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# CHILD-FAMILY SEPARATION AND PATHWAYS TO REUNIFICATION IN THE CONTEXT OF U.S. IMMIGRATION ENFORCEMENT

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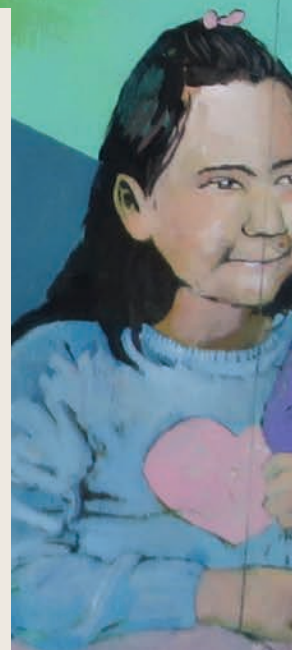
Collaborative on  
Global Children's Issues



## A NOTE ABOUT TERMINOLOGY

While many forms of family separation are occurring in the current U.S. immigration enforcement context, including separation of mixed-status couples, separation of a child-caregiver pair from other family members, or separation of siblings, this report focuses specifically on separations of a child from a parent or caregiver resulting from immigration enforcement.

It should also be noted that family separation occurs in the United States and across the region in a number of ways that fall outside the scope of this report. For example, many immigrants have been living in the United States, while their family members remain in other countries—separation that may be prolonged due to a lack of regular reunification pathways. Some families become separated during their journey to the United States.





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# 1. BACKGROUND

Since 2025, the unprecedented scale-up and rapid implementation of immigration enforcement operations in the United States have resulted in the detention and deportation of hundreds of thousands of immigrants,<sup>1</sup> creating a new family separation crisis within the United States and across borders. New data estimates that approximately 145,000 U.S. citizen children were separated from their parents or caregivers as a result of immigration enforcement between January 20, 2025, and April 9, 2026.<sup>2</sup> Media and government reports have verified a startling number of U.S. citizen and non-citizen children left in uncertain care arrangements or government custody following the detention or deportation of their parents, with no clear pathways for reunification.<sup>3</sup>

Child-family separations have occurred in a variety of ways, impacting families, local community-based groups, and federal immigration and care systems for children, including a large and diverse network of local child welfare systems throughout the United States. The effects have also been felt in countries of return, where parents face barriers to identifying safe caregiving arrangements or reunifying with children who remain in the United States.

From the outset of 2025, the Trump administration set immigration enforcement as one of the highest domestic policy

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*“No child should live in constant fear. The toll of current enforcement practices is devastating for both children directly separated from a parent or caregiver and those who live with the fear that a loved one may be detained or deported. These stressors disrupt brain development and have long-term negative effects on the health and well-being of impacted children.”*

*— American Academy of Pediatrics, 2025<sup>4</sup>*

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priorities, directing federal agencies to align their activities accordingly.<sup>5</sup> In the process, the rights of parents and their children have been gravely neglected.

In the absence of comprehensive policies to protect family unity, the current family separation crisis is not without precedent. Evidence dating back to at least 2007 indicates that U.S. Department of Homeland Security (DHS) immigration enforcement operations have resulted in the separation of parents from children without adequate consideration of children's caregiving needs. Early research on worksite raids documented the forcible separation of children from parents and resulting disruptions to caregiving arrangements.<sup>6</sup> A 2011 report estimated 5,100 children were in foster care as a direct result of a parent's detention or deportation. In many of these cases, U.S. Immigration and Customs Enforcement (ICE) had neither inquired about a person's caregiver status nor afforded parents the opportunity to make arrangements for their children's care prior to arrest or detention.<sup>7</sup>

Most notably, DHS piloted a Zero Tolerance Policy in 2017 and formally adopted it in 2018, which forcibly separated over 5,000 children from

their families at the U.S.-Mexico border.<sup>8</sup> Many of the migrant and asylum-seeking parents were not given the opportunity to reunify with their children before removal.<sup>9</sup> Unlike prior periods, Zero Tolerance was a blanket policy to systematically separate families until an executive order ended it amid public outcry and court rulings. Subsequent efforts to identify the children and family members and facilitate their reunification proved complex and prolonged, even with efforts by a government-led task force.<sup>10</sup> Government officials had not tracked cases and failed to plan logistically, exacerbating the challenges. As of April 2024, 1,360 children separated under Zero Tolerance had not been confirmed as reunified.<sup>11</sup>

The unprecedented scale and decentralized nature of the current family separation crisis will likely make it exponentially more challenging to resolve, even if strong political will and dedicated resources are mobilized in response.

Family unity and the right to family life are valued as one of the most fundamental aspects of life across the political spectrum, faith traditions, and geographic regions.



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*“We are disturbed when we see among our people a climate of fear and anxiety around questions of profiling and immigration enforcement. We are saddened by the state of contemporary debate and the vilification of immigrants. We are concerned about the conditions in detention centers and the lack of access to pastoral care. We lament that some immigrants in the United States have arbitrarily lost their legal status. We are troubled by threats against the sanctity of houses of worship and the special nature of hospitals and schools. We are grieved when we meet parents who fear being detained when taking their children to school and when we try to console family members who have already been separated from their loved ones.*

*Despite obstacles and prejudices, generations of immigrants have made enormous contributions to the well-being of our nation. We as Catholic bishops love our country and pray for its peace and prosperity. For this very reason, we feel compelled now in this environment to raise our voices in defense of God-given human dignity.”*

— *United States Conference of Catholic Bishops  
Special Message on Immigration, 2025<sup>12</sup>*

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They are widely recognized in international agreements and conventions<sup>13</sup> and embedded in U.S. legal frameworks and long-established child welfare principles.<sup>14</sup> ICE’s Detained Parents Directive includes the need to ensure that immigration enforcement does not infringe on parental rights.<sup>15</sup> Similarly, U.S. Customs and Border Protection (CBP) formalized these principles in 2015, establishing a policy to “maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation.”<sup>16</sup>

The protective power of safe, stable, and committed caregiving relationships for children’s safety, well-being, and development cannot be overstated.<sup>17</sup> The long-term physical, mental, and developmental impacts of family separation on children and adolescents are well documented, even after subsequent reunification.<sup>18</sup>

The lack of publicly available government data makes it extremely difficult to fully understand the scale and nature of the current family separation crisis, develop tailored policy and program responses, and lay the groundwork for safe reunification without prolonged challenges and exacerbated harm. Nevertheless, state and local governments and civil society organizations are making notable efforts to support families in these difficult circumstances, providing promising practices that mitigate risks to children and their families. These efforts require greater investment and expanded capacity. Ultimately, policy changes will be needed to prevent child-family separation from the outset, alongside a long-term commitment and sustained effort across stakeholders to ensure their implementation.



## 2. THE CHILDREN AND FAMILIES AT RISK

Children affected by family separation represent a diverse range of circumstances and include U.S.-born citizens, children with dual nationality, and children who share the immigration status of their parents. While comprehensive government data on child-family separation as a result of immigration enforcement remains unavailable, independent analyses suggest that the majority of those impacted are U.S.-born children living in mixed-status immigrant households, where one or more members are unauthorized and others are either U.S. citizens or have lawful immigration status.

These families are, in most cases, deeply rooted in the United States, with approximately 60% of undocumented people at risk of separation having lived in the country for 10 years or more, and only 20% having resided in the country for fewer than five years. California and Texas appear to have the largest concentrations of affected families, though the decentralized nature of interior enforcement means that the impact is felt across the country and is not limited to a single region or population group.<sup>19</sup>

### UNAUTHORIZED IMMIGRANTS IN THE UNITED STATES

While sources vary, an estimated 13.7 million unauthorized immigrants lived in the United States by mid-2023. Approximately 1.2 to 1.5 million or 9% to 11% are estimated to be children.

Additionally, 6.3 million children under age 18, both citizen and noncitizen, lived with at least one unauthorized immigrant parent.

The top countries of birth are: Mexico (40%), Guatemala (10%), Honduras and El Salvador (8% each), and Venezuela (4%).<sup>20</sup>





Children living in mixed-status immigrant families already face precarity. They disproportionately experience material hardship and food insecurity.<sup>21</sup> Even when they are eligible, immigrant families often do not seek health care due to concerns about adverse immigration consequences.<sup>22</sup> Unauthorized parents often fear that any interaction with social services could lead to their arrest, deportation, loss of parental rights, and permanent separation from their children.<sup>23</sup>

Many immigrants targeted by enforcement actions are actively in asylum proceedings or have been granted a temporary status that shields them from deportation due to urgent humanitarian circumstances or because they are victims of certain crimes, such as human trafficking, domestic violence, abuse, or neglect.<sup>24</sup> In many cases, the circumstances that led to the decision to migrate have important implications for a person's sense of security, and the fear of being forced to return to countries of origin is often credible.

Regardless of a parent's immigration status, children impacted by immigration enforcement—like all children—need parental care and family unity. While DHS has overseen a massive scale-up of immigration enforcement operations, consideration of the rights and needs of children has been largely left behind. In fact, recent policy and procedural changes have removed critical child protection safeguards. These include revoking guidance that previously prevented enforcement

activity in sensitive locations, including schools;<sup>25</sup> removing some of the protections in ICE's revised Detained Parent Directive;<sup>26</sup> and restarting the use of family immigration detention, despite the devastating and long-lasting impacts of detention on children's health and well-being.<sup>27</sup>

The numerous ways that current enforcement efforts contribute to child-family separation underscore the urgent need for legislative and procedural changes to prevent unnecessary separations and ensure children's rights are protected. The U.S. government should put in place intentional policies and procedures, while supporting programmatic responses, to ensure parents have the opportunity to make alternative care arrangements if separated and to facilitate reunification when separation has occurred.

It is possible to enforce immigration laws while also protecting child and parental rights and family unity. The sections that follow outline the main patterns of today's child-family separation crisis and the impact on children, parents, and family unity. Each issue is framed within the context of global guidance and U.S. legal frameworks, along with promising responses already underway. Together, they point to important components of a fair and humane immigration system that could better prevent child-family separation, protect child and parental rights, and preserve family unity in the context of immigration enforcement.



### 3. CHILD-FAMILY SEPARATION IN IMMIGRATION ENFORCEMENT: PATTERNS, GUIDANCE, AND RESPONSES

#### A. The Problem

The manner in which enforcement operations occur can have profound implications for children's well-being, even when they are not directly impacted.<sup>28</sup> Unlike past immigration enforcement efforts, raids are now taking place in the streets, at ICE check-ins and at court hearings, in neighborhoods, and on school grounds.<sup>29</sup> Strict enforcement actions—and the threat of enforcement—can harm children even without an arrest, disrupting children's education, destabilizing family routines, and impacting children's mental health.<sup>30</sup> The pervasive fear a child or parent experiences may be further exacerbated by statements from public officials that include dehumanizing rhetoric about immigrants, which can lead to increased experiences of discrimination, harassment, and xenophobia in children's daily lives.<sup>31</sup>

Immigration agents have arrested parents without considering the impact on children or ensuring that parents or relevant authorities have had an opportunity to make alternative care arrangements for affected children, according to frontline actors and media reports. In some cases, parents have

been forcibly separated from their children for declining to withdraw their asylum claims and accept deportation.<sup>32</sup>

Once in detention, the rapid pace of transfers from one detention center to another and of deportations has made it difficult for parents to consult attorneys, consulates, or other support people to help them make informed decisions about the best arrangements for their child and family.<sup>33</sup> In 2025, ICE averaged approximately 67,000 internal transfers per month, moving individuals through multiple detention facilities in under seven weeks, often separating parents from their children with little to no opportunity to arrange for their children's care.<sup>34</sup> Reports also indicate a more than twelve-fold increase in the number of parents transferred to out-of-state facilities, far from their families. The July 2025 version of ICE's Detained Parents Directive, among other changes, removed the requirements to notify child welfare agencies of a parent's detention, and abandoned guidance mandating that primary caregivers be held in geographic proximity to their children.<sup>35</sup>



In practice, detention has itself become a site of family separation. The threat of separation is pervasive within immigration detention facilities, including at the Dilley Immigration Processing Center, where more than 5,600 people—including toddlers and newborn babies—were held between April 2025 and February 2026. Based on interviews with detained families at Dilley, Human Rights First and RAICES documented that parents are routinely forced to make extremely difficult choices to keep their children with them.<sup>36</sup> Forms of family separation within detention include the separation of family members within the same facility, parents transferred to different detention centers away from their families, and children taken from one or both parents, including the routine practice of separating teenagers from their families upon turning 18 years old and transferring them to adult detention centers. Parents have also reported threats from ICE officers and detention center guards that their children would be referred to the Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services.<sup>37</sup>

The consequences of aggressive enforcement operations for family decision-making have been significant. Some detained parents facing deportation have made the heart-wrenching choice for their children to remain in the United States. Others have reported being denied the opportunity to request that their children be deported with them, or were given the chance to request joint deportation, only to be placed on removal flights without their children.<sup>38</sup> The Women's Refugee Commission documented cases involving parents removed to Honduras before they were able to contact their children or their children's caregivers. In such instances, officials neither inquired about the children's whereabouts nor afforded parents a meaningful opportunity to make arrangements prior to removal.<sup>39</sup>

As a result, children have been left in uncertain care arrangements with neighbors, left alone to care for themselves<sup>40</sup> or their younger siblings,<sup>41</sup> or

placed in child welfare custody.<sup>42</sup> Moreover, after immigration arrests in the interior of the country, ICE has referred an unprecedented number of children to the federal system for unaccompanied immigrant children run by ORR because their actions have rendered the children unaccompanied. One report, citing government data, documents that ICE referred 600 immigrant children to ORR shelters between January and November 2025.<sup>43</sup> This pattern differs from the typical scenario, in which CBP refers children who arrive unaccompanied at the U.S. border to ORR for care and services,<sup>44</sup> and it is also inconsistent with the intent of relevant laws and case precedent.<sup>45</sup> The majority of these referrals have occurred in circumstances unrelated to the child's safety or best interests, according to the *ProPublica* report.<sup>46</sup> Instead, ICE referred some children to ORR because they were present at the time of a parent's arrest during routine immigration court hearings, scheduled appointments, or traffic stops. In many cases, children were referred to ORR despite the availability of a parent or legal custodian to provide care.<sup>47</sup>

## B. Child and Family-Centered Responses

### a. Protecting Child and Parental Rights during Immigration Enforcement

Global guidance is clear about preventing unnecessary child-family separation. The UN Convention on the Rights of the Child (CRC) prohibits separating children from their parents against their will, unless competent authorities determine it necessary for the child's best interests.<sup>48</sup> Except for specific safety considerations, the interests of the child are generally best met when the child remains with or joins their family. In 2017, two UN bodies issued guidance on the application of the CRC to children in international migration contexts. Joint General Comment No. 3/22 specifically cautioned against family separation by deporting or removing a family member, given the potential for arbitrary or unlawful interference

with family life. It further described the expulsion of one or both parents solely due to the breach of immigration laws as disproportionate.

Since 2013, ICE has had a policy to address these very issues. The first Parental Interest Directive<sup>49</sup> sought to aid ICE in enforcing immigration laws fairly and with respect for a parent's rights and responsibilities. It outlined policies and procedures for determining whether or when to detain a parent, facilitating parents' decisions regarding the care and custody of their children, enabling the parent or legal guardian's participation in child welfare proceedings, and preserving family unity in the event of deportation.<sup>50</sup> The directive has been revised since 2013 as administrations have changed, and the strength of the protections for child and parental rights has varied accordingly. Still, the directive has continued to affirm that parental rights and family unity are important even in the course of immigration enforcement.

Changes made to the directive in 2025 weakened some protections,<sup>51</sup> but key guidance remains. ICE personnel are still directed to affirmatively inquire about parental or legal guardian status upon first encounter, accommodate efforts for a parent or caregiver to make alternative care arrangements before detention or deportation, and give detained parents a reasonable opportunity to consult with a legal representative, among other actions. ICE agents are also directed to collect relevant data and information about cases, which should be maintained in a manner that permits continuous monitoring and tracking to ensure compliance with the directive.

While the directive carries operational significance within ICE, strengthening and codifying these protections within legislation would help ensure more consistent adherence and better safeguard child and parental rights. A variety of actors have offered recommendations along these lines, including DHS itself. For example, the DHS Office of the Inspector General (OIG) reviewed cases of parents removed without their children in 2018

and cited the lack of clear guidance or procedure that requires officers to ascertain, document, or honor parents' decisions regarding their children.<sup>52</sup> Legislation to fully protect family unity should go further, including a key protection that was removed from the 2013 directive, which enabled parents to be considered for release to continue to care and provide for their children.<sup>53</sup>

More broadly, codifying protection for family unity across ICE, its related departments, and their contractors would help align the U.S. immigration enforcement system with global standards and provide critical guardrails to ensure children—and the families they rely on—are protected.

## **b. Ending Immigration Detention of Children and Families**

Since 2001, successive administrations have detained families, despite the well-documented harms of detention on children's physical and mental health. The 1997 *Flores v. Reno* Settlement Agreement and subsequent court rulings have provided some safeguards governing the detention of children in the United States. These protections specify that children must be held in the least restrictive setting appropriate to their age and needs; be kept in safe and sanitary conditions within licensed, child-appropriate facilities; and be released without unnecessary delay.<sup>54</sup> In 2016, a DHS Advisory Council made a clear recommendation that "DHS's immigration enforcement practices should operationalize the presumption that detention is generally neither appropriate nor necessary for families – and that detention or the separation of families for purposes of immigration enforcement or management, or detention is never in the best interest of children."<sup>55</sup>

Global guidance makes clear that children should never be detained for immigration purposes, whether on the basis of their own immigration status or that of their parents, and that the objective of maintaining family unity does not justify the detention of a child with their parents or guardians. Instead, policy responses should prioritize



community-based alternatives that enable families to remain together.<sup>56</sup>

The past decade has seen an emerging consensus on the need to end the practice of child immigration detention, which has been recognized as unlawful by the United Nations Committee on the Rights of the Child.<sup>57</sup> This position has been reinforced by international and regional jurisprudence, including the Inter-American Court of Human Rights, and most recently, the Inter-American Commission on Human Rights, which in 2025 reiterated that the detention of children and adolescents is never in their best interests.<sup>58</sup>

The need to end the use of child immigration detention is backed by research on the long-lasting and devastating impacts of detention on a child's physical, emotional, and psychological health and development. The American Academy of Pediatrics (AAP) has pointed to the negative physical and emotional effects experienced by many detained children, including high rates of post-traumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems.<sup>59</sup> According to the AAP, even brief detention in well-appointed facilities can cause psychological trauma and induce long-term risks for children.<sup>60</sup>

Alternatives to immigration detention are processes that reflect an entirely different orientation—one that prioritizes the rights and best interests of children.<sup>61</sup> Evidence from multiple programs

has demonstrated that community-based case management reduces reliance on detention while maintaining compliance with immigration proceedings.<sup>62</sup> The Family Case Management Program (FCMP), operated by ICE from 2016 to 2017, achieved a 99% compliance rate at approximately \$38 per day per family, a fraction of the nearly \$320 per person per day cost of family detention.<sup>63</sup> From 2020 to March 2025, the federally funded Case Management Pilot Program (CMPP) reinforced these findings, achieving a 100% court appearance rate among participants with scheduled hearings in fiscal year 2023 at more than 90% less than the cost of detention, and without the use of detention or surveillance.<sup>64</sup> Although both programs were discontinued before being fully scaled, their outcomes demonstrate that community-based alternatives can achieve strong compliance in the United States at significantly lower cost while avoiding the harms associated with detention. Expanding and institutionalizing these approaches is essential to uphold children's rights.

### c. Supporting Children in Informal Care Arrangements in Local Communities

Immigrant families come from diverse countries of origin and cultural backgrounds, which shape their decisions about how to navigate care responsibilities.<sup>65</sup> When parents are detained or deported, their children often end up living with

another relative or community member, who may be undocumented themselves, putting children's economic security, access to services, and overall well-being at even greater risk without adequate support.<sup>66</sup>

In anticipation of potential arrest or detention, many parents proactively identify trusted family members, friends, or other community members to care for their children. However, the formality and legal strength of these arrangements vary significantly, from informal verbal agreements to formal written documents that may require witness verification, notarization, a court filing, and/or judicial approval. This variability, coupled with the absence of clear and consistent guidance across jurisdictions, can create confusion and make it difficult for parents to establish arrangements that are both durable and widely recognized.

The wide variation in these arrangements, combined with limited understanding of their legal implications, can undermine the stability of caregiving arrangements and heighten risks for children. In the absence of clearly established legal authority and oversight, children may be more vulnerable to neglect, exploitation, or trafficking, with no single entity accountable for ensuring their safety and well-being and no mechanisms in place to monitor and support the caregiving arrangements over time.<sup>67</sup>

Many organizations have developed resources and services to help parents understand their options prior to an arrest or detention, including family preparedness plans.<sup>68</sup> One of the most important legal tools available to parents is standby guardianship,<sup>69</sup> a legal arrangement that allows a parent to designate in advance a trusted adult to assume care of their child if a specified future event occurs, without the parent losing their parental rights. The designated guardian's authority remains inactive until the triggering event occurs, at which point they can step in immediately to make decisions about the child's education, medical care, and daily needs, often without requiring court approval.

Traditionally, standby guardianship laws were designed for situations in which a parent becomes unable to care for their child due to serious medical circumstances. Recognizing that immigration enforcement can similarly separate a parent from their child without warning, several states have amended their standby guardianship statutes to explicitly include immigration detention and deportation as triggering events. The District of Columbia, Maryland, New York, and Virginia have enacted such amendments, establishing a legal mechanism through which parents can designate a caregiver in advance of any enforcement action.<sup>70</sup>

Trusted community-based services are best placed to facilitate work with immigrant families, conducting culturally relevant outreach and providing accurate information and support for parents to legally designate a trusted caregiver. However, with constrained resources and limited capacity, such service providers benefit from effective coordination, technical support, and access to resources offered through larger institutions, including schools, legal service providers, or other organizations serving children.

Once child-parent separation has occurred, there is a notable gap in federal government action to facilitate family reunification or identify an alternative solution for children.<sup>71</sup> Government funding to the organizations serving children and families that have stepped in to fill this gap has been inadequate and uncertain.<sup>72</sup> Despite these constraints, expert organizations continue to provide many affected families with guidance and support, while advocating with ICE, ORR, consular offices, family courts, or other organizations to help families ascertain and implement the best solution for their child.

#### **d. Building the Capacity of State and Local Child Welfare Systems**

With more children at risk of losing parental care in local communities as a result of immigration enforcement actions, state and local governments



are increasingly stepping in to support families. Some child welfare jurisdictions have worked to support families to make informal care arrangements to avoid unnecessary system involvement, in line with child welfare's family preservation approach.<sup>73</sup> State and local governments have also adapted formal child welfare systems to better meet the needs of immigrant families whose children are in care.

Child welfare systems were built on legal frameworks related to child maltreatment and are generally not designed to address the needs of children who have lost parental care due to immigration enforcement, nor are they prepared to provide temporary care to a large number of children in these circumstances. One estimate indicates that 66,000 children could enter the foster care system as a result of aggressive immigration enforcement, increasing the number of children already in foster care by approximately 18%.<sup>74</sup>

Child welfare systems vary by jurisdiction with regard to statutes, available resources, and technical knowledge related to immigration. Approaches and procedures for ensuring adequate care and family reunification after immigration enforcement are not fully developed within many state systems. For instance, reunification requirements, such as attending in-person hearings or completing court-mandated parenting programs, were not designed to accommodate parents who are detained or have been deported, creating significant and often insurmountable barriers to family reunification.<sup>75</sup> Relatives who could offer a trusted home for immigrant children left without parental care may face barriers to becoming foster parents due to their immigration status, whether because of formal eligibility criteria or fear of immigration enforcement.<sup>76</sup>

There are promising examples of child welfare systems adapting to better respond to the unique circumstances of immigrant families. California's Reuniting Immigrant Families Act (SB 1064), passed in 2012, is one of the most significant.<sup>77</sup>

The law established uniform, statewide policies and practices to address the barriers that immigrant families face in the child welfare system, including barriers that arise specifically when a parent has been detained or deported. Among its key provisions, SB 1064 requires that reasonable efforts be made to reunify families, allows for the extension of reunification timelines when a parent is in detention or has been deported, and prohibits the use of a parent's or relative's immigration status as a basis for denying placement of a child with that person. The law also requires the Department of Social Services to provide guidance to county agencies on establishing written agreements with foreign consulates to facilitate cross-border cooperation for children in the California child welfare system.

More recent examples demonstrate how some state and local child welfare systems are responding to the unique circumstances of immigrant families facing detention or deportation, not only through legislative changes, but also through the development of clear policies, procedures, guidance, and materials. For example, the Illinois Department of Children and Family Services published materials outlining the role the office can play in supporting children who have lost caregiver support as a result of immigration enforcement and emphasizing that children should, where possible, remain with relatives or fictive kin<sup>78</sup>—someone who may not be related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child.<sup>79</sup>

Some child welfare systems have a designated point person or dedicated office for immigration issues to keep up with the latest changes in immigration-related laws and policies, serve as a technical resource to staff, connect children and families with immigration legal representation, and liaise with immigration officials and foreign consulates in countries of origin or return.<sup>80</sup>

A number of jurisdictions have addressed the barriers trusted caregivers may face in getting



formal licensure to care for a child left without parental care. Through licensure, caregivers may be eligible for financial assistance to help care for the child as well as training and other support that can strengthen the viability of the placement over time.<sup>81</sup> Other effective responses have included implementing system-wide training on immigration issues for staff, ensuring language access for immigrant families, and limiting the collection or sharing of information on migration status with federal immigration authorities through policies or in practice, among others.<sup>82</sup>

### **e. Cross-Border Reunifications**

Family reunification is particularly challenging after a parent is deported, requiring exceptional effort and coordination by a much wider set of actors. Importantly, reunification in the parent's country of return may not be the preferred option for a given family. Children may not have legal status in the country of return, nor speak the language, and they may lack viable opportunities to access education or other basic services. Some parents may fear for a child's safety should they return, where they could encounter the same dangerous circumstances that led them to flee in the first place. International law makes clear that no child should be forcibly returned to a place where they would be at risk of harm, or their life would be in danger.<sup>83</sup>

In the face of impending deportation, a parent's decision on how to proceed—whether to maintain family unity through joint deportation or arrange adequate care for their child within the United States—is often extremely challenging, particularly at a time of great distress. The challenge is made even more difficult with limited access to legal counsel or other support to help with decision-making. A rights-based and child-centered approach to return processes would ensure that families have adequate time and support to make an informed decision about a sustainable solution in the best interests of each child. In addition, the impacted child should be involved in exploring available solutions and possible outcomes, in accordance with their capacity, age, and stage of development. Furthermore, as outlined in IOM-UNICEF guidance, “Appointed guardians and legal representatives should facilitate information dissemination in an age-appropriate manner to ensure informed consent for unaccompanied and separated children.”<sup>84</sup>

In the current U.S. context, stronger adherence to the ICE directive would help ensure that parents are kept geographically close to their children whenever possible, while discontinuing rapid transfers of parents across detention centers would further facilitate appropriate parent-child engagement in decisions affecting them. Nevertheless, more is needed. Greater adherence to existing laws, strengthened procedures, and additional

legal protections would help center the child's best interest and prioritize family unity.

Once a parent has been deported and their child remains in the United States, the family's options depend on many factors, including the child's citizenship or immigration status, the ability to obtain a legal status in the United States, and the child's custody situation. For children in child welfare custody, the specific policies and infrastructure of each child welfare jurisdiction in the United States also shape the reunification process. Understanding the complex and often disconnected mechanisms to facilitate cross-border family reunifications is nearly impossible without the guidance of legal advisors and other specialized support.<sup>85</sup>

Consulates are often a key resource in facilitating cross-border reunification by helping families obtain required official documents, such as birth certificates; assisting in establishing dual citizenship status for a child; conducting parent or relative searches; and locating service providers and special services to meet the needs of a child and/or family.<sup>86</sup>

Global guidelines outline how the return and reintegration process could be child- and family-centered.<sup>87</sup> Pre-departure planning and cross-border coordination with receiving countries are needed to prepare a safe landing. Improved communication and coordination between immigration and child protection authorities in countries of destination and countries of origin/return are helpful, so long as they are accompanied by information-sharing protocols with data protection standards. Secure confidential information should be shared only on a need-to-know basis, in accordance with the families' or guardians' consent and the best interests of the child. Best practices for sustainable reintegration also emphasize the central role of case management, and individual support should be accompanied by community-level support and efforts to improve systems structurally.

In the absence of a robust, child- and family-centered federal program to facilitate assisted return and reintegration support, several organizations provide pre-departure assistance, conduct international home studies, and coordinate logistics, including cross-border case management linkages in countries of origin.<sup>88</sup>

## CHILD PARTICIPATION

Child participation is one of the core principles of the United Nations Convention on the Rights of the Child, which asserts that young people have the right to freely express their views and that there is an obligation to listen to children's perspectives and facilitate their participation in all matters affecting them.<sup>89</sup> The UN Guidelines for the Alternative Care of Children, Article 6, similarly state that all decisions should fully respect the child's right to be consulted and to have his/her views duly taken into account in accordance with his/her evolving capacities, and on the basis of his/her access to all necessary information. Every effort should be made to enable such consultation and information provision to be carried out in the child's preferred language.

Creating opportunities for young people to share their views also helps them develop a sense of self-efficacy. A sense of agency can positively impact a child's psychosocial well-being, building resilience in the face of adversity and uncertainty.<sup>90</sup>

## 4. DATA GAPS IN IDENTIFYING AND TRACKING CHILD-FAMILY SEPARATION

Reliable, publicly available data on the children and families affected by immigration enforcement is essential both for understanding the scale of family separation and enabling coordinated responses to support reunification. At present, however, this information is not available in a form that facilitates comprehensive independent analysis.

Data on enforcement-related family separation is significant at two levels. At the aggregate level, publicly available data is necessary to assess the scale of the problem, identify patterns across populations and regions, and inform more effective policy and practice responses. At the individual case level, information on whether a detained or removed adult is a parent or primary caregiver, the whereabouts of that person's children, and the care arrangements in place is essential to maintaining family contact, protecting child and parental rights, and facilitating reunification. Both forms of data currently remain limited.

### A. The Problem with Data Sources within the United States

Since fiscal year 2020, the U.S. Congress has required ICE to publicly report key enforcement data, including data on removals, detention, alternatives to detention, and detention facilities—a mandate that emerged directly from the systemic failures exposed by the implementation of the Zero Tolerance Policy in 2018.<sup>91</sup> Prior to and during that period, family separations were characterized by government agencies as rare and handled at the discretion of individual officers, with no standardized protocol or tracking mechanisms in place.<sup>92</sup> When the policy ended, the extent of these failures became apparent: agencies operated incompatible information systems with no capacity for interagency communication, the U.S. Border Patrol misclassified numerous family cases, and record-keeping relied primarily on spreadsheets and informal communications.<sup>93</sup> The absence of adequate documentation and coordination contributed to significant delays in reunifi-



cation and, in a number of cases, permanent family separation.

Despite these congressional mandates, successive administrations have failed to fully meet reporting requirements,<sup>94</sup> and the scope and detail of family-unit data have become increasingly limited, with no comparable data publicly available since 2023.<sup>95</sup> The U.S. Government Accountability Office flagged related concerns in 2020, yet the problem has persisted, leaving considerably less visibility into family units, household composition, and other case-level indicators essential to tracking family separation.

In the absence of systematic government reporting, researchers must rely on figures drawn from a range of sources, including congressional testimony, agency press releases, court filings, investigative media reporting, and records obtained through Freedom of Information Act requests to reconstruct the available record and document both the scope of enforcement activity and its implications for family separation. Independent research initiatives, including the Deportation Data Project, obtain, post, and analyze internal U.S. government immigration enforcement data through public records litigation.<sup>96</sup> Even so, the resulting figures often do not align. For instance, DHS press releases and subsequent congressional testimony reported different totals for removals over a similar period, while an *Associated Press* analysis of ICE's congressionally-mandated data release produced a lower estimate.<sup>97</sup> This variation makes it more difficult to establish a clear baseline and, in turn, to assess the extent to which detention, deportation, and related enforcement actions are affecting children and contributing to patterns of family separation.

Even the most detailed government data obtained through public records litigation reflects only a partial picture. A 2026 investigation using I-213 arrest records found that in the first seven months of 2025, ICE arrested 18,400 parents, leaving between 27,000 and 32,000 children without a parent, at least 12,000 of them U.S. citizens.<sup>98</sup> This figure captures only children recorded in the I-213

form at the time of arrest and, by that measure alone, is almost certainly an undercount.

Estimates from independent sources on the number of children impacted by immigration enforcement actions provide an important indication of scale. Between January 20, 2025, and April 9, 2026, the U.S. government removed more than 400,000 people, affecting a substantial number of families with U.S. citizen children. Estimates place the total number of children affected by parental detention at around 205,000, approximately 145,000 of whom are U.S. citizen children.<sup>99</sup> The speed of enforcement has contributed to gaps in documentation. The rapid pace of enforcement and child-family separation not only creates challenges for parents, caregivers, and advocates to make appropriate care arrangements for affected children, it also limits the ability of consulates to identify their nationals in a timely manner and track family members.

Child welfare agencies, schools, and community-based organizations may collect basic data on the children and/or families left without a caregiver due to immigration enforcement actions, but the data is limited, fragmented, and inconsistent. This reflects not only the targeted scope of any given entity's reach, but also the funding and capacity constraints that restrict data collection, follow-up, and case tracking. In addition, entities may deliberately and appropriately refrain from inquiring about a child or their parents' immigration status to avoid creating barriers for families seeking services who may otherwise fear adverse immigration consequences.

Federal policies that allow for information sharing between DHS and other government agencies and private entities have been accompanied by a largely unregulated expansion of commercial surveillance infrastructure. Through contracts with private data brokers and technology companies, ICE has gained access to location data, utility records, license plate scans, biometric information, and government databases previously off-limits for immigration enforcement, including tax and Social Security records. This has occurred without judicial

oversight and in circumvention of state and local laws.<sup>100</sup> Use of facial recognition and other identification technologies has exacerbated a broader climate of fear that deters immigrant families from engaging with medical providers, schools, and child protection institutions.<sup>101</sup> The broad expansion of information sharing reinforces a perception that no institution is safe from immigration enforcement. Addressing the risks requires not only stronger safeguards on government data sharing but explicit prohibitions on the use of commercial data brokers and private sector surveillance contracts for civil immigration enforcement.

## B. Data Tracking Challenges in Countries of Origin or Return

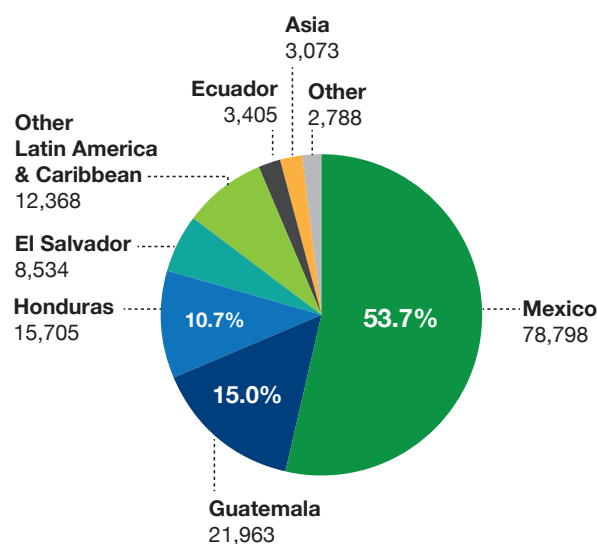
Given the cross-border nature of many family separation cases, efforts to identify affected families and support appropriate responses extend beyond U.S. entities alone. Other governments play an important role in accounting for the experiences of their nationals affected by detention, deportation, and related enforcement processes, particularly in cases where children may be separated from parents across borders. This is especially important because the impacts of family separation are not limited to U.S. citizen children. Some children may hold another nationality, dual nationality, or a different legal status from that of their parents.

### VENEZUELAN FAMILIES

Public statements by Venezuelan officials in 2025 indicated that approximately **150 Venezuelan children** had been separated from their parents in the context of U.S. detention and deportation operations. The cases reportedly included children born in Venezuela, Colombia, and the United States, highlighting the cross-border and multi-status nature of many family separation cases.<sup>102</sup>

While some governments and relevant stakeholders in countries of origin or return may recognize family reunification as an important concern and make available aggregate return data where it exists, most do not yet have established procedures for tracking the number of children and families impacted by separation, receiving and processing requests, or clearly communicating to affected families what support may be available.

**Figure 1: Estimated Number of U.S. Citizen Children with a Detained Parent, by Parent's Country of Origin**



Note: Estimates cover the period January 20, 2025, through April 9, 2026.

Source: Brookings Institution Center for Economic Security and Opportunity<sup>103</sup>

In thousands of cases, DHS sought to deport parents holding a different nationality than that of their children, creating significant legal and logistical barriers to family unity. A 2026 investigation found that nearly 7,500 fathers and 1,000 mothers arrested by ICE had a different nationality than at least one of their children, and that in roughly half of those families, siblings held different citizenships from one another.<sup>104</sup> In such cases, no single government holds full visibility into the family's situation or clear responsibility for ensuring their reunification. The detained parents of U.S. citizen children come

from countries spanning the region and beyond, underscoring the inherently cross-border nature of the family separation crisis (see Figure 1).

Existing data from receiving countries regarding returns sheds some light on the scale of removals from the United States, but it remains insufficient to fully capture patterns of family separation. Public reporting in Guatemala, Honduras, and Mexico offers a useful illustration of both the value and limits of current data collection. All three countries publish data on returns, disaggregated by age and sex. Mexico and Guatemala also report on whether returned children are accompanied or unaccompanied.<sup>105</sup>

The granularity of data varies by country, with some reporting providing additional details such as place of origin, primary language spoken, reason for return, and point of reception. However, these categories are not consistent across countries and do not generally capture whether a returned adult is a parent or caregiver, whether children were separated in connection with enforcement, or what care arrangements are in place following return.<sup>106</sup> As a result, the information is insufficient for identifying family separation or supporting timely, coordinated responses for reunification.

**Table 1: Return Figures from Countries of Origin/Return**

| Mexico                                       |
|----------------------------------------------|
| approximately <b>160,192</b> returns in 2025 |
| 7,997 children and adolescents (ages 0–17)   |
| 5,476 unaccompanied                          |
| Guatemala                                    |
| approximately <b>48,500</b> returns in 2025  |
| 1,300 children and adolescents (ages 0–17)   |
| 247 unaccompanied                            |
| Honduras                                     |
| approximately <b>38,000</b> returns in 2025  |
| 3,516 children and adolescents (ages 0–17)   |

Note: Estimates cover the period January 2025 through December 2025.

Source: Mexico Ministry of the Interior, Instituto Guatemalteco de Migración, Instituto Nacional de Migración de Honduras<sup>107</sup>

## C. Solutions for Improving Data and Monitoring

Addressing family separation effectively requires data and monitoring systems that can identify and locate separated children and their parents, as well as inform timely responses at both the national and regional level. A child- and family-centered approach should begin with standardized definitions, aligned across agencies and countries, to ensure that children separated from parents or caregivers are consistently identified. It also requires data systems that capture whether an adult in immigration proceedings is a parent or caregiver, where their children are located, who is caring for them, and whether reunification is needed. The International Data Alliance for Children on the Move emphasizes the importance of harmonized definitions, tailored methodologies, and indicators that can measure whether children are placed in appropriate care and whether reunification is pending.<sup>108</sup>

The responsibility to identify, document, and track family separation is also grounded in international children's rights standards. The CRC, the UN Guidelines for the Alternative Care of Children, and the 2019 UN General Assembly resolution on the Rights of the Child make clear that states must determine when children have been separated from their parents, maintain records necessary to protect family relationships and care arrangements, and support reunification where it is in the child's best interests.<sup>109</sup> Where appropriate, age-sensitive and ethically sound methods should also be used to include children's perspectives.

At the case level, the point of enforcement is the most reliable stage at which to document whether a detained or removed adult is a parent or caregiver, whether a separation occurred, and what happens to children following a parent's removal. At the organizational level, DHS must strengthen cross-agency coordination and issue clear guidance and training to field personnel on their responsibilities for documenting family units and separations. With regards to data systems, DHS must implement shared identifiers linking parents and



children, require narrative documentation in both the parent's and the child's records, and establish mechanisms to track family units over time, with explicit safeguards to protect the personal data and biometric information of children and families.<sup>110</sup> Oversight findings have shown that the absence of these elements, particularly the lack of coordinated data systems, has led to incomplete records and hindered family reunification efforts.<sup>111</sup> Ensuring this information is systematically captured from the outset is critical to maintaining family contact, supporting care arrangements, and enabling reunification.

These responsibilities extend to the aggregate level as well, where DHS must ensure national-level data collection and publication on family separation patterns and outcomes. At the same time, explicit safeguards are critically needed to ensure that surveillance infrastructure does not compromise the privacy protections designed to keep families safe. Strengthening tracking and case-identification mechanisms in countries of origin or return is important not only to better account for affected families, but also to support earlier identification, stronger cross-border coordination, and more timely reunification where appropriate. This should include stronger consular support while families are detained in the United States to gather relevant information when a case may involve separation, as well as systematic collection of that information upon a parent's arrival in the country of origin or

return to facilitate follow-up, case tracking, and reunification efforts. Transparent communication about the purpose of data collection, together with strict privacy and data protection safeguards, is essential, as some parents may be afraid to disclose information about their children or caregiving arrangements for fear of exposing them, or undocumented relatives caring for them, to immigration enforcement. Trust, confidentiality, informed consent, and ethical data protection are central to effective identification and case tracking.

Finally, stronger monitoring will require sustained investment in staff training, technological infrastructure, and cross-agency coordination. Such investment must address both dimensions of the data gap: at the aggregate level, to assess the scale of enforcement-related family separation, identify patterns across populations and regions, and inform policy; and at the individual case level, to maintain family contact, protect parental and child rights, and facilitate reunification. Closing these gaps will require not only stronger national data systems, but also a common regional framework—with harmonized definitions of family units, separation events, and reunification outcomes—that allows for collective analysis of aggregate data. Given the cross-border nature of family separation, only such regional alignment can provide the comprehensive picture needed to inform timely, coordinated, and durable responses for affected children and families.



## 5. CHILDREN IN CUSTODY OF THE U.S. OFFICE OF REFUGEE RESETTLEMENT

### A. The Problem

Since fiscal year 2023 there has been a decrease in the number of unaccompanied children referred to ORR by CBP from the southwest border, with an even sharper reduction since 2025.<sup>112</sup> As a result, ORR had just 1,977 unaccompanied children in its custody as of April 2026—one of the lowest numbers on record.<sup>113</sup> However, those children who remain in ORR custody are staying for significantly longer due to new policy and procedural changes that have made unification with a parent or other sponsor more difficult.<sup>114</sup> Between January and September 2025, the length of time children remained in custody increased nearly sixfold, while discharge rates fell by almost 80%.<sup>115</sup>

Although public data does not disaggregate the percentage of children referred to ORR from the interior, compared to those arriving unaccompanied at the U.S.-Mexico border, it is likely that a significant number of children in ORR custody are there as a result of being separated from parents or other trusted caregivers during interior enforcement. For example, *ProPublica* reported that 600 children were referred to ORR from the interior for the first 11 months of 2025, referencing government data, though there is no publicly available source.<sup>116</sup>

ORR is responsible for providing housing and care for unaccompanied migrant children, as well as identifying and vetting sponsors to whom the child may be safely released while the child awaits immigration proceedings.<sup>117</sup> Notably, while sponsorship vetting is important to ensure the safety of children being released, ORR is also required to release children to sponsors “without delay.”<sup>118</sup> Extended time separated from family and in ORR custody, compounded by a chronic state of uncertainty, presents its own set of risks to children’s physical and mental health and long-term attachment to primary caregivers.<sup>119</sup> Decades of research underscores the

harm to children from family separation, combined with the inappropriate use of alternative care, particularly in large-scale institutions.<sup>120</sup>

Nevertheless, potential sponsors have been afraid to come forward due to the co-mingling of immigration enforcement activities and the system for unaccompanied children and family reunification processes. Those who do wish to sponsor unaccompanied children face new, seemingly insurmountable requirements that go beyond—and even run counter to—established safety and best interests considerations.<sup>121</sup>

U.S. law makes clear that ORR's role is distinct from the functions of DHS, separating the functional responsibilities between immigration enforcement and child protection.<sup>122</sup> This principle was reinforced in a provision of ORR's 2024 Foundational Rule, which at the time precluded ORR from disqualifying potential sponsors of unaccompanied children “based solely on their immigration status” and collecting and sharing “information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes.”<sup>123</sup> In March 2025, the U.S. Department of Health and Human Services rescinded this provision of the rule, re-establishing information sharing for immigration enforcement purposes, as had been done during the first Trump administration.<sup>124</sup> Sponsors are now required to verify their identification in person, where they face the risk of being arrested by ICE.<sup>125</sup>

The breakdown in firewalls between DHS and ORR creates practical barriers for potential sponsors and contributes to a climate of fear that keeps children in federal custody and separated from trusted caregivers.

This breakdown has gone further than passive information sharing. In February 2025, DHS and its partners launched an initiative to locate and verify unaccompanied children previously released from ORR custody to sponsors, citing failed vetting procedures that placed children at risk of abuse and exploitation. While DHS has characterized these

efforts as “welfare checks” not primarily focused on immigration enforcement, ICE's Homeland Security Investigations special agents have been directed to detain any individuals encountered who are in the country without legal status and to transfer any such children to ORR custody.<sup>126</sup> Furthermore, internal ICE guidance, published by media outlets, reveals a primary focus on pursuing unaccompanied children and their sponsors for immigration enforcement and criminal prosecutions purposes.<sup>127</sup> As the program continues, ICE has contracted with a private security company to support related operations through March 2029.<sup>128</sup>

Sponsor vetting, counter-trafficking efforts, and child protection are essential components of any system serving unaccompanied children. However, an effective, child-centered approach does not focus on immigration enforcement. A substantial body of work provides guidance and resources on trauma-informed, victim-centered approaches to preventing, assessing, and responding to trafficking, which should be led by child protection specialists with relevant expertise. It underscores the importance of comprehensive case management and legal services for children following their release from custody.<sup>129</sup>

## B. Child and Family-Centered Responses

The new policies and practices that have blurred the distinction between the care and sponsor placement functions of ORR with DHS' immigration enforcement mandate have created preventable delays to family reunification that pose serious risks to children's mental health and well-being. Challenges persist in releasing unaccompanied children to caregivers in local communities because of the ways potential sponsors' immigration status is being collected and shared with ICE. Restoring the relevant safeguards in the 2024 ORR Foundational Rule<sup>130</sup> would be a key step to ensure that immigration status is not used to disqualify potential sponsors. This would also prevent collection

and sharing of information on potential sponsors for purposes related to immigration enforcement.

While the government systems that receive unaccompanied migrant, refugee, and asylum-seeking children across the world have had to balance safety considerations with the child's need for family reunification, the vetting process of parents or other sponsors needs to be relevant and proportionate to the circumstances. UN guidance specifically states that a child may not be penalized because of their own or their parent's migration status, and that irregular status alone should never justify family separation. It also emphasizes that child protection and immigration functions should remain separate, and that if family tracing reveals that a child's parents are living irregularly in the country or in a third country, this information must not be shared with immigration authorities.<sup>131</sup>

The Trafficking Victims Protection Reauthorization Act (TVPRA), passed by the U.S. Congress in 2008 and subsequently reauthorized with bipartisan support, strengthened federal anti-trafficking laws and added provisions that govern the rights of unaccompanied immigrant children who enter the United States. Among other provisions, it lays out the standard ORR sponsor vetting process and includes provisions for additional screening of a sponsor in very specific circumstances.<sup>132</sup> These processes are intended to center the safety and best interests of children, not immigration enforcement.

The TVPRA also calls for the appointment of independent child advocates (*guardians ad litem*) for children identified as child trafficking victims or otherwise vulnerable.<sup>133</sup> Vulnerability encompasses very young children (infants and toddlers), those approaching their eighteenth birthday in custody and at risk of transfer to adult immigration detention, children with prolonged stays in custody, those with complex medical needs or disabilities, pregnant and parenting youth, and children from communities underrepresented in the ORR system.

## a. Best Interests Determinations and Child Advocates

The Young Center for Immigrant Children's Rights, a U.S.-based non-profit organization and ORR contractor, serves as the federally appointed best interests child advocate for vulnerable unaccompanied children in government custody, as authorized by the TVPRA. In conjunction with a multidisciplinary team that includes an attorney and a social worker, the child advocate builds a close and reliable relationship with the child through regular visits to provide accompaniment and advocacy. The Young Center's role is to assess, recommend, and advocate for children's best interests—from conditions of custody, release to family, and to the ultimate decision about whether the child will be allowed to remain in the United States. In line with the UN Convention on the Rights of the Child, the Young Center uses a paradigm based on child welfare and international law to evaluate each child's best interests, considering the child's wishes, safety, rights to family integrity and liberty, and ability to develop and to express all aspects of their identity.<sup>134</sup>

Best Interests Determinations (BIDs) from independent child advocates can provide critical insight into the nature of relationships between children and family members; demonstrate the protective factors of specific familial, cultural, and community practices; shed light on important aspects of the child's identity, such as language, religion, and gender; and identify risks of trafficking, abuse, or exploitation. Such robust child- and family-centered processes are critical to more effectively ensure children's rights and well-being.

## THE BEST INTERESTS PRINCIPLE

Article 3 of the United Nations Convention on the Rights of the Child states that, “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”<sup>135</sup>

Article 7 of the United Nations Guidelines for the Alternative Care of Children further clarifies that “the determination of the best interests of the child shall be designed to identify courses of action for children deprived of parental care, or at risk of being so, that are best suited to satisfying their needs and rights, taking into account the full and personal development of their rights in their family, social and cultural environment and their status as subjects of rights, both at the time of the determination and in the longer term. The determination process should take account of, inter alia, the right of the child to be heard and to have his/her views taken into account in accordance with his/her age and maturity.”<sup>136</sup>

Global guidance addresses how to implement the best interests principle in practice, stressing that migration-related procedures and decisions affecting children should be guided by an individualized and holistic assessment of the child’s situation and their best interests. Procedures should ensure due process safeguards and be carried out by actors independent of the migration authorities, using a multidisciplinary approach that includes meaningful participation from child protection and welfare authorities and other relevant actors, such as parents, guardians, and legal representatives, as well as the child.<sup>137</sup>

A best interests assessment involves evaluating and balancing all the elements necessary to make a decision in the specific situation for a specific child or group of children. It should be undertaken in each individual case and in light of the specific circumstances of each child or group of children, including age, sex, level of maturity, whether the child or children belong to a minority group, and the social and cultural context in which the child or children find themselves. A “best interests determination” describes the formal process designed to determine the child’s best interests for particularly important decisions affecting the child.<sup>138</sup>

In the U.S. domestic child welfare system, the best interests principle is firmly anchored in state laws, which require courts to consider the best interests of children who are separated from their parents or legal guardians. Twenty-three U.S. jurisdictions list in their statutes the factors courts will consider in deciding what’s in the best interest of the child.<sup>139</sup>

Under the Immigration and Nationality Act, federal decision-makers are not explicitly required to consider the best interests of children in every decision, but with the passage of the Trafficking Victims Protection Reauthorization Act (TVPRA) in 2008 and the 2024 Unaccompanied Children Program Foundational Rule, the best interests principle was incorporated into the federal statutory and regulatory framework governing unaccompanied children, including ORR’s placement decisions and the role of child advocates.<sup>140</sup>

## b. Ensuring Children's Safety through Supportive Services and Legal Representation

Sponsor identification, vetting, and placement are only the beginning of a child's reunification process with family. Whether children are reunifying with families after transitioning out of government custody or moving in with alternative caregivers because of immigration enforcement actions, many experience psychosocial, developmental, and behavioral impacts. They often need time and support to adjust to new household expectations, and relationships may be strained. Caregivers need support themselves as they take on the practical and economic responsibilities of caring for the child, along with the behavioral and psychosocial challenges that may emerge. However, the ability of caregivers to access such support is often constrained by broader structural barriers. Distrust and fear of immigration enforcement, compounded by federal policies that allow for information sharing with immigration authorities, act as significant deterrents to children and families' willingness to access services.

Case management can provide the support needed to promote the safety and well-being of the child and facilitate successful adjustment.<sup>141</sup> Effective case management provides coordinated, holistic, multisectoral support in a systematic and timely way through direct support and referrals.<sup>142</sup> As in other processes, this support should be provided by social service professionals with the requisite skills to prioritize the child's best interests. At the same time, strict safeguards must ensure that information collected through case management is used solely for protection purposes and is not shared with immigration enforcement authorities, which could undermine trust and expose children and families to harm.

In the U.S. system for unaccompanied children, this type of case management support has traditionally been provided for children transitioning out of government custody through the ORR-funded network of post-release service (PRS) providers, operating in various locations throughout the country. PRS providers aim to ensure safety of placements, assist with school enrollment and engagement, link children to



medical and mental health services, and refer them to legal services.<sup>143</sup> Except where explicitly required by the TVPRA, these services should continue to be offered to all children released from custody as voluntary services.

More broadly, local governments and community-based organizations offer a range of services as children transition to their new circumstances, though the accessibility and availability of resources varies widely. Communities have implemented a variety of strategies to improve reach and strengthen impact, such as improving coordination across local governments and service providers, deploying interdisciplinary approaches to address needs holistically,<sup>144</sup> investing in diverse and skilled workforces, and leveraging schools as hubs for comprehensive support.<sup>145</sup>

Many schools provide trusted support to children and immigrant families,<sup>146</sup> although districts are under greater pressure in the current context, particularly following the January 2025 DHS policy change which allows ICE enforcement in schools.<sup>147</sup> Some have responded by developing policies or providing resources for educators to support students and families.<sup>148</sup> Additional strategies have included relying on multilingual family liaisons with long-established relationships in immigrant communities and adapting service delivery modalities, whether remote or in-person, based on the comfort and safety needs of families.

Like schools, legal service providers often provide trusted support for non-citizen children beyond legal representation, connecting children with supportive services.<sup>149</sup> With regard to legal representation, their impact cannot be overstated. Without an attorney, non-citizen children, especially unaccompanied children, struggle to understand their basic rights or navigate complex immigration processes, often with significant language barriers. Legal representation has historically been one of the most consequential factors in determining whether or not a child attends their court hearings and receives a case outcome that allows them to remain in the United States.<sup>150</sup>

ORR traditionally contracted with independent legal service organizations to familiarize unaccompanied children in custody with their legal rights, provide an initial legal screening to match children with counsel, and provide legal services to some children.<sup>151</sup> However, in 2025, the federal administration issued a stop work order and then terminated funding for most legal services for unaccompanied children altogether.<sup>152</sup> While a federal court ordered the funding restored,<sup>153</sup> the contractual disruptions have led to reduced capacity and program instability. Recent solicitations re-competing this contract work have indicated the government's intention to restrict federally funded legal representation for children moving forward. Ensuring full legal representation and strengthening these programs with adequate and stable funding is critical for children in removal proceedings.

Taken together, the best way to support children as they transition to family or alternative caregivers after separation is to build trust and strengthen ties through community support. However, the reach and impact of community-based organizations remain limited without adequate resources. Re-prioritizing financial investments for community-based services would be an effective and child-centered way to keep children safe and united with families and in communities.





## 6. RECOMMENDATIONS

In all matters of immigration enforcement, the rights and well-being of children should be a primary consideration, regardless of the migration status of the child or their parents or caregivers. Once a child is involved, immigration enforcement procedures should ensure child rights, well-being, and protection, as well as the preservation of family unity. The following recommendations are meant to provide a starting point for centering children and families in policy and practice.

### A. On Immigration Enforcement Actions

The U.S. Congress should:

1. **Establish standard procedures, codified in law**, to ensure that the best interests of the child and family unity guide all approaches and decisions involving children and families across immigration enforcement, custody, removal, transfer, and release, and that the **rights of the child and family unity are upheld as fundamental rights**. These standards should apply to ICE, CBP, their contractors, and any state and local cooperating entities.
2. **Establish an office at the White House level to coordinate federal policy, implementation, and accountability** for federal actions affecting children and families in immigration enforcement.
3. **Strengthen regulations, accountability, and monitoring across all procedures affecting children and families**, from identification and arrest through detention and release, including independent oversight of federal immigration facilities. Guarantee an explicit firewall between immigration authorities and child protection and service providers, with a clear separation of roles and robust safeguards for children's personal information, including immigration status and case records.
4. **Ensure federal agencies fully comply with laws, policies, and case settlements**, including with the *Flores v. Reno* Settlement Agreement, the *Ms. L. et al. v. U.S. Immigration and Customs Enforcement et al.* Settlement

Agreement, the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, the original 2024 Unaccompanied Children Program Foundational Rule (with protections restored) and all related court orders to prevent unlawful family separation and child detention. This should include strict adherence to existing reporting obligations and require standardized, biannual reporting to Congress on the number, duration, and circumstances of all child-family separations, including the reason for the separation, confirmation of notice to parents and supervisory authorization, whether there is a parent present in the United States or other caregiver arrangements, and the number of children referred to ORR or child welfare custody as a result of immigration enforcement actions.

5. **Codify the “Sensitive Locations” policy in law** and immediately cease immigration enforcement actions in and around sensitive locations, such as schools, childcare centers, health facilities, courts, places of worship, and asylum offices. During all enforcement actions, agents should be required to limit use of force and include other safeguards to minimize trauma to children.
6. **Enact legislation to codify the protections included in the Parental Interests Directive** across DHS, other agencies, and their contractors, with clear, enforceable standards. This should include: a presumption of release for parents and caregivers; guaranteed access and communication to legal counsel, consulates, and family members; detention in facilities geographically proximate to a parent’s children and, when relevant, to family court or child welfare proceedings; facilitation of detained parents’ participation in state court proceedings affecting their parental rights; and an explicit prohibition on geographical transfers until adequate child care arrangements have been made.

7. **End family immigration detention in law and practice.** Instead, appropriate funds to invest in non-custodial measures, including case management programs that allow parents and children to remain with their families in the community, grounded in child welfare standards and the best interests of the child.
8. **Codify clear and specific policies that separate ORR’s sponsor vetting and service delivery functions from DHS’ immigration enforcement,** including prohibiting immigration status as being the basis for disqualifying a potential sponsor and prohibiting ORR from sharing information with DHS, its implementing partners, and other federal departments for immigration enforcement purposes.
9. **Ensure stable and adequate funding for ORR’s post-release services and for children’s legal representation and services** as they navigate immigration processes and to challenge any decision that could deprive them of liberty or result in forced return.
10. **Fund urgently needed reintegration support,** including investments in child protection systems in countries and communities of origin, to provide essential services for all vulnerable children reunifying with family.

The U.S. Department of Homeland Security should:

1. **Incorporate child and parental rights into DHS/ICE policy, oversight, and accountability.** Develop interagency guidance to ensure all relevant stakeholders are aware of and abide by existing and any new policies related to parental and children’s rights. Ensure all personnel who may come into contact with children during immigration enforcement receive regular training and oversight to ensure uniform application of child and family related protections.

2. **Strengthen the Detained Parents Directive** for DHS and its contractors, with clear, enforceable standards ensuring that parents can make decisions regarding the care of their minor children at the time of apprehension and throughout detention and any deportation. This should include a presumption of release for parents and caregivers, along with an explicit prohibition on geographical transfers until adequate child care arrangements have been made. DHS should also ensure regular, free, and private communication between detained parents and their children.
3. **Reinstate and strengthen protected areas policies and end ICE data-sharing** with Medicaid and other government departments and programs so that children and families can access education, medical care, and legal proceedings without fear of detention or separation. This should include prohibiting the use of commercial data brokers and private sector surveillance contracts that circumvent protected areas and data-sharing restrictions.
4. **Collect and maintain data on parental apprehension and detention and compliance with family unity protections.** Regularly report this data to Congress and make it publicly available. Data should include the number, duration, and circumstances of all child-family separations, including the reason for the separation, confirmation of notice to parents and supervisory authorization, whether there is a parent present in the United States or other caregiver arrangements, and the number of children referred to ORR or child welfare custody as a result of immigration enforcement actions (see Recommendation A/Congress/4).
5. **Fully implement and maintain public reporting** on the DHS website on aggregate data related to the removal or detention of parents, including the number of children affected, their citizenship or migration status, and whether those children entered ORR, the

child welfare system, or other alternative care arrangements. Reporting should also document whether reunification has been requested by the parent and its current status.

6. **Create meaningful opportunities for children to participate** in all matters that affect them in accordance with the age and maturity of the child. Children, parents, and caregivers should be given information on their rights in a language they understand in child-friendly formats as well as opportunities for regular and accessible communication, whether detained or deported, so that they can make informed decisions. They should also have access to effective and independent complaint and feedback mechanisms.

## B. For Unaccompanied Children

The U.S. Office of Refugee Resettlement should:

1. **Develop policy and regulations to move away from a reliance on institutional care settings**, including large-scale residential and influx facilities, and prioritize family-based care and community-based services.
2. **Ensure adequate investments in post-release services for unaccompanied children released to sponsors—with firewalls** between services and immigration enforcement—to ensure children and families are supported to comply with immigration legal proceedings, access basic services, and ensure their protection and psychosocial well-being, without fear of adverse immigration consequences.
3. **Ensure that unaccompanied children have access to free legal representation and services** as they navigate immigration processes and to challenge any decision that could lead to their detention or forced return.

## C. For Children and Families in Communities

State and local governments and community-based organizations should:

1. **Develop coherent policies and resources for immigrant families so they can create family preparedness plans and legal guardianship arrangements.** Provide information and training to ensure relevant institutions understand the validity of such arrangements in order to reduce barriers to children accessing education and other basic services.
2. **Support trusted community-based organizations to conduct outreach and support immigrant/mixed status families to implement legal guardianship arrangements** through financial investment and technical support. Coordinate partnerships that enhance collaboration between these organizations, schools, legal service providers, child welfare authorities, and other agencies for integrated support to impacted families, while ensuring firewalls between their services and any immigration enforcement operations.
3. **Adopt and implement policies, procedures, and guidance to address the barriers that detained or deported immigrant parents or caregivers face in retaining their parental rights and seeking reunification when children are in child welfare custody.** This should include a prohibition on using immigration status alone as grounds for denying the placement of the child with a parent or relative.
4. **Designate a point person for immigration within the state or local child welfare agency and ensure child welfare professionals receive adequate training** on the unique issues impacting immigrant/mixed status families and how to implement relevant policies, procedures, and guidance to uphold their rights.

## D. On Child-Sensitive Returns and Cross-Border Reunifications

All governments in the region, including the United States, should:

1. **Ensure that a child's return to their country of origin or return is carried out only after an assessment and determination of the best interests** of each child, taking into account the child's right to family life and family unity.
2. **When return is in the best interests of a child, strengthen cross-border case management** between destination and origin/return countries to ensure continuity of care, including pre-departure planning, reintegration support, and follow-up services. This should be supported by privacy-protective information-sharing and data tracking protocols so consular authorities can help identify affected nationals and facilitate reunification and sustainable reintegration where needed.
3. **Establish standardized mechanisms to systematically document separations with privacy protections** and use the most disaggregated data feasible to effectively track scope, trends, and needs. Aggregate data should be made publicly available to inform tailored responses and allow the scale of impact and progress on prevention and reunification to be monitored across the region.
4. **Invest financial and technical resources in urgently needed reintegration support**, including investments in child protection systems in countries and communities of origin, to provide essential services for all vulnerable children reunifying with family.

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## ABOUT THE COLLABORATIVE

The Georgetown University Collaborative on Global Children's Issues, housed in the School of Foreign Service, fosters cross-disciplinary research and dialogue on critical and emerging challenges affecting children around the world, with a particular focus on children in adversity and pathways to resilience. The collaborative is:

- committed to creating opportunities that are child-centered;
- grounded in the lived experiences of children, their families, and communities;
- responsive to current and emerging needs and useful to actors working in a variety of contexts and capacities to meet them;
- evidence-informed and solutions-oriented; and
- building effective bridges between young people and stakeholders involved in practice, policy, and research.

# ENDNOTES

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