasingly exclusionary, the Society's Immigration Law Unit (ILU) has been steadfast in its commitment to ensuring that marginalized New Yorkers have access to quality immigration representation when they need it.

A. Separated Children located in New York and the Impact of Family Separation

Since the Trump administration instituted its “zero tolerance” immigration policy at the southern border, nearly 3,000 noncitizen children have been forcibly separated from their parents by U.S. Immigration and Customs Enforcement (ICE) and shipped throughout the United States.¹ At least 371 separated children have been brought here to New York under the jurisdiction of the Office of Refugee Resettlement (ORR). Another, similar-sized group is

¹ Foran, Clare, *HHS Now Estimates Under 3,000 Kids Separated From Parents In Government Custody*, <https://www.cnn.com/2018/07/05/politics/separated-families-border-immigrants-number-of-kids/index.html>

expected to arrive in New York within the next week. New York has received children of all ages, including infants as young as 9 months old.² These children are taken in by social services agencies and placed in temporary foster care shelters, many of which are located here in New York City or in the surrounding counties. Children separated from their parents by ICE represent a particularly vulnerable immigrant group. These families faced extremely serious abuse and threats of persecution in their home countries, only to be met with traumatic forced separation and detention upon arrival in the United States. The families that have been impacted by the “zero tolerance” policy come to the United States seeking asylum from the horrors experienced in their home countries, only to be systematically deprived of their Constitutional rights by our government.

The policy of forcibly separating already-traumatized children from their parents has drawn widespread attention and criticism. Most notably, child welfare experts in both the legal and medical fields have spoken out in alarm against this inhumane policy. The stress children and families experience from fleeing from harm their home country in search of refuge in the United States is further exacerbated by the trauma of family separation upon arrival here. The psychological and emotional harms that result from forced separation of a child from their parents can be devastating. The children suffer both short-term and long-term traumatic stress, and the damage from this stress persists, even if the children are eventually reunited with their family.³ Due to the prolonged hardship of separation, the toxic stress the children experience can disturb their brain and organ system development, as well as increase the risk of stress-related disease and cognitive impairment well into adulthood.⁴ Children separated from families are at increased risk of developing psychological distress, depression, and anxiety, and are more likely to experience social and academic impairment.⁵ The trauma inflicted on the children as a result of family separation is both disastrous and permanent. For these reasons, the child welfare system overwhelmingly recognizes that children should not be separated from their families, except in cases of abuse or neglect.

² Robbins, Liz, *Hundreds of Children Separated Have Quietly Been Sent to New York*, The New York Times <https://www.nytimes.com/2018/06/20/nyregion/children-separated-border-new-york.html>

³ Am. Academy of Pediatrics, *Adverse Childhood Experiences and the Lifelong Consequences of Trauma*, at p. 2 (2014)

⁴ *Id.*

⁵ Kids in Need of Defense, *Targeting Families: How ICE Enforcement Against Parents and Family Members Endangers Children*, at p. 13

In addition to the trauma the “zero tolerance” policy inflicts on the children, the separation of families also puts a strain on the child welfare system in New York. Social services agencies have been forced to absorb a large number of children with little notice. No infrastructure was developed prior to the enforcement of the “zero tolerance” policy, and the agencies have been left scrambling to find sufficient foster care placements for the unexpected influx of children. Most of the children brought to New York have been placed in temporary foster home shelters in New York City, where the City is providing education, recreation, health care services, mental health care, trauma training for foster parents and staff, and legal assistance for the children.⁶ Despite the issuance of President Trump’s June 20, 2018, Executive Order renouncing family separation⁷, these shelters are still preparing to take in hundreds more children over the summer.⁸ The pressure to take in children unnecessarily separated from their families and left to the supervision of the state burdens an already encumbered system.

B. The Complexity of the Reunification Process

The Society now represents a number of the separated children sheltered in New York. Though the federal government is under order to reunify these children with the parents they entered the country with, reunification is a complex issue in itself. The reunification process must be handled with deliberation and consideration for the wishes of the children.

In the course of the Society’s representation of separated children brought here to New York, we have encountered a number of children who do not wish to be reunified with the parent or parents they entered the country with, even where abuse is not present. We have also encountered many youths who, regardless of whether their parent is repatriated to their home country, wish to remain in the US and pursue their own immigration relief. Though a sweeping order to reunify children with fit parents was issued by a federal District Court judge in San Diego, this order overlooks this small group of children whose interests fall outside of reunification. In determining proper placement of noncitizen children, ORR is required to

⁶ NYC Administration for Children’s Services, *NYC Announces Critical Services to Help Kids Brought to the City After Being Separated From Parents at the Border*, <https://www1.nyc.gov/assets/acs/pdf/PressReleases/2018/Border.pdf>

⁷ See Executive Order: Affording Congress an Opportunity to Address Family Separation (June 20, 2018), https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/?utm_source=twitter&utm_medium=social&utm_campaign=wh

⁸ Robbins, Liz, *Hundreds of Children Separated Have Quietly Been Sent to New York*, The New York Times <https://www.nytimes.com/2018/06/20/nyregion/children-separated-border-new-york.html>

“ensur[e] the interests of the child are considered in decisions and actions relating to… care and custody.”⁹ While reunification is appropriate for a majority of the children separated under the “zero tolerance” policy, the interests of these children cannot simply be overlooked. The reunification order does not create a carve out for these children, but it is important to consider their interests prior to shipping them somewhere else they might not wish to be. Many of these children now have legal representation in New York, and should at least be properly informed about the reunification process and possible consequences before they are reunited, potentially in a different state.

In other instances, promises of reunification have been used to coerce noncitizens into “voluntary” deportation. Immigrants have been told they will be reunified with their children only if they agree to consent to their deportations.¹⁰ In some instances, separated parents are being given forms by ICE labeled “Separated Parents Removal Form,” even though effectuating the court-ordered reunification process bars any threats to make reunification conditional upon voluntary deportation.¹¹ Parents are also inaccurately told that they do not have the right to pursue their asylum claims, in an effort to coerce separated families into voluntary deportation upon reunification. Desperate to be reunified with their families, noncitizen children and parents might give in to these inappropriate tactics without fully understanding their rights. Reunification cannot not be made conditional on voluntary repudiation of viable forms of humanitarian immigration relief, and noncitizen families must be safeguarded against such potential abuses.

A few of the children have experienced abuse or neglect at the hands of the parent or parents with whom they entered the United States, and reunification in such a setting would be inappropriate and contrary to the best interests of the children. Though family separation is condemned in almost all situations, instances where abuse or neglect are present are recognized as a justifiable exception.¹² Appropriate measures to identify abused or neglected children and ensure they are not reunified with their abusers must be established before these children are

⁹ 6 U.S.C.S. § 279

¹⁰ Samuels, Brett, *Migrants Told They'll Be Reunited with Children if They Sign Voluntary Deportation Order*, The Hill, <http://thehill.com/latino/393856-migrants-told-theyll-be-reunited-with-children-if-they-sign-voluntary-deportation>

¹¹ Chapin, Angelina, *ICE Officials Are Pressuring Separated Parents to Sign Deportation Forms*, https://www.huffingtonpost.co.uk/entry/immigration-officials-pressure-separated-parents-deportation-form_us_5b3c060ee4b09e4a8b28656e?guccounter=1

¹² L. v. United States Immigration & Customs Enf't (“ICE”), No. 18cv0428 DMS (MDD), 2018 U.S. Dist. LEXIS 107365 (S.D. Cal. June 26, 2018)

unwittingly placed back into a dangerous situation. Hasty reunification measures threaten the safety of all children, especially this particularly vulnerable subgroup.

The complexity of the reunification process is underscored by the varying threats these children face, as well as their personal interests in remaining in the United States.

C. Right to Counsel for Unaccompanied Children

Despite the fact that noncitizen children face a complex immigration system with numerous hurdles, including cultural and language barriers and the susceptibility of their age, this vulnerable population is not guaranteed a right to counsel. Noncitizen children are not entitled to a court-appointed attorney during immigration proceedings, making it vastly more likely their claims will fail if they are unable to obtain representation. Children who are left to face immigration proceedings on their own have almost no chance of successfully presenting their case and winning asylum (less than 10%), whereas those who are able to obtain counsel are five times more likely to succeed on their claim.¹³

Under 8 U.S.C. § 1362, noncitizen children have the “privilege of being represented (at no expense of the government)”. Advocating that they could not effectively bring their claims before the court without counsel, a class action was brought on behalf of unrepresented unaccompanied minors, challenging the denial of an unaccompanied minor’s right to have government counsel appointed to them¹⁴. Unfortunately, the Ninth Circuit found no right to counsel, on either statutory or Constitutional grounds, during immigration proceedings. As a result, children do not have the ability to assert right-to-counsel claims throughout the complex administrative processes before the immigration court. Unaccompanied minors must exhaust the administrative process in immigration courts before they can seek judicial review from the federal appellate courts. In order to challenge the denial of right to counsel, the Ninth Circuit held that unrepresented minors would have to bring the right-to-counsel claim up in their Petition For Review (PFR) by the federal appellate courts. The Ninth Circuit opined that because the right-to-counsel claims arise from their removal proceedings, the claim can only be appropriately

¹³ Arulanantham, Ahilan, *Immigrant Children Do Not Have the Right to an Attorney Unless They Can Pay, Rules Appeals Court*, American Civil Liberties Union, <https://www.aclu.org/blog/immigrants-rights/deportation-and-due-process/immigrant-children-do-not-have-right-attorney>

¹⁴ J.E. F.M. v. Lynch, 837 F.3d 1026 (9th Cir. 2016).

brought up at the PFR stage of their immigration proceedings, where the children are directly challenging their removal order.

D. New York City Council Funding Requests

To best protect the population of separated children here in New York, it is essential the City takes steps to ensure these children are receiving effective legal support. As the City considers increasing funding to support the separated children in this state, we strongly argue for a guaranteed right to counsel, and universal representation in order to properly support the children through the complexities of the reunification and immigration proceedings. In addition, to adequately represent each of the separated children in New York, the Society needs to rely on the important work of social workers and paralegals, as well as supervisory support throughout the process, and we strongly urge the City to expand funding to meet this need. Finally, as full representation cases, particularly removal defense cases, often take three or more years to adjudicate, it is essential that providers be allowed to re-enroll all of these cases, without limitation, until reaching a final outcome. To ensure this particularly vulnerable group of immigrant children is meaningfully protected and represented, it is essential that a full complement of legal services be made available to them. And to the extent that the separated children are held by ORR in shelters outside the City, we look forward to brainstorming means to close this gap in services.

The Society looks forward to continuing its comprehensive, holistic immigration legal services work, in collaboration with its many partners and the City.

Respectfully submitted,

Hasan Shafiqullah
Attorney-in-Charge
Immigration Law Unit

July 12, 2018

Testimony of Health Justice, Immigrant Health Advocate, Karina Albistegui Adler

On Behalf of New York Lawyers for the Public Interest

Before New York City Council, Committee on Immigration

Good afternoon, my name is Karina Albistegui Adler and I am an Immigrant Health Advocate at New York Lawyers for the Public Interest (NYLPI). Thank you to Chairperson Carlos Menchaca and the Committee on Immigration for the opportunity to present testimony today.

I. We Are New York Lawyers for the Public Interest

For over 40 years, New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights and legal services advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. NYLPI's Health Justice Program brings a racial justice and immigrant rights focus to health care advocacy in New York City and State. We continue to advocate for, better medical treatment for people held in immigration detention centers, language access in healthcare settings, and health care access for all New Yorkers regardless of immigration status.

II. Family Separation Further Dehumanizes Immigrants

The forced separation of children from their parents at our country's border cannot be viewed separate and apart from the deplorable conditions of the jails used to incarcerate immigrants detained by Immigration and Customs Enforcement ("ICE"). Much like the punitive

incarceration that many undocumented New Yorkers live and fear every day, the separation of families and the mistreatment of our youngest immigrants is heart wrenching. As you know, many New York City residents are currently detained in ICE detention facilities or jails that contract with ICE. They are not charged with criminal violations but are denied freedom under the guise of ensuring that they attend their administrative hearings. Taking immigrant children from their parents is but another manner of dehumanizing undocumented people living in the country and those seeking asylum. On this continuum we have seen our friends and neighbors labeled “rapists,” “drug dealers,” and “animals.” Their presence has been described as an “infestation.” This hateful rhetoric seeks to normalize the abhorrent conditions that both adults and children face inside these detention centers and the continued denial of vital medical care to people held there.

Through our work we have witnessed how a policy of dehumanizing non-citizens plays out within the walls of the detention facilities in and near New York. The most sobering stories, are of the deaths of immigrants in detention. A June 2018 report by Human Rights Watch, the American Civil Liberties Union, Detention Watch Network, and National Immigrant Justice Center noted that “inadequate medical care contributed to or led to” the death of 8 of the 15 people for whom ICE has released “Detainee Death Reviews” in the period between December 2017 and April 2018. We have also documented instances of ICE, and the facilities with which it contracts, denying and delaying critical medical treatment including: adequate care for cancer, medications for diabetes, and emergency surgery for a ruptured eyeball. These are but a few

examples in a long history of ICE's disregard for the humanity and dignity of people in their custody.

We have witnessed firsthand how the physical and psychological effects of immigration detention stay with our clients long after they have been released. We have seen over and over the grave impact that detention and family separation has on our adult clients. It is difficult to imagine the extent of the trauma that has been inflicted on the children who are being shuffled anonymously through the system, far from their parents.

II. NYLPI Supports the City Council's Resolution

History will judge the Administration's separation of families harshly. We are glad to see that our city is taking action against this cruel policy. For these reasons we support the City Council's resolution calling upon the U.S. Congress to pass, and the President to sign, the Keep Families Together Act (S. 3036). We hope that Congress and the President will act swiftly to reunite families who have already been separated. We encourage City Council to continue to take actions to improve the treatment of people in ICE custody and to promote alternatives to civil detention for undocumented people.

Thank you for your time and attention. We look forward to continued collaboration with the City Council to improve the lives of immigrant New Yorkers.



Testimony of

Stephanie Gendell
Associate Executive Director
For Policy and Government Relations

Before the New York City Council
Immigration, General Welfare and Health Committees
Oversight: The Impacts of Trump Administration Family Separation Policy on New York City

July 12, 2018

Good afternoon. My name is Stephanie Gendell and I am the Associate Executive Director for Policy and Advocacy at Citizens' Committee for Children of New York, Inc. (CCC). CCC is an over 70-year-old, independent, multi-issue child advocacy organization dedicated to ensuring that every New York child is healthy, housed, educated and safe.

I would like to thank City Council Immigration Chair Menchaca, General Welfare Chair Levin and Health Chair Levine and the members of the City Council Immigration, General Welfare and Health Committees for holding today's oversight hearing on the impacts of the Trump Administration's Family Separation Policy on NYC. I would also like to thank Council Member Carlina for sponsoring, and Council Member Ayala and Speaker Johnson for co-sponsoring, a resolution calling on the U.S. Congress to pass, and the President to sign, the Keep Families Together Act (S. 3036), to immediately stop the Department of Homeland Security from taking children from their parents at the U.S. border, except with express directive from a child welfare expert, and for additional legislation that would end family detention as an unsafe and harmful alternative. CCC truly appreciates the City Council holding today's hearing, as well as your unwavering commitment to fighting harmful Trump policies and meeting the needs of all children and families in New York City.

Like so many New Yorkers, CCC is deeply concerned about the trauma and abuse the United States government is inflicting upon children through the Trump Administration's zero tolerance policy, the separation of children from their parents at the border, the ongoing delays in reunifying families, as well as the continued detention of families seeking asylum.

Parent-child separation has a profoundly detrimental impact on children—in both the short-term and long-term—on their health, behavioral health, development and overall well-being. “[H]ighly stressful experiences, like family separation, can cause irreparable harm, disrupting a child's brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress – known as toxic stress – can carry lifelong consequences for children,” explained the American Academy of Pediatrics in its May 8, 2018 statement opposing forcibly separating children from their parents at the border.¹

And as Pediatrician John Harlow penned for CNN this week, “The effects of trauma on children are cumulative and life-threatening. Pediatricians and other experts in child health and behavior should be clear: this policy is state-enacted child abuse. It was child abuse when the policy involved parental separation. It is child abuse if the policy becomes the indefinite

¹ The American Academy of Pediatrics 5/5/18 statement can be retrieved here: <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx> .

detention of children alongside their parents. It is child abuse every day that passes in which the children already separated remain in isolation.”²

And to be clear, family detention should not be a “solution” to ending the practice of separating children from their parents at the border. While this appears to be the Trump administration’s new plan, it is not only an inappropriate place for children and their families, it is not required by law for asylum seekers. Detention for asylum seekers (even if families are not separated) still causes various health and mental health issues, including anxiety, trauma and post-traumatic stress. The US government is also not equipped to be providing family detention and there is no valid reason for the United States government to be inflicting this inhumane detention and zero tolerance policy on children and their parents fleeing their home countries and seeking asylum in the United States.

We are also deeply concerned that the Trump Administration is attempting to budget for increased detention of families and children, including both increases in family detention and immigrant minors, and that part of this funding will come from cuts to HIV/AIDS programs and refugee resettlement services.³

Furthermore, the Trump administration has been unable to comply with the U.S. District Court Judge to reunite separated families with children under 5 by July 10th (and the remaining children by July 26th). As we have now learned, some of the parents have already been deported without their young children- this is abominable. In addition, the US government is literally collecting DNA samples to try to match children and parents because they did not (and do not) have a system to track where parents and children are placed and sent in relation to one another.

Every day we learn more information about the situation at the border and every day it is more concerning. Given the gravity of the crisis brought about by the Trump administration’s zero tolerance policy, we need to do all that we can to address the needs of children and their families subjected to these policies, as well as work together to improve immigration policies, practices and laws that impact children and adults seeking asylum here in the United States after fleeing untenable situations in their home countries.

We appreciate the City Council’s longstanding commitment to the diversity of New York City and the steps you have already taken to better support immigrant families in New York City.

² John Harlow, “Pediatricians Know Why Family Separation is Child Abuse,” CNN. July 10, 2018. <https://www.cnn.com/2018/07/10/opinions/family-separation-child-abuse-harlow/index.html>

³ Mark Joseph Stern, “Trump’s Office of Refugee Resettlement is Budgeting for a Surge in Child Separations,” Slate. July 10, 2018. https://amp.slate.com/news-and-politics/2018/07/trumps-office-of-refugee-resettlement-is-budgeting-for-a-surge-in-child-separations.html?_twitter_impression=true

Notably, for the past two years, the City Council has provided \$2 million for the ICARE initiative, which has been funding lawyers in New York City for the unaccompanied minors seeking asylum in the United States, and now also for the children who have been separated from their parents at the border. Under federal law, children, regardless of their age, are not entitled to legal assistance in immigration proceedings, making this Council initiative invaluable for the children who would otherwise not have the assistance of counsel.

We are also grateful to the Governor and the state agencies, as well as the Mayor and the City agencies for both pushing the federal government for more transparency and information regarding the children, and for their commitment to ensure the children receive high quality care and the services that they need, while steps are taken to reunify families expeditiously.

"Even though these children are here under the auspices of the federal Office of Refugee Resettlement, we believe we have a moral responsibility to make sure that these kids are safe and healthy because they are here in our city," said ACS Commissioner David Hansell, just last week. We are pleased and grateful to know that ACS is providing support and specifically that the City is offering on-site child and adolescent psychiatric services, health care for children at public hospitals, 24-hour hotline and free legal assistance, training for foster parents and staff at the nonprofit agencies on how to work with children who have experienced trauma, as well as the resources for trips, activities and teddy bears.

CCC is also grateful to the social service providers who are providing care and services for the children, including the child welfare agencies providing residential care and/or foster families (note that the children are technically in detention not in foster care), those providing health and mental health services, and those providing legal services. While the Trump administration policy of separating families and detaining children (and families) is abhorrent and CCC will continue to fight to end these practices, we also appreciate the care that our colleagues at provider agencies in New York City and New York State are able to provide to the children who are here in New York.

We know that this has been a challenging time for these providers and their staff and we thank them for their commitment to doing the best they can for the children and families in this unfortunate situation. We urge New Yorkers not to protest, rally or hold press conferences outside these programs as the crowds, cameras and chanting frightens the already traumatized children, makes the job much more challenging for staff, and in some instances, prevents the children from being able to leave the program to participate in social activities. While we know the protesters and elected officials mean well, we urge everyone to focus their energy and anger at the Trump administration rather than the social service providers.

This is a crisis created by the federal government and we very much appreciate the efforts of so many New Yorkers, including elected and appointed officials, social services workers, lawyers, and every day New Yorkers who have stepped forward to care for children, donated resources to organizations helping children, marched against family separation, and made calls and written letters to Congressional representatives, the President, and those responsible for these policies at the federal level.

CCC respectfully offers the following recommendations to build upon the work underway to ensure the children receive the best possible care they can in these unfortunate circumstances:

- **Increase funding for ICARE lawyers and add social workers to the model**

CCC greatly appreciates the City Council's ICARE initiative, which has been providing funding for lawyers for the children and youth in New York City who are here seeking asylum through the Unaccompanied Minors program. The six legal service organizations funded through ICARE are the Door, Legal Aid, Catholic Charities, Safe Passage Project, Central American Legal Defense and KIND (Kids in Need of Legal Defense).

Having a lawyer in an immigration proceeding is critical: when children do not have a lawyer they only win 20% of the time, but when children are represented they win 92% of the time. No child should have to face an immigration proceeding without legal counsel.

Prior to the recent influx of children separated at the border, the Council's \$2 million of support enabled 6 non-profit legal service organizations to represent 1,250 children. During the budget process, CCC had been supporting ICARE's request to increase the support to \$4 million to enable the programs to represent an additional 550 children.

CCC respectfully asks that the City Council and the Mayor work to ensure that ICARE funding is increased by at least \$2 million (to \$4 million) so that these legal organizations can represent more children, including those who have been separated at the border. In addition, many legal service organizations employ a model that pairs lawyers and social workers. Given the trauma these children have faced and are continuing to face, we also suggest adding funding to enable the legal organizations to include social workers to the ICARE model. Finally, it is important to keep in mind that litigating cases of minors separated from parents at the border is a new type of case and thus the costs of litigating these cases is still unknown. As such, we urge the City to continue revisiting the needs of the ICARE providers to ensure that they have the resources they need.

- **Reunification efforts**

Separating children from their parents at the border is an inhumane, unconstitutional and deeply troubling policy implemented by the Trump Administration. CCC appreciates the many voices from throughout the city, state and country who have expressed outrage about this Trump administration policy. Most recent numbers from the federal government, which are likely suspect, are that 3,000 children have been separated from their parents at the border, 100 of whom are under age 5.

Last week, US District Court Judge Dana Sabraw, a George W. Bush appointee, ruled that Trump's separation policy causes "irreparable harm" and issued an order that the children under 5 years old be reunified by July 5th and all the remaining children need be reunited by July 26th. While this court order appeared to be a victory for children and families, the days following the order have confirmed that the federal government did not take appropriate measures to track children and parents to ensure that they could be easily reunified and thus the federal government has not complied. In addition, it appears that the US government sometimes uses reunification as a bribe to convince parents to agree to voluntary deportation.

As written in a July 6, 2018 letter⁴ from 6 Governors, including Governor Cuomo, "Given recent reports suggesting this [reunification] process is being carried out chaotically and inconsistently, and in light of your agencies' latest admission that hundreds more separated migrant children are in the custody of the Office of Refugee Resettlement (ORR) than were previously accounted for, we remain deeply concerned that wholly inadequate resources and procedures are in place to ensure children and parents are reunified safely and securely within the court-ordered deadlines." This letter also indicates that the Trump administration seems to believe that placing the children with sponsor families, be they relatives or anyone else, would constitute compliance with the federal court order, when clearly long-term stranger foster care is not reunification.

CCC truly appreciates the efforts the Governor and the Mayor have taken to prioritize reunification and push the Trump Administration to reunify children expeditiously and without using children as bargaining chips. We must all remain vigilant and watchful of the federal policies, as they change every day, and typically fail to account for the well-being of children and their families.

Even when children and parents are located, connected and communicating, immigration proceedings, high cost bond requirements for parole to the tune of thousands of dollars, excessively high travel costs to get their children, and requirements to provide their ability to

⁴ The letter can be found here: <https://www.politico.com/f/?id=00000164-7063-dc1f-a97d-77eb5bcf0001>

care for their children can impede reunifications efforts. If bond and flights costs are too costly, they will further impoverish families and create delays in reunification.

While we hope that these shameful policies, as well as the zero-tolerance policy, will be reversed, **we urge the city to create a travel and bond/bail fund to cover the costs to eliminate financial barriers to reunification.**

- **End Family Detention**

It is critical to note that while CCC is adamantly opposed to separating children from their parents at the border, we are also opposed to detaining children and parents seeking asylum together. We appreciate the City Council resolution not only calling on the federal government to stop separating families, but to also stop detaining them.

Federal law does not require that these asylum seekers be detained- that is a policy that the Trump administration decided to implement under a belief that it would be a deterrent. Families seeking asylum are desperate to escape violence and threats in their home country and are willing to take risks to make it to the safety the United States is supposed to provide. We support the Council's resolution and strongly urge the United States government to halt the zero-tolerance policy that will now lead to family members being detained together (likely in violation of Flores).

- **Continue to reassess the needs of social service providers**

The Trump administration creates new barriers, hurdles and inhumane policies that children and their families face nearly every day. We appreciate the City Council holding this hearing today, and urge the City Council and the de Blasio administration to continue this conversation over the coming months to ensure that as this ever-evolving situation changes, the City remains prepared to meet the needs of the children and their families.

This includes reassessing the needs of the social service providers, the legal service providers, the mental health providers, and others on an ongoing basis. In addition, as we get closer to September when children will be returning to school, we must also make sure that the educational needs of children separated from their families are able to be met.

- **Remember there are other systems in New York and New York City that separate children from their families**

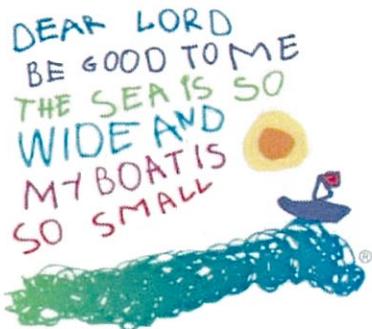
While this tragedy of separating children from their parents at the border is heart-breaking, it is important to remember that there are other systems in place that also separate children from their families, including the child welfare system, the juvenile justice system and the adult corrections system that can incarcerate parents. The outpouring of offers of assistance

including money, services and foster parenting, as well as the concerns about the trauma the separation causes, has been heart-warming for advocates like CCC.

We urge all who are offering assistance to also remember children and families impacted by other systems as well, including child welfare, juvenile justice and corrections. We must be intentional in our efforts to provide support and services to all children separated from their parents, increase efforts to prevent family separations, and intensify efforts aimed at expeditious reunifications for them as well.

Thank you for the opportunity to testify.

FOR THE RECORD



Children's Defense Fund

N E W Y O R K

The Impacts of Trump Administration Family Separation Policy on New York City

Testimony of Julia L. Davis, Esq.

Director of Youth Justice and Child Welfare

July 12, 2018

The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective and independent voice for all the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor children, children of color and those with disabilities. CDF—New York's unique approach to improving conditions for children combines research, public education, policy development, community organizing and advocacy activities, making us an innovative leader for New York's children, particularly in the areas of health, education, early childhood, child welfare and juvenile justice.

We would like to thank Carlos Menchaca, Chair of Immigration Committee, Mark Levine, Chair of the Committee on Health, and Stephen T. Levin, Chair of the Committee on General Welfare, for the opportunity to submit testimony concerning the impact of current immigration policies on the children of New York City. Specifically, we would like to focus on the unique and unprecedented needs of the many young children that have been separated from their families as a result of the Trump Administration's 'Zero Tolerance' Policy, the ongoing experiences of immigrant children in New York City (including unaccompanied minors), and our concerns about potential changes to federal immigration policy related to "public charge"

determinations that create significant challenges to meeting these children's needs through the public systems best equipped to serve them.

In March of 2018, CDF-NY and UNICEF USA published a report on the gaps between the needs of unaccompanied migrant youth in New York and the legal and social services available to them.¹ CDF-NY organized several focus groups with unaccompanied youth and sponsors in New York City and Long Island, administered a survey to migrant service providers, and conducted multiple in-depth interviews with key service providers. These providers, who had firsthand knowledge of the unaccompanied youth population, provided detailed information and assessments of services in New York. They described the service gaps that youth face, including language barriers, a dearth of services within NYC, a lack of resources, and a lack of funding, which make it difficult for them to effectively serve this vulnerable child migrant community.

Our findings included the following:

- Health and mental health services are the second most needed services after legal services. Many times, unaccompanied migrant youth experience trauma in their home countries or during their journeys to the U.S. Youth need help adapting to their new home, language, and culture and should be seen by a professional health provider to establish a medical history and to assess any mental health needs. However, language barriers often make it impossible for some unaccompanied youth to receive mental health services, because there are only a small number of health providers in New York that offer services in Spanish.
- Unaccompanied migrant youth have education-related needs that make it difficult for them to fully integrate into the City's school system. They face difficulties when enrolling in school, obtaining assessments and evaluations of their educational progress and learning needs, and receiving the supports to participate in school.
- Unaccompanied youth and sponsors face financial burdens on a day-to-day basis. There are ongoing costs in providing housing, food, clothing, and transportation to unaccompanied youth. Many sponsors face multiple up-front costs with low-wage jobs, making it difficult for them to make payments while providing the best care for youth.

Many of these issues related to access to services, education, cultural competence, and language justice, were also raised by advocates at this Committee's April 24, 2018 hearing. We echo the concerns of fellow advocates and families around the impact of escalating ICE detention and deportation on children in New York City.

¹ Children's Defense Fund-NY and UNICEF USA. 2018. "Unaccompanied Migrant Youth Service Needs and Gaps in the New York Metropolitan Area." <http://www.cdfny.org/research-library/publications/2017/unaccompanied-migrant-youth.pdf>

Now that the City has become home to an estimated 200 children as a result of the Trump Administration's failed family separation policy, these issues take on new urgency.² We were happy to learn of the Administration for Children's Services' announcement last week that the City is taking proactive steps to ensure that children receive the services and support they need. This is especially important in light of the uniquely young age of many of these children, and their substantial mental health needs.

Reports from the City's health care practitioners describe children presenting with symptoms resulting from significant and ongoing trauma. Young children who have suffered trauma may regress developmentally, losing skills they once mastered. Others may have behavioral symptoms like severe tantrums or difficulty sleeping. Some, even those as young as preschool children, face depression and experience suicidal thoughts, according to City providers.³

There are also significant long-lasting health consequences that immigrant children exposed to trauma may experience. When children suffer strong, frequent, and/or prolonged adversity without adequate adult support or emotional buffering, they could experience toxic stress response. This kind of prolonged activation of the stress response systems, which continues even after the stressor has been removed, can damage brain architecture and other organ systems in children, and also increase the risk for stress-related disease and cognitive impairment, well into the adult years.⁴⁵

In light of what we know about the immigrant children we are caring for in New York, it is imperative that the City Council play a leadership role in ensuring that our City agencies are able to meet these children's needs. This becomes complicated by the changes that the Trump Administration is apparently considering in what is known as "public charge" determinations made by U.S. immigration officials.

Under longstanding federal law, immigration authorities have permission to deny admission into the United States and deny lawful permanent residence to any individual deemed a "public charge." The former policy only considered dependence on public cash assistance for income maintenance and institutionalization for long-term care at the government's expense for public charge determinations. However, the Trump Administration appears prepared to adopt significant changes to "public charge" policies that restrict family immigration and deter the use

² LaMantia, Jonathan. 2018. "NYC Health and Hospitals says it is treating migrant children in ERs." http://www.crainsnewyork.com/article/20180621/HEALTH_CARE/180629973/nyc-health-and-hospitals-says-it-is-treating-migrant-children-in-ers

³ Klass, Perri M.D. 2018. "The Challenges For Doctors Treating Migrant Children Separated From Their Parents." <https://www.nytimes.com/2018/06/25/well/migrant-children-separated-parents-doctors.html>

⁴ Prevent Child Abuse New York. 2018. "The Impact of Damaging Immigration Policies/Practices on Childhood Trauma."

⁵ Wolff, Megan Ph.D. 2018. "Fact Sheet: The Trauma of Childhood Separation." http://psych-history.weill.cornell.edu/pdf/Trauma_of_Separation.pdf

of crucial public services. The result would be a back-door strategy to essentially bar immigration for the poor.

While not yet operative, the new definition that the Administration is reportedly exploring could result in any person who is likely at any time to use or receive public benefits being designated a “public charge.” The rule would also apparently allow the Department of Homeland Security to consider requests, receipt or use of public benefits by any dependents, including U.S. citizen children, in making public charge determinations. These public benefits could range from government assistance through cash or check assistance to use of means-tested aid, services or other relief, such as health and nutrition programs like Medicaid and CHIP. Any person classified as a public charge may either be denied admission into the United States (for those seeking a visa) or become unable to change their status to Legal Permanent Resident (“LPR”).

The changes to the definition of public charge may include a number of programs that children and families rely upon every day – programs that State and City agencies administer:

- Medicaid
- Children’s Health Insurance Program (CHIP)
- Supplemental Nutrition Assistance Program (SNAP)
- Supplemental Nutrition Assistance Program for Women, Infants and Children
- Housing assistance
- Temporary Assistance to Needy Families (TANF)
- Supplemental Security Income (SSI)
- Low Income Home Energy Assistance Program (LIHEAP)

If these programs are included in any final rule, immigrant families will need to consult with immigration attorneys to determine whether they should seek the services they need, or dis-enroll from programs and services that may put them in legal jeopardy. This is a terrible result, as these safety-net systems are, in many cases, the only supports available to vulnerable children.

While we are aware of City-wide coordination and advocacy, led by the Mayor’s Office of Immigrant Affairs (MOIA) to oppose the possible changes to the federal public charge rules, and plan for the City’s response, we are concerned about the scope of the crisis that would ensue. MOIA estimates that there are 400,000 undocumented and temporary-status immigrant residents with at least one family member that receives means-tested benefits. An additional 600,000 individuals live in these households. These include family members with U.S. citizenship, green cards, or other forms of non-temporary legal status. This puts 1 million New Yorkers at risk of not being able to meet their basic needs.

While MOIA has stated that the City is working on rapid response and training to ensure that front line workers at the City’s agencies are ready to help immigrant families navigate the new

law, the question is how the immediate needs of children and families will be met for those who cannot, or do not seek safety-net programs, for fear of being designated as ineligible for a visa or permanent residency.

The City Council should ensure that the City is ready to establish creative and comprehensive supports, including working closely with private religious and community organizations who may be able to provide essential non-means tested resources, including food, medicine and housing assistance. This may require sharing information with local organizations and philanthropy about the projected and real-time impact of the new rule in terms of family needs in different communities, in order to help coordinate a response that does not rely on public sector benefit programs.

Going forward, we urge the City Council to continue to monitor our City Agencies' response to this crisis, to ensure that our immigrant children and families are getting the support they need. We also urge the City Council to work with stakeholders in the private sector to plan for alternative means of support to children and families who may withdraw from a host of different public programs that help to maintain their well-being. We would welcome an opportunity to help in any way we can.

Thank you for carefully considering our testimony. If you have any questions or you would like further information, please contact Julia L. Davis, Director of Youth Justice and Child Welfare, Children's Defense Fund-NY at 212-697-0882 / JDavis@childrensdefense.org.

STATEMENT OF
ALBERT FOX CAHN
CAIR-NY LEGAL DIRECTOR
COUNCIL ON AMERICAN-ISLAMIC RELATIONS, NEW YORK, INC.

BEFORE THE
COMMITTEE ON IMMIGRATION
NEW YORK CITY COUNCIL

FOR A HEARING CONCERNING,
A RESOLUTION CALLING FOR THE PASSAGE OF THE KEEP FAMILIES
TOGETHER ACT (S. 3036)

PRESENTED
July 12, 2018

FOR THE RECORD

Good morning. My name is Albert Fox Cahn, and I am the Legal Director for the New York chapter on the Council on American-Islamic Relations (“CAIR-NY”). CAIR-NY is a leading civil rights advocacy organization for Muslim Americans in New York City and State. I speak today in support of the Council’s resolution calling on the U.S. Congress to pass the Keep Families Together Act (S. 3036), stopping the U.S. Department of Homeland Security from taking children from their parents at the U.S. border.

A little over two months ago, the Trump Administration announced the launch of a new program to rip children and babies from the arms of their parents at our border. The Administration likes to frame this effort as “zero tolerance,” but a more accurate description would be “intolerance.” So far, this policy of immigration intolerance has separated at least 2,300 families, but the crisis is far from over.¹ Our nation’s lawmakers must not sit on the sidelines as parents and children are jailed for simply seeking safety, violating their right to asylum under federal law. That’s why we urge the council to enact this Resolution calling on Congress to stop this historic betrayal of American values and enact S. 3036.

CAIR-NY stands with the immigrant communities impacted by family separation, in part because those communities can be the same ones we serve. While family separation primarily impacts migrants from South and Central America, it potentially impacts any family detained at our border. Moreover, the growing numbers of Latinx Muslims, the fastest-growing ethnic subset of American Muslims, shows that these two communities are really one.

People who are fleeing persecution should be welcomed with open arms. Instead, these brave migrants have had their children stolen from them, indefinitely, and placed in degrading holding facilities. The harsh policy is part of the Trump Administration’s heartless strategy to traumatize children as deterrence for potential refugees. Attorney General Jeff Sessions claimed the practice will be a message to migrants, and he has even taken the radical step of accusing parents of “smuggling” their own children.² The United Nations has condemned the family separations as a violation of international human rights, stating the policy may amount torture.³

The Administration’s cruel policy is only exacerbated by the lack of coordination by the agencies charged with imprisoning families. The U.S. Departments of Homeland Security, Justice, and Health and Human Services all play a role in jailing migrant families. Their poor coordination makes it impossible to track some of the youngest and most vulnerable children.⁴ For months, the Office of

¹ Michael D. Shear, Abby Goodnough & Maggie Haberman, “Trump Retreats on Separating Families, but Thousands May Remain Apart,” *The New York Times*. June 20, 2018. <https://www.nytimes.com/2018/06/20/us/politics/trump-immigration-children-executive-order.html>

² Aaron Hegarty, “Timeline: Immigrant Children Separated from Families at the Border,” *USA Today*. June 27, 2018. <https://www.usatoday.com/story/news/2018/06/27/immigrant-children-family-separation-border-timeline/734014002/>

³ “UN experts to US: ‘Release migrant children from detention and stop using them to deter irregular migration.’” *United Nations Human Rights Office of the High Commissioner*. June 22, 2018. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23245&LangID=E>

⁴ Nick Miroff & Maria Sacchetti, “Trump administration says it has plans to reunite more than 2,000 separated children still in its custody,” *The Washington Post*. June 24, 2018. <https://www.washingtonpost.com/world/national->

Refugee Resettlement has taken custody of these children without a sufficient system in place to ensure families could stay in contact and reunite. ORR failed to take even the most basic precautions, such as keeping families in the same cities or even recording the names of jailed children's parents. These children have been placed in facilities all over the country, even here in New York.⁵ Even more heartbreaking are the parents who may never reunite with their children, men and women forcibly deported to other countries without their children.⁶

The only hope offered to these traumatized families is a ORR hotline that often gives callers little more than hold music. Elsa Johana Ortiz Enriquez, a Guatemalan woman, was forced onto a plane as she plead with authorities for her eight-year-old son. They responded with a piece of paper saying, "call shelter son" and then deported the sobbing mother.⁷

Detention facilities often resemble prisons – windowless metal enclosures, unsanitary bathrooms, and even solitary confinement.⁸ Children are forced into overcrowded rooms with only a mat on the floor and an aluminum blanket to use for warmth.⁹ Many of these holding cells have been referred to by migrants as *La Hielera*, the freezer, due to intolerably frigid temperatures inside.¹⁰ The Administration targeted even the most vulnerable children, infants and children under five, who are forced into 'tender age' facilities where witnesses describe scenes of crying anguished children.¹¹ ORR reportedly responded to some of these children's trauma by forcibly medicating them, administering powerful psychotropics weeks or months at a time.¹²

When Olivia Caceres, a Salvadorian woman, reunited with her five-year-old son, he was covered in dirt and lice.¹³ Traumatized by the separation, he cries hysterically when his mother leaves his sight.¹⁴ This young boy is lucky to have been reunited with his mother; hundreds are likely to be

[security/trump-administration-says-it-has-plan-to-reunite-more-than-2000-separated-children-still-in-its-custody/2018/06/23/26ffcec4-7758-11e8-be2f-d40578877b7b_story.html?utm_term=.f7d8f883f134](https://www.hrw.org/report/2018/06/23/trump-administration-says-it-has-plan-reunite-more-than-2000-separated-children-still-in-its-custody/2018/06/23/26ffcec4-7758-11e8-be2f-d40578877b7b_story.html?utm_term=.f7d8f883f134)

⁵ Liz Robbins, "Hundreds of Separated Children Have Quietly Been Sent to New York," *The New York Times*. June 20, 2018. <https://www.nytimes.com/2018/06/20/nyregion/children-separated-border-new-york.html>

⁶ Jonathan Blitzer, "The Government Has No Plan For Reuniting the Immigrant Families It Is Tearing Apart," *The New Yorker*. June 18, 2018. <https://www.newyorker.com/news/news-desk/the-government-has-no-plan-for-reuniting-the-immigrant-families-it-is-tearing-apart>

⁷ Miriam Jordan, "I Can't Go Without My Son," a Mother Pleaded as Shew as Deported to Guatemala," *The New York Times*. July 17, 2018. <https://www.nytimes.com/2018/06/17/us/immigration-deported-parents.html>.

⁸ Ray Sanches, Sheena Jones, Dave Alsup and Keith Allen, "The Chill of Detention: Migrants Describe Their Experiences in Custody," *CNN*. July 7, 2018. <https://www.cnn.com/2018/07/07/us/separated-families-detention-conditions/index.html>

⁹ "In the Freezer. Abusive Conditions for Women and Children in US Immigration Holding Cells." *Human Rights Watch*. February 28, 2018. <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>

¹⁰ *Id.*

¹¹ Garance Burke & Martha Mendoza, "Toddlers Separated From Parents at the Border Are Detained in 'Tender Age' Shelters," *Time*. June 20,2018. <http://time.com/5316764/toddler-immigrants-tender-age-shelters/>

¹² Richard Gonzales, "Trump Administration and Advocates Clash Over what's Next for Migrant children," *NPR*. June 11, 2018. <https://www.npr.org/2018/06/11/618831715/more-than-10-000-migrant-children-are-in-u-s-government-custody>

¹³ Ray Sanches, Sheena Jones, Dave Alsup and Keith Allen, "The Chill of Detention: Migrants Describe Their Experiences in Custody," *CNN*. July 7, 2018. <https://www.cnn.com/2018/07/07/us/separated-families-detention-conditions/index.html>

¹⁴ *Id.*

permanently separated. This is likely the case for children whose parents have already been deported.¹⁵

Even children who are reunited with their parents after months of detention are likely to suffer severe psychological effects both immediately and later in life.¹⁶ According to the Mayo Clinic, children who are deprived of basic needs for comfort, affection and nurture may fail to develop caring attachments. Without these attachments, a child may develop reactive attachment disorder losing her ability to establish relationships in the future.¹⁷ For example, Romanian children who were kept over six months in an orphanage were often unable to live independently as adults, experienced mental health issues, had higher rates of unemployment, and were single for decades after being released from the institution.¹⁸ These attachment issues are of particular concern for the children held in US detention centers where shelter workers are forbidden from physically showing affection to distraught migrant children. Even siblings held together in captivity can't hug one another.¹⁹

The inhumanity doesn't stop at detention. Children as young as three are also forced to represent themselves in deportation proceedings, articulating their eligibility for asylum or admission at an age when most children can only count to ten.²⁰ In Phoenix, a one-year old boy recently appeared before an immigration judge while drinking milk from a bottle, the scene would be satire if it weren't so tragic.²¹ These abuses make a mockery of our "justice" system and the guarantees of due process of law.

More than 20 years ago, the federal courts declared the self-evident fact that it is unlawful to keep children in cages for simply being undocumented. Under the settlement from *Flores v. Reno*, the Trump Administration must place children with a family member without delay.²² In those cases where children are kept in custody, they should be kept in the "least restrictive conditions."²³ In *Flores*, Jenny Lisette Flores, a 15-year-old girl from El Salvador was being held in a detention center with adults, was handcuffed, strip searched, and immigration authorities refused to release her to her

¹⁵ Benedict Carey, "A Troubling Prognosis for Migrant Children in Detention: 'The Earlier They're Out, the Better,'" *The New York Times*. June 18, 2018. <https://www.nytimes.com/2018/06/18/health/migrant-children-mental-health.html>

¹⁶ *Id.*

¹⁷ "Reactive Attachment Disorder," *The Mayo Clinic*. July 13, 2017. <https://www.mayoclinic.org/diseases-conditions/reactive-attachment-disorder/symptoms-causes/syc-20352939>

¹⁸ "Adopted Romanian Orphans 'Still Suffering in Adulthood'" *BBC News*. February 23, 2017.

<https://www.bbc.com/news/health-39055704>

¹⁹ Kristine Phillips, "Reports Have Spread that Shelter Workers Can't Comfort Migrant Children. Rules Aren't That Simple," *The Washington Post*. July 9, 2018. https://www.washingtonpost.com/news/post-nation/wp/2018/06/20/reports-have-spread-that-shelter-staff-cant-comfort-migrant-children-rules-arent-that-simple/?utm_term=.741955336005

²⁰ Laila L. HLass, "Defenseless Children," *Slate*. July 05, 2018. <https://slate.com/news-and-politics/2018/07/children-detained-at-border-dont-have-lawyers-must-represent-themselves.html>

²¹ "A 1-Year-Old Boy Had a Court Appearance Before an Immigration Judge in Phoenix," *TIME*. July 8, 2018. <http://time.com/5332740/immigration-judge-boy/>

²² *Reno v. Flores*, 507 U.S. 292 (1993) The Immigration and Naturalization Service was accused of mistreating migrants Jenny Lisette Flores was a 15-year-old girl from El Salvador who came to the U.S. alone in hopes of being reunited with her aunt. The authorities refused to release her to her aunt because she was a 'third party adult' rather than Jenny's parent. The authorities kept Flores in a facility that resulted in regular interaction with stranger adult men and women. The ACLU took her case and set a limit of 20 days as a method of limiting the unbridled power of immigration authorities to detain children.

²³ *Id.*

aunt. In response, the ACLU filed a class-action law suit which resulted in the Flores Settlement which prevents the indefinite detention of minors by enforcing a limit of 20 days.²⁴

The Trump Administration deceptively blame its own heartless policy on the *Flores* agreement, but this is a lie. Last month, after nationwide outrage, President Trump issued an executive order that he claimed would fix the problem he created. But that was also a lie; his order did no such thing. President Trump's order seeks to violate the constitutional protections identified in *Flores*, jailing parents and children together for indefinite periods.²⁵

Sadly, the executive order also failed to address family reunification. Two weeks ago, U.S. District Judge Dana Sabraw ordered ORR to return children under five within fourteen days and older children within a month.²⁶ Sadly, the Trump Administration has already failed to meet their initial deadlines, reporting that the parents of nineteen detained children were already deported and nineteen others were released with their whereabouts unknown.²⁷ One thing is clear: this crisis is continuing.

Imprisoning children simply for seeking a better life violates their rights under federal law to seek asylum. As a global symbol of immigration and inclusion, the home of the Statue of Liberty, New York City must stand together with all immigrant communities impacted by these policies. By voicing our city's support for the Keep Families Together Act, we ensure that the United States remains a country of immigrants, echoing the words of countless generations who looked to this land as a place that promised liberty, equality, and justice for all.

²⁴ Elizabeth Elkin & Emily Smith, "What is the Flores Settlement?" CNN. July 10, 2018.

<https://www.cnn.com/2018/07/10/politics/flores-settlement-history/index.html>

²⁵ Devlin Barrett, "Trump Administration May Seek to Detain Migrant Families Longer Than Previously Allowed," The Washington Post. June 29, 2018. https://www.washingtonpost.com/world/national-security/trump-administration-plans-to-detain-migrant-families-for-months/2018/06/29/f9ffecb6-7bf7-11e8-93cc-6d3beccdd7a3_story.html?utm_term=.406c6c1a1570

²⁶ "Judge Sets Deadlines for Trump Administration to Reunite Separated Migrant Children and Parents," Fortune. June 27, 2018. <http://fortune.com/2018/06/27/judge-sets-deadlines-trump-administration-reunite-separated-migrant-children-parents/>

²⁷ Miriam Jordan, "The Trump Administration Says It Needs More Time to Reunite Migrant Families," *The New York Times*, July 6, 2018. <https://www.nytimes.com/2018/07/06/us/migrant-children-court-families.html>

FOR THE RECORD

Stephanie Gomez
Director of Immigration Initiatives
Alejandra Sorto
Director of Civic Engagement and Organizing
Hispanic Federation

Testimony on: Resolution calling on the U.S. Congress to pass, and the President to sign, the Keep Families Together Act (S. 3036), to immediately stop the Department of Homeland Security from taking children from their parents at the U.S. border, except with express directive from a child welfare expert, and for additional legislation that would end family detention as an unsafe and harmful alternative.

July 12, 2018

Good afternoon, my name is Stephanie Gomez, I am the Director of Immigration Initiatives for Hispanic Federation. Thank you for the opportunity to testify on behalf of the Federation, our member agencies and the Latino Immigrant Rapid Response Initiative (LIRRI), a coalition of community and advocacy organizations serving Latinx communities in the greater NYC area.

I would like to thank the NYC Council's Committee on Health and the Committee on General Welfare for bringing us together today and affording our community of immigrant and Latino advocates the opportunity to express our stance on the current administration's "Zero tolerance" policies.

I would like to start off by stating that the Hispanic Federation (HF) and LIRRI unequivocally support the proposed Keep Families Together Act (S.3036) along with any additional legislation that would immediately halt the inhumane family separation and family detention policies and prioritize the safety and wellbeing of immigrant children.

Hispanic Federation is the nation's premier Latino membership organization; founded over 25 years ago to address the many inequities confronting Latinos and the nonprofits that serve them and advocating for the fair and just treatment of immigrant communities nationwide. As such, we have continuously fought for legislation aimed to protect all immigrants regardless of immigration status. In a concerted effort, the Federation and other organizations launched LIRRI to protect and defend Latino immigrant communities, both documented and undocumented, who live in New York City and who are in danger of intimidation, harassment, incarceration and deportation. It is for this reason and the plethora of others, why we stand before the council today to address pressing concerns.

The current attacks on immigrant communities, specifically on children, who represent one of the most vulnerable segments of the population goes against the values we believe in. It is one thing to intercept undocumented immigrants, process them in accordance with international norms, and return them to their country of origin; it is entirely another to criminally prosecute these immigrants, imprison them, and seize their children.

The trauma these children endure as a result, has devastating psychological and health implications that cannot be ignored. According to research, a child separated from their parents can experience extreme levels of anxiety, disruptions in their development, and increased development of mental health disorders that can have long lasting effects. Studies also indicate that this ‘zero tolerance’ policy has had and will continue to induce irreparable harm and life-long consequences.

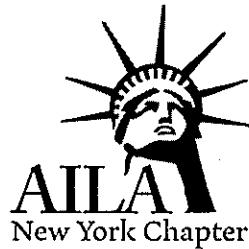
We must also acknowledge the impact this policy is having on institutions receiving an influx of children separated from their families. Currently there are approximately 700 migrant children from the border being held throughout 13 facilities across New York State. Shelters and detention facilities are now acting as makeshift schools and data indicates that the quality of education is unparalleled and inadequate. This further adds to the dearth of development a child undergoes due to trauma.

The Trump administration along with DHS and ICE have imprisoned thousands of individuals through this policy. As a result, our brothers and sisters are exposed to abhorrent conditions, such as civil rights abuses and dangerously inadequate access to critical medical care. This all poses serious risks to the health and safety of children and parents under our government’s custody.

Now the administration wants to delay the reunification process claiming it is difficult to locate parents, some of whom have already been deported, others released and there is no system set in place to keep track of everyone. The Keep Families Together Act (S.3036) would put an end to the disarray that has come about as a result of anti-immigrant actions.

Now is the time to act. We must break down the barriers to justice. We must stand in solidarity with those most in need.

Thank you.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION NEW YORK CHAPTER 2018-2019

Executive Committee

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Second Vice Chair
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Treasurer
Lorilei Williams
Secretary

July 12, 2018

New York City Council
Committee on Immigration
Committee on Health
Committee on General Welfare

My name is Lorilei Williams and I am the secretary for the New York Chapter of the American Immigration Lawyers Association (AILA), the nation's largest professional organization of immigration lawyers. I submit this testimony today on behalf of New York AILA.

We have been asked to address the impacts of the Trump administration's family separation policy on New York City, and the Keep Families Together Act (S. 3036), which proposes to immediately stop the Department of Homeland Security from taking children from their parents at the U.S. border, except with express directive from a child welfare expert, and for additional legislation that would end family detention as an unsafe and harmful alternative. As experts in immigration law, we are uniquely positioned to address these impacts. We applaud the City Council for addressing the impacts of the family separation policy and Keep Families Together Act (herein referred to as "the proposed Act"), and thank the City Council for providing this open forum for discussion.

As stated by AILA Executive Director Benjamin Johnson, "It is a gross injustice that [the Department of Justice] and [the Department of Homeland Security] intend to deny humanitarian protection to people arriving at our borders through a systematic plan to separate families and prosecute all 'suspected border-crossers.' These practices are morally abhorrent and violate our nation's laws and most cherished values."

While we are appreciative of Senator Feinstein's and her colleagues' introduction of the proposed Act, we believe that the language of the proposed Act should be strengthened in the following ways:

First, the proposed Act contains ambiguous language that needs to be strengthened. In Section 2, subsections (a)(3)(B-C), the proposed Act prohibits the separation of children from their family when "there is a strong likelihood that the adult is not the parent or legal guardian of the child" or when "the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to themselves or others." We urge our lawmakers to clarify what circumstances would constitute a "strong likelihood" that an adult is not the parent or legal guardian, or an applicable "danger." For decades, the Department of Homeland Security (DHS), and formerly as the Immigration and Naturalization Service (INS), has separated children from their fathers at the border simply because they are fathers and not mothers. Under the proposed act, what would the "strong likelihood" standard look like? Would birth certificates or DNA testing be required? Would sworn statements suffice? We urge the government to give fathers parental deference to the same extent as given to mothers, as the bonds between a father and child are just as strong as between a mother and child. Moreover, what would constitute a danger? If a child is resisting an officer because the child insists on holding on to their parent's legs, could the officer deem the child a danger to themselves or others? While the intent of the proposed Act is understood and supported by immigration advocates, we urge our lawmakers to strengthen the language so that the proposed Act is executed and followed in accordance with the people's and lawmakers' intent.

Second, the proposed Act states that only separation that falls under Section 2, subsection (a)(3), will require documentation and reasoning for the separation of children from their families by designated officials. We urge lawmakers to require such documentation and reasoning in all instances of family separation.

Third, we recommend that the proposed Act recognize what constitutes a nuclear family in many other countries and cultures, and strive to keep together family units beyond siblings. As attorneys who have represented hundreds of unaccompanied minors, we have seen nuclear family units detained in the custody of the Office of Refugee Resettlement (ORR) that include parents, aunts, uncles, nephews, nieces, and cousins. These relationships can be critical to the mental health and stability of detained children. We urge lawmakers to consider expanding protections for sibling units to include nuclear family units that encompass, at a minimum, parents, aunts, uncles, nephews, nieces, and cousins, in addition to siblings.

Fourth, we applaud lawmakers for including explicit language that intends to keep parents and legal guardians informed of the location and status of their detained children. We urge lawmakers to modify the language regarding translations so that parents and legal guardians are provided with information in the language they speak best, without requiring them to request the information in said language. Placing the burden on the traumatized immigrant to affirmatively request translated information will result in many immigrants not knowing what rights they have. In addition to the information required by the proposed Act, we urge lawmakers to include notifications to parents and legal guardians about: immigrant advocacy organizations that can assist parents and legal guardians in asserting their rights with regard to family

separation, and the contact information for any entity serving the detained child, including but not limited to the child's ORR case manager, the ORR Federal Field Specialist overseeing the detention and release of the child, the legal service provider who has provided the child with services mandated by the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA), and the child advocate providing advocacy services on behalf of the child.

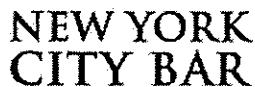
Fifth, we urge lawmakers to acknowledge the litigation and media coverage regarding the standard of care for detained unaccompanied minors. Allegations have arisen at multiple ORR shelters that children have been administered psychotropic drugs without parental consent.¹ We urge lawmakers to include provisions in the proposed Act that would require the government to seek informed parental consent before administering children with non-emergency medical care, including medication for mental health disorders and invasive procedures.

In sum, we believe that migration is a human right. Rather than criminalize and separate families lawfully seeking protection in our country, these brave parents and children - and all immigrant families - belong together, free from incarceration. Immigrants are what make New York City what it is today, and the country must follow our lead in welcoming and supporting them. While there is no justification for the Trump administration's abhorrent policies that have resulted in the separation of families at the border, they are but a symptom of a larger disease - a longstanding governmental policy that views migrants as security threats and job stealers rather than valued family members, neighbors, and co-workers. No matter who controls the White House and Congress, the federal government must stop waging war on immigrants and instead recognize the immeasurable value they - and the diversity they bring - have towards our building of a just society.



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¹ See Roque Planas, "Migrant Children Drugged Without Consent at Government Centers, Court Documents Show," *HuffPost* (June 20, 2018), available at: https://www.huffingtonpost.com/entry/migrant-children-drugged-without-parental-consent-at-government-institutions-court-documents-show_us_5b2a9e87e4b0321a01cd4dd3.



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**WRITTEN TESTIMONY OF THE
IMMIGRATION AND NATIONALITY LAW COMMITTEE**

**NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION, COMMITTEE ON
HEALTH AND COMMITTEE ON GENERAL WELFARE
OVERSIGHT HEARING - THE IMPACTS OF TRUMP ADMINISTRATION FAMILY
SEPARATION POLICY ON NEW YORK CITY**

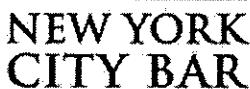
July 12, 2018

My name is Denise Bell and I am testifying on behalf of the Immigration and Nationality Law Committee of the New York City Bar Association. The City Bar has a longstanding mission to equip and mobilize the legal profession to practice with excellence, promote reform of the law, and advocate for access to justice. The Immigration and Nationality Law Committee is comprised of immigration attorneys, current and former judges, immigration law scholars, and attorneys specializing in human and civil rights. In this time of increased federal immigration enforcement, our Committee has advocated for funding and access to counsel for immigrants facing deportation proceedings, urged reforms to strengthen the immigration court system and provided recommendations to the Mayor and City Council on ways in which New York City can ensure immigrant New Yorkers have equal access to justice and services.¹

Recently, our Committee joined with six other City Bar committees in issuing a letter to U.S. Attorney General Jeff Sessions and Secretary of the Department of Homeland Security Kirstjen Nielsen, which called on them to rescind their respective Departments' publicly announced policies of referring for criminal prosecution all persons allegedly attempting or effecting entry into the United States other than at a designated port of entry, including those seeking asylum. We would like to submit that letter as written testimony to the City Council as it considers the impact of the Trump Administration's family separation policy on New York City. The City Bar believes family separation and family detention undermine the fundamental right to seek asylum and other forms of protection. The only effective way to address increased numbers of families and children seeking safety in the United States is to provide full access to the U.S. asylum system to determine who meets the legal standard for such protection.

Thank you for your consideration.

¹ For more information on the work of the Committee and its recent policy work, visit <http://www.nycbar.org/member-and-career-services/committees/immigration-and-nationality-law-committee>.



**COMMITTEE ON
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July 6, 2018

The Honorable Jefferson Beauregard Sessions III, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Kirstjen Nielsen, Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20528

RE: Criminal Prosecution, Separation, and Detention of Families Seeking Asylum

Dear Attorney General Sessions and Secretary Nielsen:

On behalf of the undersigned committees of the New York City Bar Association (“City Bar”) and its more 24,000 members,¹ we call on each of you to rescind your respective Departments’ publicly announced policies of referring for criminal prosecution all persons allegedly attempting or effecting entry into the United States other than at a designated port of entry, including those seeking asylum.² These policies have caused the separation and detention of migrant children and families, and the improper denial of access to asylum and other forms of humanitarian protection provided for under U.S. law and international law. In view of the state of flux of the administration’s policies, practices, and stated aims with respect to arrivals of refugees and migrants at the southern border, we respectfully request that, as the cabinet members charged with responsibility for enforcing the country’s immigration laws, you pledge publicly to do so in adherence to guiding principles of fairness, proportionality, and respect for this country’s tradition as a refuge for the persecuted and endangered.

¹ With 24,000 members, the City Bar has a longstanding mission to equip and mobilize the legal profession to practice with excellence, promote reform of the law, and advocate for access to justice in support of a fair society.

² Dep’t of Justice, Attorney General Announces Zero Tolerance Policy for Criminal Illegal Entry (Apr. 6, 2018), <https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>; Dep’t of Homeland Security, Fact Sheet: Zero Tolerance Immigration Prosecution – Families (June 15, 2018), <https://www.dhs.gov/news/2018/06/15/fact-sheet-zero-tolerance-immigration-prosecutions-families>. (All websites last visited July 5, 2018)

same day, 18 Attorneys General filed a lawsuit challenging the separation practices on Constitutional and statutory grounds.⁷

We urge you to end the systematic criminal prosecutions that lead to family separation. In addition, in response to extraordinary levels of public concern, we urge that you publicly voice your commitment to the principles of family unity, the best interests of the child, and the rights of migrants fleeing danger to seek protection in a country of refuge. Parents and children should not be separated in the absence of good cause and due process, and members of families apprehended while fleeing harm should be released together whenever feasible in order to pursue claims for asylum or other humanitarian relief.

II. CRIMINAL PROSECUTION OF ASYLUM-SEEKING FAMILIES SHIFTS LAW ENFORCEMENT RESOURCES AWAY FROM SAFETY AND SECURITY PRIORITIES

At least 21 lawyers from the Judge Advocate General corps will reportedly be detailed to the border—not in response to evidence of a surge in organized crime activity or violent crimes, but to help prosecute improper entry cases.⁸ Such a deployment could prove both ineffective and costly. Notably, after two prior administrations implemented a border patrol initiative aimed at reducing recidivism in illegal crossing, the Department of Homeland Security (“DHS”) Office of Inspector General (“OIG”) found that Customs and Border Protection had not been adequately measuring the effectiveness or costs of the initiative.⁹ Under the current policy, even if the human costs of detaining and separating asylum-seeking families (discussed below) could be offset, your Departments have not offered the public a projected cost-benefit analysis of prosecuting all improper entries without exception. Indeed, there is reason to believe the costs will be high: “the DHS projects there will be an average of 51,379 people held in immigration detention centers each day in fiscal 2018, a sizable jump from the last few years, which have hovered near the low 30,000s.”¹⁰ By Immigration and Custom Enforcement’s (“ICE”) estimate, each bed in an ICE

⁷ Complaint, *Washington v. US*, Case No. 18cv00939 (June 26, 2018), https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/complaint_6.pdf. In yet another related development, on July 2, 2018, a federal district court granted a class-wide preliminary injunction and held that DHS must follow its “Parole Directive” and give asylum-seekers individualized parole determinations. *Damus, et al. v. Nielsen*, Case No. CV 18-578 (D.D.C., July 2, 2018), https://www.humanrightsfirst.org/sites/default/files/memorandum_opinion.pdf.

⁸ Will Rake, Pentagon Sending Military Lawyers to Border to Prosecute Illegal Immigration Cases, Conservative Daily News (June 21, 2018) <https://www.conservativedailynews.com/2018/06/pentagon-sending-military-lawyers-to-border-to-prosecute-illegal-immigration-cases/>. Under 8 U.S.C. §1325, anyone who enters the country at an “[i]mproper time or place” can be sentenced to six months in jail and a fine of up to \$250 (repeat offenders can be jailed for up to two years and fined up to \$500). *But see* note 32 and accompanying text regarding rights of migrants to seek asylum regardless of port of entry.

⁹ DHS Office of the Inspector General, OIG-15-95, Streamline: Measuring its Effect on Illegal Border Crossing (May 15, 2015), preamble, https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-95_May15.pdf.

¹⁰ Jaden Urbi, This Is How Much It Costs to Detain an Immigrant in the US, CNBC (June 20, 2018) <https://www.cnbc.com/2018/06/20/cost-us-immigrant-detention-trump-zero-tolerance-tents-cages.html>.

entrants.¹⁸ In January 2018 Secretary Nielsen stated, “[w]e’re looking at a variety of ways to enforce our laws to discourage parents from bringing their children here.”¹⁹ Former Secretary of Homeland Security John Kelly, now President Trump’s chief of staff, suggested the blanket criminal prosecution policy as early as March 2017 “in order to deter” asylum-seeking adults from fleeing to the United States with their children.²⁰ Thus, despite official denials, there is a demonstrable link between the policy of mass irregular entry prosecutions and an escalation in family separation.²¹ Even assuming no official policy of separating children and parents, the blanket prosecution policy as implemented, amounts to a *de facto* policy of systematic family separation.²²

Under the Executive Order’s mandate to detain families “during the pendency of any criminal improper entry or immigration proceedings,” the continuation of this “zero tolerance” policy will result in the indefinite detention of families. Prolonged detention would be an unacceptable return to 2014 government policies that were ultimately halted in the wake of a court order²³ and public outrage.

IV. FAMILY SEPARATION AND FAMILY DETENTION VIOLATE CHILDREN’S RIGHTS, U.S. CHILD WELFARE STANDARDS, AND U.S. OBLIGATIONS UNDER HUMAN RIGHTS AND REFUGEE LAW

The administration has not explained the rationale for its assertions that it *must* separate children from parents who face criminal charges for unlawful entry, nor has it explained how the presence of children would otherwise “give you immunity from arrest and prosecution” on misdemeanor charges when warranted.²⁴ In practice, the vast majority of parents convicted of misdemeanor criminal entry are sentenced to time served, often without ever leaving the custody

¹⁸ Attorney General Announces Zero Tolerance Policy for Criminal Illegal Entry (Apr. 6, 2018), <https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>.

¹⁹ Secretary Kjirsten Nielsen, Senate Hearing Testimony Transcript, (Jan. 16, 2018), <http://transcripts.cnn.com/TRANSCRIPTS/1801/16/cnr.04.html>.

²⁰ John Haltiwanger, John Kelly Proposed Separating Children from Their Parents to Deter Illegal Immigration Last Year, Business Insider (June 18, 2018), <http://www.businessinsider.com/kelly-proposed-family-separation-to-deter-illegal-immigration-in-2017-2018-6>.

²¹ Philip Bump, Here are the Administration Officials Who Have Said That Family Separation is Meant as a Deterrent, Washington Post (June 19, 2018), https://www.washingtonpost.com/news/politics/wp/2018/06/19/her-are-the-administration-officials-who-have-said-that-family-separation-is-meant-as-a-deterr/?noredirect=on&utm_term=.381649f05d8c.

²² Blair Guild, Jeff Sessions Argues It’s Necessary to Separate Children from Parents When Detained at Border, CBS News (June 19, 2018), <https://www.cbsnews.com/news/jeff-sessions-argues-its-necessary-to-separate-children-from-parents-when-detained-at-border/>.

²³ See *ACLU RILR v. Johnson* webpage, <https://www.aclu.org/cases/rilr-v-johnson?redirect=immigrants-rights/rilr-v-johnson>.

²⁴ See, e.g., Adam Edelman, Sessions Cites Bible in Defense of Breaking Up Families (NBC News, June 14, 2018), <https://www.nbcnews.com/politics/immigration/sessions-cites-bible-defense-breaking-families-blames-migrant-parents-n883296>.

of the child analysis. The individual right to family life is also a factor that countries must take into account in decisions on individuals' entry, residence, deportation or expulsion.³² Threatened and forced family separations further undermine compliance with U.S. refugee law by impeding access to asylum and other forms of protection which individuals have a right to pursue regardless of point of entry. Consistent with international law, U.S. law expressly provides for the right to apply for asylum irrespective of whether entry to the U.S. was "at a designated port of arrival."³³

Moreover, forcing children to undergo immigration proceedings alone after separation from their parents severely restricts their ability to achieve protection where their claims are factually linked to those of their parents.³⁴ This is particularly true for very young children who are unable to articulate the claim. Furthermore, separation can result in only one family member retaining documents critical to establishing family members' identities or supporting their claims. Separation impedes the regular communication between children and parents that is critical for a child and parent to pursue a joint claim for protection.

While DHS and the Office of Refugee Resettlement ("ORR") are implementing a hotline to connect parents with children and coordinate communication between separated family members,³⁵ this effort is belated and haphazardly effective. Furthermore, the administration has offered no plans to reunite separated children and parents. According to multiple media accounts and the experience of our members and pro bono volunteers, many parents have endured long periods without knowledge of the whereabouts or well-being of their children and when they are locating their children, the costs of travel can be prohibitive. Parents are even being deported to their country of origin without their children and potential guardians are encountering significant obstacles³⁶ to gaining custody of the children.

B. Family detention

International human rights standards contain a strong presumption against the detention of asylum-seekers and immigrants.³⁷ Detention should be used only as a measure of last resort; it

³² Human Rights Committee, General Comment No. 15, par5. CAT, GC_No.4 (2017), Article 3(14).

³³ 8 USC § 1158(a)(1); *see also*, e.g., 8 USC § 1101(a)(15)(T), (U), defining nonimmigrant status for victims of severe forms of trafficking in persons, and certain victims of criminal activity, respectively.

³⁴ American Immigration Lawyers Ass'n, *Policy Brief: New Barriers at the Border Impede Due Process and Access to Asylum* (June 1, 2018) at 6-7 (enumerating conditions that "will put more pressure on children to withdraw asylum applications and accept removal, despite their fear of harm in their countries of origin"), <https://www.aila.org/File/DownloadEmbeddedFile/76208>.

³⁵ DHS and ORR, *Next Steps for Families*, https://www.dhs.gov/sites/default/files/publications/18_0615_CBP_Next-Steps-for-Families.pdf.

³⁶ One such obstacle is, undoubtedly, new DHS regulations that will require ORR to communicate with DHS regarding the immigration status of a potential caretaker and of household members. The City Bar opposed this new regulation, stating "The regulations undoubtedly will have a chilling effect on family members' desire to come forward to ensure children's release from ORR detention facilities to their care." http://s3.amazonaws.com/documents.nycbar.org/files/2017397-DHS_ORR_Info_Sharing.pdf

³⁷ See, e.g., ICCPR, *supra*, n. 31 (setting out the right to be free from arbitrary detention); and U.N. High Commissioner for Refugees, *Detention Guidelines: Guidelines on the Applicable Criteria and Standards Relating to*

Detention also impedes access to a fair and efficient process for seeking asylum. Detention presents barriers to accessing legal representation,⁴¹ and impedes the ability to obtain documentation in support of protection claims. It is often difficult or impossible for those in detention to communicate with family members or other witnesses in the home country to obtain crucial documents to support the asylum claim.

The government's actions also contravene its own agency's standards on family separation and detention. In October 2016, ICE's Advisory Committee on Family Residential Centers ("ACFRC") stated that separating families is never in the best interest of the child and further recommended ending family detention altogether.⁴² The National Standards on Transport, Escort, Detention, and Search ("TEDS") for CBP require family units to remain together "to the greatest extent operationally feasible" absent concerns for security or safety. If separation must occur, TEDS further requires that "such separation must be well documented in the appropriate electronic system(s) of record."⁴³

C. The best interests of the child

The standard of the child's best interests has been increasingly incorporated into immigration law and policy. All 50 states, the District of Columbia, and U.S. territories require consideration of a child's best interests in decisions about the child's custody,⁴⁴ and likewise, the Convention on the Rights of the Child reflects virtually unanimous global consensus that "[i]n all actions concerning children ... the best interests of the child shall be a primary consideration."⁴⁵ Congress has incorporated the best interests of the child standard into multiple immigration law provisions respecting children.⁴⁶ Under a 2008 Congressional mandate, federal agencies that take unaccompanied children into custody must place them in the least restrictive setting that is in their best interests.⁴⁷ Detention that is any longer than necessary, with and especially without parents, is contrary to the child's best interests, and risks lasting harm, as further discussed below.

V. FAMILY SEPARATION AND FAMILY DETENTION TRAUMATIZE CHILDREN AND CAUSE LONG-TERM PHYSICAL AND EMOTIONAL STRESS

⁴¹ Human Rights First, Ailing Justice: Texas: Soaring Immigration Detention, Shrinking Due Process at 24-27 (June 2018), https://www.humanrightsfirrst.org/sites/default/files/Ailing_Justice_Texas.pdf.

⁴² <https://www.ice.gov/sites/default/files/documents/Report/2016/acfrc-report-final-102016.pdf>.

⁴³ TEDS at 1.9 and 5.6 (2015).

⁴⁴ See Child Welfare Information Gateway, Determining the Best Interests of the Child (2012), https://www.childwelfare.gov/pubPDFs/best_interest.pdf (last viewed Apr. 13, 2018).

⁴⁵ United Nations, G.A. Res. 44/25, Convention on the Rights of the Child, art. 3 (Nov. 20, 1989). Every country in the world but the United States has ratified the Convention on the Rights of the Child, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en.

⁴⁶ See, e.g., 8 U.S.C. § 1101(a)(27)(J) (incorporating a best interests finding into eligibility standards for special immigrant juveniles); Immigration and Naturalization Service, Guidelines for Children's Asylum Claims at 2, 6, 9 (Dec. 10, 1998) (applying "the internationally recognized 'best interests of the child' principle" to interview procedures for child asylum seekers).

⁴⁷ 8 U.S.C. § 1232(c)(2).

challenges. Likewise, the Executive Order's ill-advised directive to modify the *Flores* Agreement should be withdrawn. Any changes to that agreement will result in lasting damage to children's well-being. On June 6, 2018, a federal judge rejected the Administration's argument that asylum-seeking families did not have a Constitutional right to remain together and ruled that a lawsuit challenging the practice may proceed, stating that "[s]uch conduct, if true, as it is assumed to be on the present motion, is brutal, offensive, and fails to comport with traditional notions of fair play and decency."⁵⁴

Rather than focusing on deterrence and punitive use of detention, the U.S. government must live up to its commitments to provide protection for people seeking asylum. Family separation and family detention undermine the fundamental right to seek asylum and other forms of protection. The only effective way to address increased numbers of families and children seeking safety in the United States is to provide full access to the U.S. asylum system to determine who meets the legal standard for such protection. At the same time, the widespread violence that is the root cause of families' and children's flight must be addressed. Inadequate protection procedures in countries of origin feed the cycle of harm, insecurity, and flight for children and families.

VII. CONCLUSION

We urge you to replace the "zero tolerance" policy of criminally prosecuting those seeking asylum in the United States with a renewed commitment to U.S. and international law on the rights of asylum seekers. Further, we ask you to reunite all forcibly separated families, and refrain from separating additional families; and to release families to pursue claims for asylum and other humanitarian protections, in line with U.S. human rights obligations and customary international law, our country's core values, and proud, long-standing tradition of offering refuge.

Respectfully,

Immigration & Nationality Law Committee

Victoria F. Neilson, Chair

Bioethical Issues Committee

Mary Beth Morrissey, Chair

Children and the Law Committee

Sara L. Hiltzik, Chair

Council on Children

Lauren A. Shapiro, Chair

Family Court & Family Law Committee

Glenn Metsch-Ampel, Chair

Health Law Committee

Kathleen Mary Burke, Chair

International Human Rights Committee

Anil Kalhan, Chair

⁵⁴ *Ms. L. v. ICE*, No.18-cv-0428 (June 6, 2018).



Statement from Cayuga Centers
July 12, 2018

Good afternoon. Thank you to the City Council, its members, and its committees for inviting us here today to speak about the urgent topic of separation and reunification of immigrant children. My name is Lorraine Sanchez, Vice President of New York City Operations & Community Relations. I am here today on behalf of our President & CEO, Edward Myers Hayes, our Board of Trustees and the hundreds of employees that work at Cayuga Centers. I do not represent the Office of Refugee Resettlement and the views I express here today are not the opinions or positions of that office.

Let me begin by stating unequivocally that Cayuga Centers plays no role in the apprehension or initial detention of unaccompanied children or their family members prior to their arrival to to our foster care program.

Cayuga Centers is a New York not-for-profit agency that serves children and families in the states of New York, Delaware and Florida. In addition to providing programs for persons with developmental disabilities as well as trauma-focused counseling services to children and families, we also provide foster care programs through contracts with state and federal agencies. Under contract with ORR, Cayuga Centers runs two foster care programs for unaccompanied children. Unaccompanied children are defined under federal law as youths under the age of eighteen who do not yet have lawful immigration status, and for whom there is no legal guardian available in the United States to provide care and physical custody.

Since the stories of these children and these programs began receiving attention, the care and concern of New York City officials and residents has been tremendous. Mayor Bill de Blasio's team, U.S. Congress persons Adriano Espaillat and Carolyn Maloney, Assembly members Robert Rodriguez and Carmen De La Rosa, Governor Andrew Cuomo, State Senator Michael Gianaris, City Council person Mark Levine, Manhattan Borough President Gale Brewer, and Public Advocate Letitia James have all been outstanding. They have provided goods and services, police protection, support for our staff and foster parents, and a collective voice admonishing those who would seek to retraumatize these children with invasive tactics. New York's citizens have stepped forward with open arms and open hearts to welcome these children and provide additional supports for them. We are humbled and grateful.

Unaccompanied children programs were established as a result of the *Flores v. Reno* settlement agreement. That agreement set national standards for the treatment and placement of unaccompanied children. It provides that these children be placed in the least restrictive environment, receive services that ensure their safety, health and well-being, and be released to a parent, legal guardian, or other appropriate sponsor without unnecessary delay. The requirements of *Flores* are described and elaborated upon in ORR policy, which is publicly available.

Cayuga Centers is proud of the fact that the standards for its Unaccompanied Children foster programs meet or exceed all ORR requirements. Cayuga Centers provides a continuum of services to all unaccompanied children referred to its program:

All Unaccompanied Children are placed with highly trained, bilingual and culturally matched foster parents whose homes have been certified in accordance with New York Office of Children and Family Services regulations.

Children receive full physicals, including immunization and treatment for any illnesses, upon their arrival at Cayuga Centers. Thereafter, Cayuga Centers provides ongoing medical care through its clinic as well as referral to outside specialists, as needed.

Cayuga Centers provides a day program for all Unaccompanied Children that includes instruction in math, English, science and social studies, as well as practical life skills. The purpose of Cayuga's education program is to prepare youth to enroll in schools following reunification with family members in the United States.

Cayuga Centers ensures that all children have daily access to physical activities, including organized sports and play, utilizing the many green spaces that New York City has to offer. Children also take field trips to local attractions such as zoos, museums, and historical landmarks.

Cayuga Centers provides one highly trained clinician for every twelve children in its care. These clinicians provide trauma-focused counseling services to all children on a weekly basis, or more frequently if needed. They also participate in weekly group therapy. Cayuga Centers makes referrals to affiliate social services agencies who provide specialized mental health services for any youth in need of a higher level of care.

For every eight children in its care, Cayuga provides a case manager whose sole purpose is to reunify youth with family members or other appropriate sponsors. Upon a child's placement with Cayuga Centers, case managers begin working diligently to identify a sponsor to whom the child may be released. Sponsors may be parents, siblings, grandparents, or extended family members of the child, or they may be non-blood relatives who have a close relationship to the child. All sponsors are thoroughly vetted via background checks and some require home studies before a youth may be released to their care. Should a child express the desire to repatriate to his/her country of origin, Cayuga Centers staff will assist in ensuring their safe return. For youth who desire to stay in the U.S., who have a potential claim for legal immigration status, and for whom no sponsor can be identified, Cayuga will refer the youth to an ORR-funded long-term foster care program.

Cayuga Centers works in partnership with Catholic Charities' Archdiocese of New York to provide legal screening and representation to all Unaccompanied Children. Catholic Charities provides education to all youth regarding their legal rights and ensures that they are adequately represented in any immigration proceeding that may take place while the child is with Cayuga Centers.

Every day, Cayuga Centers staff go far beyond the requirements of their jobs in ensuring the safety and comfort of all unaccompanied children referred to their program. Cayuga staff make themselves available 24 hours a day to meet youth upon their arrival to New York City. At any hour of the day, staff are there to ensure that newly arrived youth are fed nutritious food, provided essentials such as clothes and toiletries, educated about their rights, seen by a medical professional to address any

health concerns, and quickly transferred to the comfort of a foster home in which they are treated with care and respect.

Cayuga Centers is proud of its work serving many vulnerable populations. Its commitment to providing the highest quality foster care and services to unaccompanied children is no different. We are proud of the fact that, since our unaccompanied children foster care program began in 2014, we have reunited more than seven thousand (7,000) children with sponsors in the United States.

After these children are reunited with their families, they still need our help. These kids and their families, many of whom reside in the greater New York City area, need connections to services like legal representation, translation services, healthcare and many other supports. We ask that decision makers keep this in mind, and work to facilitate families' access to these services.

These children are here because there are unprecedented levels of violence in their home countries. They are here because their families felt journeying thousands of miles with little food, water, or security was safer than remaining at home. They are here because this country has historically welcomed immigrants and appreciated their contributions to the fabric of our nation. They are newborns, toddlers, and teenagers simply looking for a safe haven and an escape from trauma that most of us will never know.

We feel strongly that all children should be with their families. As such, we will continue to work diligently to ensure that all of the children in our care are reunited with those who love them. Thank you.

Cayuga Centers works in partnership with Catholic Charities, which is the primary provider of legal services to unaccompanied children in New York City. Catholic Charities, along with its partner agencies The Legal Aid Society of New York and The Door, have extensive experience working with this population and advocating for their rights. In cases where independent attorneys have been retained to represent children, Cayuga Centers is required to ensure that the proper paperwork has been filed and that there are not conflicting filings. Cayuga Centers has never, and will never, deny a child the right to authorized legal access.

TESTIMONY OF DAMYN KELLY, PRESIDENT AND CEO OF
LUTHERAN SOCIAL SERVICES OF NEW YORK

Before

the

NEW YORK CITY COUNCIL COMMITTEE ON
IMMIGRATION jointly with the COMMITTEE ON HEALTH
AND THE COMMITTEE ON GENERAL WELFARE

JULY 12, 2018

Good afternoon, my name is Damyn Kelly and I am the President and CEO of Lutheran Social Services of New York and I wish to thank the Chair and the members of the Committee for inviting me to participate in this hearing. The entire City of New York should take great pride in its responsiveness to the needs of those who arrive at its borders. Our city is truly a melting pot and a welcoming community.

For more than 135 years, Lutheran Social Services of New York has provided care and comfort to those who have been considered “outsiders”. From our founding as an orphanage for the children of German immigrants to our status today as one of the City’s largest and multi-faceted social services organization. Our more than 650 professional staff have always provided a “safe haven” for children in an environment that is nurturing, comforting and supportive. In addition, understanding that there is a need to address adults and families who are underserved or in need, we have developed programs and services that are committed, compassionate and competent.

Over the past several years, we have provided a variety of residential, recreational, educational and social support programs for “unaccompanied children”. In this program, children are provided with health care, educational services, counseling and other support services, all in an environment that is nurturing, supportive, engaging, and most importantly -- safe. The youth are supported by our staff, who are culturally competent and all of whom have received training in trauma informed case management practices. For those children who do not reside in our residential facility, they are placed with foster parents who have participated in extensive training. Often, reflecting the ethnicity of the child who is being placed. At a minimum, the foster parent must speak the native language of the child. When necessary, legal assistance is provided by our staff of trained immigration attorneys or through other legal partners in the city.

I am also very appreciative of the support of the current city administration who has provided a multitude of resources and supports to assist those children in need. I am especially appreciative of the support provided by the Mayor’s Office of Immigrant Affairs led by Commissioner Bitta Mostofi; the Agency for Children’s Services led by Commissioner David Hansell and the NYC Office of Health and Mental Health led by Commissioner Dr. Mary Bassett. I am also very much appreciative of the work of the members of the City Council and especially to members Rafael Salamanca and Vanessa Gibson who immediately upon learning of the plight of these children, personally reached out to me to offer their assistance. I want to publicly acknowledge my fellow New Yorkers who have also reached out by donating supplies, clothing, toys and volunteering. to help these children in need.

While I am not here to comment on the actions of the federal government in instituting the “Zero Tolerance Policy”; I can say that the research is clear in that children who are separated from their families have long-term emotional, behavioral and physical ailments that can impact their socio-emotional development, Chavez, (2010). In fact, children whose parents have been detained or who have been separated from their parents have higher risk factors for poor health, education and social isolation (Chavez; Capps, 2007). Fortunately, New York, compared to other states, has the institutional infrastructure to care for the needs of these children (Hernandez, 2004). This is evidenced by the strong network of foster care and human service providers who have long served children who have undergone trauma.

Despite the policy, organizations like Lutheran Social Services of NY and others you may hear from today, approach our work with one goal; to ensure that the children who are in our care are treated with dignity and respect. Moreover, our singular objective is to ensure that the child’s social, emotional, behavioral, medical and educational needs are met in an environment that is caring, nurturing and supportive.

Finally, I am prepared to say that Lutheran Social Services of New York, working with other community partners, has begun reuniting parents with their children. In fact, since Tuesday, we have worked with five families and reunited the parents with their children. For these families, their only concern was to see their children and hold them again.

Throughout this entire endeavor, our sole focus has been the care and comfort of the innocent children who have been impacted by this policy. For more than 130 years this has and continues to be our only concern.

Again, I wish to thank the committees for the opportunity to appear today and I am available to answer any questions.



July 12, 2018

My name is Vivian Martinez, and I am a member of Make the Road New York and a New York City resident. As a mother of a 4 month old and a 2 year old, I am horrified by what is happening at our border. Children, as young as mine, are being taken from their mother's arms. To any mother, to any human being that is unjust and inhumane. No child and no baby should be separated from their parents, especially at a young age when the face of their mother or father is all they know.

Unfortunately, this crisis is not just happening at the border. I know and I have seen, first hand, the nightmare of family separation. My husband and my partner for the last 14 years was detained by ICE when we went to our marriage-based interview at 26 Federal Plaza, just a few blocks away. An interview that is part of the process to get his lawful permanent residency. This happened two months ago and today he still remains under ICE custody.

Two months have passed since my husband has not been able to be at home with our children. Two months since my children have not been able to play around and bond with their father. My two year old daughter, as young as she is, she still asks for her dad. I have had to mark up our calendar so she is able to see that Saturdays, is the only day that we can see her father at the detention center where he has been for the last two months.

Today, I stand in front of you to tell you to stand up against ICE tearing families apart and urging you to call upon Congress to pass the Keep Families Together Act. ICE is separating families, separating children from their parents every day and this not just happening at the border. And we ask New York City to do everything in its power to protect immigrant families. Separation of children from their parents is happening everywhere from Queens, New York to the US-Mexico Border. We must fight to end family separation at the border and in our communities.

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QUEENS
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JACKSON HEIGHTS, NY 11372
TEL 718 565 8500
FAX 718 565 0646

STATEN ISLAND
161 PORT RICHMOND AVENUE
STATEN ISLAND, NY 10302
TEL 718 727 1222
FAX 718 981 8077

LONG ISLAND
1090 SUFFOLK AVENUE
BRENTWOOD, NY 11717
TEL 631 231 2220
FAX 631 231 2229

WESTCHESTER
46 WALLER AVENUE
WHITE PLAINS, NY 10605
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New York City Council Hearing on the Impacts of the Trump Administration Family Separation Policy on New York City
Testimony of the New York Immigration Coalition
July 12, 2018

This testimony is being submitted on behalf of the New York Immigration Coalition. The New York Immigration Coalition (NYIC) is an umbrella policy and advocacy organization that represents nearly 200 members and partners. We write to thank you for voicing your outrage at recent events at the country's Southern border. Over the last few weeks, we have all watched in horror as some of the Trump Administration's cruelest policies to date have been playing out. Images of children ripped away from their families and held in cages will forever be part of this nation's history.

On Saturday, June 30th, the NYIC, along with our members and partners, mobilized over 25,000 New Yorkers to march, rally and take a stance against this grave human rights crisis.

Given the truly statewide impact of this crisis and that many families are separated in jails and shelters outside of New York City despite having proceedings in the greater New York area immigration court system, we urge the City Council to ensure that New York State pledges to:

- raise funding for legal screenings and representation while children and families are in the greater New York area immigration court system;
- renew funding for the State's Liberty Defense Project (LDP) pro-bono project to facilitate family reunification and provide families with legal services;
- raise funding for mental health services and the institutions that coordinate them (e.g., community health centers, volunteer networks, and the public health care system) to give "released" children and their family members the support and continuity of care they need to overcome the traumas of family separation;
- and create an emergency task force of relevant New York State agencies, legal service providers, and community based organizations to assist with the streamlined coordination of services and volunteers responding to this crisis and to create recommendations on how to best address their needs once reunited.

Now is also a critical time to invest in schools' abilities to support students and effectively engage their guardians/families. Schools would benefit from more direction and capacity to meet needs. Specifically, New York City should place more bilingual social workers and guidance counselors in schools with substantial ELL/immigrant populations and provide specific training on challenges immigrant youth and those caring for them face in this climate. Additionally, it is important that anti-bias training include immigrant-specific components and be developed with input from immigrant community leaders.

In addition to its work with the State and the New York City Department of Education, City Council must engage in public advocacy on the Federal level.

First, City Council must publicly demand for the immediate end to practices of family separation and incarceration and encourage the federal government to release and reunite families in New York State. Second, it must remind the Trump administration that the United States is not above our own laws and must ensure a process by which asylum seekers are given the opportunity to make their case without fear of losing their children or lengthy incarceration.

As the Federal administration continues its unwavering attack on immigrants, it is vital, now more than ever, that City Council pursue these key recommendations to protect our immigrants communities. On behalf of the New York Immigration Coalition, we look forward to both the proper implementation of these recommendations that protect and enrich the lives of immigrants from this body in the near future.

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



NYSAAP, District II, Chapters 2 & 3

Testimony for City Council Joint Hearing 7/12/2018 Committees on Immigration, Health & General Welfare

The New York State American Academy of Pediatrics, Chapters 2 & 3 represents more than 3,000 pediatricians across the 5 boroughs. We are writing to thank you for your work to publicly expose the danger to children's health and wellbeing that the current federal policy of Separating Children from their Families and Zero Tolerance is creating. We had hoped to participate in person at your recent hearing, but the notification came too late for our organization to have someone in attendance. But we want to go on the record as being adamantly opposed to the current federal approach to treating children and families seeking asylum as criminals.

Although the federal government has started reunification processes for some children and families, the work to date has been slow and maddeningly complicated. The reality is that the government separated these families very quickly, they/we have an obligation to reunify them just as quickly. At this time we are asking you do more to forcefully encourage not only the timely reunification of families, but also to prevent the federal government from keeping reunited families in federal detention.

As pediatricians, we are acutely aware of the long term, negative impacts on brain development, emotional regulation, intellectual potential and physical health that separation from a loving parent can impose on children. The current state of the more than 300 children possibly housed in New York City foster care agencies concerns us greatly. These children need to be reunited with their parents now.

Although we know that children housed in New York are not being physically, emotionally and environmentally abused as many children are in Texas and in federal detention facilities, the very fact that these children have been torn away from their parents is a serious threat to their health and development.

Most of the children do not understand what has happened to them. They do not know where their parents are. And most feel bereft and abandoned. In addition, many children are

beginning to feel betrayed by parents who have been unable to come and rescue them. This sense of betrayal has the potential to permanently damage these children both physically and emotionally for the rest of their lives.

What the federal government is doing is state sponsored child abuse and it must be stopped now. As the City Council we urge you to continue to advocate for the swiftest reunification of the children being held in New York City. We also urge you not to let this tragedy fade from the headlines until all the children in our foster care agencies are reunited with parents or other family members.

Despite the recent court ruling demanding that the youngest children, those under 5 be reunited with their parents in 14 days, and older children within 30 days little is being done to actually make this happen for the majority of separated families. We are asking you to work with us and the many city agencies and not for profits agencies in the City to make sure reunifications actually take place on the promised time frame for the children in care within our city. We also want to be sure that the children leaving New York, and indeed all the children caught in this nefarious net of anti-immigration policy, once reunited with their parents, are not detained in inhumane and dangerous federal holding/detention facilities. Family detention simply re-traumatizes these children and families. As you know, there are many proven and safer ways, like ankle monitors for parents, to allow families to be together in the community and for the government to be sure that they show up for their asylum hearings.

The thousands of pediatricians across the City, from the Bronx to Staten Island, stand ready to help and support all efforts to reunify separated children and families. We are reaching out to our members in child welfare agencies and in city and state academic medical centers who may see some of these children in clinics or emergency departments. We are also reaching out the legal assistance groups to offer our expertise in child health to support their court petitions on behalf of these children. Our goal is reunification now!

In addition, we want to take this opportunity to ask you to also focus on the needs of hundreds of unaccompanied minors who have sought asylum and are also being held in various residential programs across the city and suburbs. These young people deserve your attention as well. Processes need to be accelerated to find relatives/sponsors who can and will care for these young asylum seekers until their court dates. The current overly complicated and insensitive process denies these young people the help and support they need to adjust to a new life.

Please know you can call upon us at any time to help with efforts to help and support the youngest and most vulnerable immigrants in New York City. But also know that we are watching and the clock is ticking. For every day that a child is separated from his or her parents that child's brain and body is suffering trauma. We have no time. The children have no time, for them every day of separation is lifetime of grief and misery.

Let's work together to reunite these children with their parents now. And to assure that reunified families are not held in detention.

Contact:

Elie Ward, MSW

Director of Policy, Advocacy & External Relations

eward@aap.net

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JoAnn Yoo

Address: 125 WTC

I represent: Asian American Federation

Address: 125 WTC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 7/12/2018

(PLEASE PRINT)

Name: Dorile Williams

Address: 36 Richmond Terrace, Ste 205/801

I represent: AILA

Address: 125 WTC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jordan Dressler

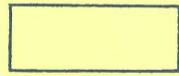
Address: 4 WTC

I represent: NYC Human Resources Administration

Address: 4 WTC

THE COUNCIL THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Dr. Gary Belkin

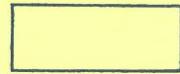
Address: Deputy Commissioner

I represent: DOHMH

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: CHELSEA SAHAI

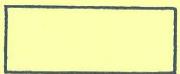
Address: 40 WORTH STE 606 NYC

I represent: LEGAL SERVICES, NYC

Address: 40 WORTH STE 606 NYC

THE COUNCIL THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: MELANIE WENIGER

Address: _____

I represent: PUBLIC ADVOCATE JAMES

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Denise Bell

Address: _____

I represent: City Bar of NYC

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: July 12, 2018

(PLEASE PRINT)

Name: Machelle Allen, M.D.

Address: _____

I represent: New York City Health + Hospitals

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: July 12, 2018

(PLEASE PRINT)

Name: Jennifer Havens, M.D.

Address: _____

I represent: New York City Health + Hospitals

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: Stephanie Gomez + Alejandra Soto

Address: _____

I represent: Hispanic Federation

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: Bitha Mostofi

Address: 253 Broadway

I represent: NYC Mayor's Office of Immigrant Affairs

Address: 253 Broadway

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7-12-18

(PLEASE PRINT)

Name: Julie Farber, Deputy Commissioner

Address: 150 William Street, New York, NY

I represent: NYC Administration for Children's Services

Address: 150 William Street, NY, NY

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: Albert Cana

Address: _____
I represent: Council on American-Islamic Relations-NY

Address: 46-01 20th Ave, Queens, NY

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: Lorraine Sanchez

Address: _____

I represent: Cayuga Centers
Address: 1916 Park Ave New York, NY 10037

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Michelle Kim

Address: 1 Centre St. 15th Floor

I represent: NYC Public Advocate

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Meghan Finn
Address: 599 E 7th Street Brooklyn NY
I represent: Immigrant families Together
Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: July 12, 2018

(PLEASE PRINT)

Name: NYUSA Hickey
Address: _____
I represent: Brooklyn Defender Services
Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

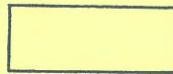
Date: 7/12/18

(PLEASE PRINT)

Name: Karina Albistegui Adler
Address: 151 W 30th ST, 11th FL NY NY 10001
I represent: New York Lawyers for the Public Interest
Address: Same as above

THE COUNCIL THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7-12-18

(PLEASE PRINT)

Name: VIVIAN MARTINEZ

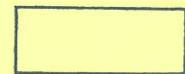
Address: 301 GROVE STREET, BROOKLYN, NY 11237

I represent: STUDENTS MEMBER OF THE PUBLIC.

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7/12/18

(PLEASE PRINT)

Name: Stephanie Bendell

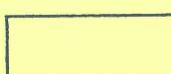
Address: _____

I represent: Citizens' Committee for Children

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JULIA DAVIS

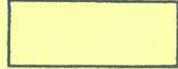
Address: 815 7TH AVE 8TH FLOOR

I represent: CHILDREN'S DEFENSE FUND

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7-12-18

(PLEASE PRINT)

Name:

Dense Bell

Address:

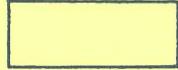
City Bar of New York City

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Monsignor Kevin Sullivan

Address: 1011 First Ave

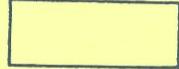
I represent: Executive Director - Catholic Charities

Address: of the Archdiocese of N. Y.

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: DAMYN KELLY, Pres + CEO

Address: _____

I represent: Lutheran Social Services of NY

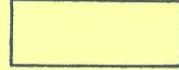
Address: 475 Riverside Drive

NY, NY 10015

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: HASAN SHAFIQULLAH

Address: 199 WATER ST NY NY 10038

I represent: THE LEGAL AID SOCIETY

Address: (SAME)

Please complete this card and return to the Sergeant-at-Arms