

**STATEMENT OF
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**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**

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

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>