



On the Frontlines of the Family Separation Crisis

City Response and Best Practice for Assisting Families



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Acknowledgements

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Executive summary

On May 7, 2018, U.S. Attorney General Jeff Sessions announced a new “zero tolerance” policy: all adults apprehended during an unauthorized crossing of the southwest U.S. border would be criminally prosecuted, resulting in their separation from any children accompanying them. In the weeks after Sessions’ announcement, the Department of Homeland Security separated over 2,600 immigrant children from their parents and other accompanying adults, sending the children to federally contracted foster care providers in a number of U.S. cities.

The federal government was ill-prepared to handle the family separation crisis, which led to a divergence from best practices for treatment of children in federal custody, and a need for new actors—local governments, legal services providers, NGOs, and grassroots communities—to step in and address the gaps. This report shares gaps observed by these actors during the crisis and highlights their responses. In so doing, it cautions against future expansion of family separation practices and warns that family detention is not a viable alternative.

City and county leaders played a particularly notable role during the family separation crisis. As immigrants have faced increasing uncertainty in recent years, local governments have often served as pragmatic first responders, promoting public safety, ensuring that immigrant residents receive accurate information, and providing immigrants with opportunities for full inclusion in their communities. As the family separation crisis escalated in the spring and summer of 2018, local government leaders advocated for family reunification and demanded transparency about the needs of children being held in their communities. City and county officials also worked with local partners and expanded existing services to meet the needs of affected children and families.

Part I of this report describes the responses to the 2018 family separation crisis by the City of New York, the City and County of Los Angeles, and the City of San Antonio. Based on their experiences, four key lessons emerged about the ways that local government leaders, working alongside key partners, successfully responded to the crisis. Those best practices included: 1) utilizing mayors’ collective voices to raise public awareness and advocate against family separation practices; 2) leveraging existing programs to meet the quickly emerging needs of separated immigrant children; 3) expanding access to legal services by mobilizing networks of local legal service providers; and 4) engaging local partnerships to obtain information and coordinate outreach and service delivery. Across all of these efforts, dedicated staff and resources for immigrant affairs work were essential in enabling local governments to take swift action.

Part II of the report highlights the risks of institutional congregate care for children, providing an overview of the serious concerns that underscore the need to avoid family separation outside of extraordinary circumstances. It then presents best practices drawn from international expertise and U.S.-based evidence for addressing immediate care concerns of separated children and facilitating family reunification. As the federal government considers policy changes that would enable the expanded detention of immigrant children and families, the report is intended as a resource for policymakers and practitioners who seek to understand the harms of child detention and best practices for supporting the immediate care of separated children and the reunification of families.

About this report

This report was written in partnership between Cities for Action (C4A) and the Lumos Foundation. C4A is a coalition of over 175 U.S. mayors and county executives who advocate for pro-immigrant federal policies and create inclusive local programs and policies. Combined, C4A mayors and county executives represent over 70 million people. Lumos is an international children’s rights organization that works to ensure that all children can grow up in safe, loving families. Lumos assists countries in transitioning away from institutional care and towards family and community-based care systems. The organization has extensive experience reunifying and strengthening vulnerable families and helping them manage the trauma of separation.

The material in this report was drawn from a range of sources. Background about the practice of family separation comes from material released by the federal government as well as legal filings. Information about local leaders’ advocacy was collected through open letters, press conferences, and public statements by local leaders. Interviews with officials in the localities profiled in this report and publicly available information from community organizations provided insights into local service provision to separated children and families. Guidance on the management of trauma to children, family reunification, and alternative care is derived from Lumos’ experience supporting vulnerable children and families across the globe. It is supported by internationally accepted best practice in the fields of social work and children’s rights.



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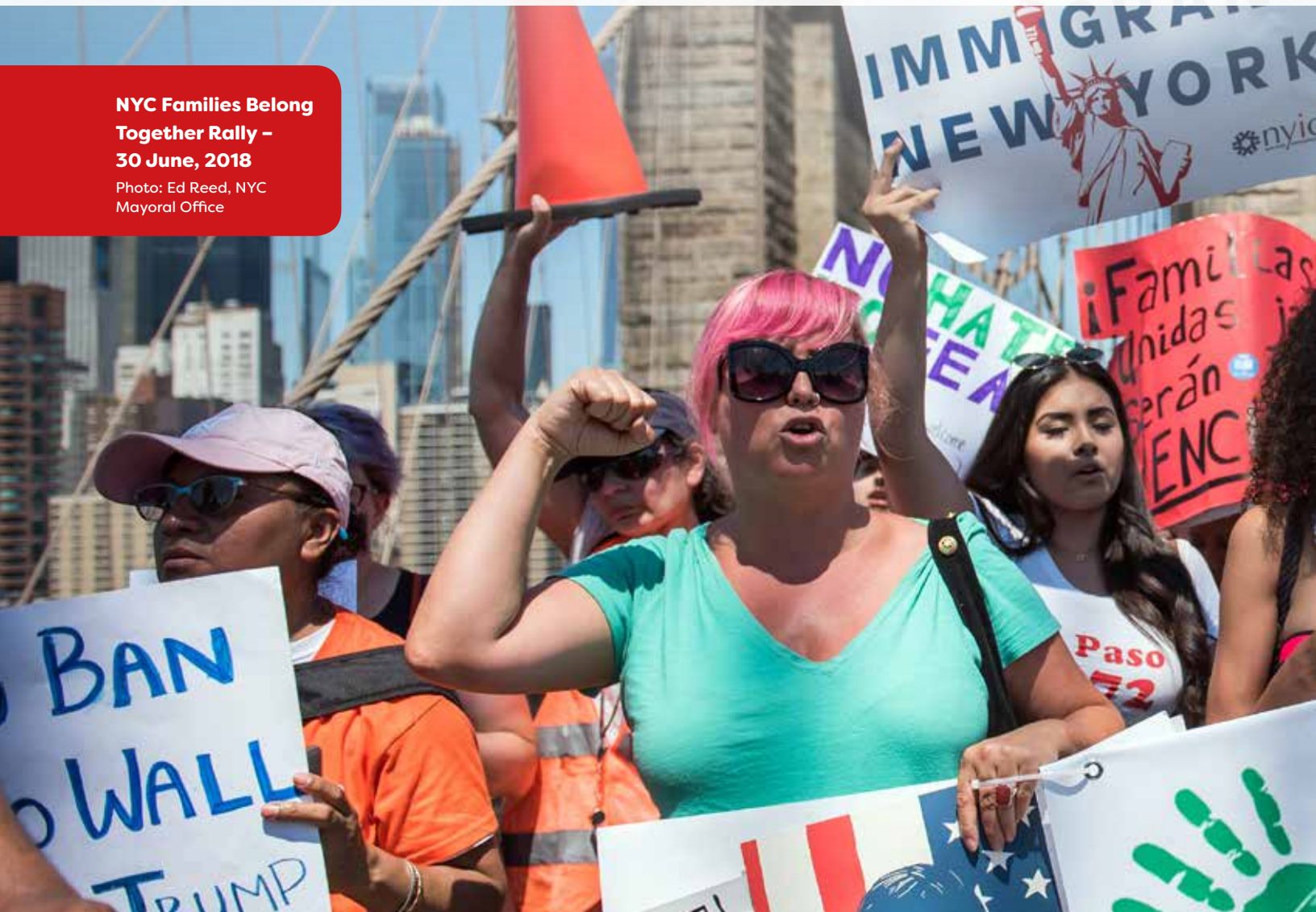
The 2018 immigrant family separation crisis

On May 7, 2018, U.S. Attorney General Jeff Sessions announced a “zero tolerance” policy: all adults apprehended during an unauthorized crossing of the southwest U.S. border would be criminally prosecuted, resulting in their separation from any children accompanying them.¹ The government had reportedly already run a “pilot” family separation program near El Paso, TX, from July to October the prior year, experimenting with criminally charging adults who crossed the border and reclassifying their children as unaccompanied.²

Prior to the “zero tolerance” policy, federal officials often exercised prosecutorial discretion, choosing not to prosecute unauthorized border crossings criminally and releasing asylum-seeking families to live with relatives in the United States while they waited for their immigration court dates. Evidence from a family case management program had also demonstrated that alternatives to detention such as case management worked to ensure that families would appear in court.³ Nevertheless, under the new policy, Department of Homeland Security (DHS) officials referred those caught during unauthorized

NYC Families Belong
Together Rally –
30 June, 2018

Photo: Ed Reed, NYC
Mayoral Office



border crossings to federal prosecutors. Parents were charged with misdemeanor illegal entry or felony re-entry and sent to jail.⁴ Their children were placed in separate federal custody.

The treatment of immigrant children in federal custody is governed by the *Flores* settlement, resulting from a 1985 class-action lawsuit, *Flores v. Reno*, which was filed on behalf of unaccompanied minors held in immigration detention. The lawsuit challenged conditions in facilities that held children and the federal government's policy of only releasing children to parents or legal guardians, which had the effect of prolonging the incarceration of children. In 1997, the parties entered into a settlement agreement that set the minimum standards of care for immigrant minors in federal immigration custody. It required that they be placed in the "least restrictive" setting possible and released "without unnecessary delay" to a parent, a close relative, or family friend.⁵ It

also generally prohibited the government from placing children in immigration detention and required that children be held in state-licensed facilities.

The *Flores* settlement was revisited in 2014, when the plaintiffs filed a motion to stop the detention of asylum-seeking families who arrived at the U.S.-Mexico border, arguing that family detention violated the terms of the *Flores* settlement. In 2015, a federal court ruled that the *Flores* settlement applied to all minors in federal immigration custody—both "unaccompanied" and "accompanied" children.⁶ The court also modified the settlement agreement to allow for "accompanied" children to be detained with their parents for up to 20 days.⁷

Under the 2018 "zero tolerance" policy, once children were separated from their parents, they were labeled as unaccompanied minors, and transferred to the custody



of the Office of Refugee Resettlement (ORR), an agency within the Department of Health and Human Services (HHS). ORR contracts with foster care providers across the United States to provide shelter and other services to minors in its custody.⁸ As a result, separated children were sent to ORR-contracted providers around the country, sometimes thousands of miles away from where their parents were detained.

In the weeks after Sessions' announcement, DHS separated approximately 2,654 children from their parents.⁹ There was no system in place to track or reunify separated families.¹⁰ While parents were often held in criminal jails or immigration detention centers in Texas and Arizona, their children were sent to ORR-contracted providers around the country, some as far away as Seattle, New York City, and Chicago.¹¹

Public reaction to the "zero tolerance" policy quickly became an outcry. Advocates and policymakers at all levels of government, including mayors and county officials, condemned the practice and its harms to children and families, and sought information about the number of separated children and the conditions of the facilities where they were being held. Following weeks of intense public focus on the issue, President Donald Trump signed a June 20 Executive Order to purportedly end the practice of family separation. The Executive Order called for detaining immigrant families together throughout the pendency of their criminal or immigration proceedings. The Order also directed the Department of Justice (DOJ) to file a request to modify the Flores settlement to allow families to be detained together indefinitely.¹² However, on July 9 a federal judge rejected the request.¹³

On June 26, a federal judge in a different lawsuit, *Ms. L v. ICE*, issued a nationwide injunction halting further family separations. The court set deadlines requiring the federal government to reunite children under five years old with their parents by July 10 and children ages five through 17 by July 26.¹⁴ As of the publication of this report, however, reunification has not been completed for all families who had been separated as a result of the "zero tolerance" policy, and the reunification process has proven extraordinarily difficult for the federal government

to manage. The records that the federal government created when families were taken into custody often did not indicate if the child had been separated from their parent. Parents often did not know where their children had been sent, and they had difficulty maintaining regular communication when they did learn the whereabouts of their child. Some children were too young or traumatized to speak, and many of the children only spoke indigenous languages for which translators were difficult to find. The federal government even had difficulty confirming the total number of parents and children who had been separated.¹⁵

The deportation of hundreds of parents has further impeded family reunification. The government claimed that parents voluntarily waived their right to reunification and agreed to be deported. However, many parents' accounts, which have been filed as affidavits in ongoing litigation, reveal that parents often misunderstood what they were signing or felt coerced into signing the agreements.¹⁶

The federal government did not meet the court-ordered reunification deadlines. On July 12, the government reported that only 57 of the 103 separated children younger than five years old had been reunified with their parents. On the second deadline, July 26, only 1,442 of the 2,551 separated children between five and 17 years old had been reunited with a parent. Another 378 children had been released from ORR custody, most to a parent no longer in ICE custody or to a sponsor. Of the remaining separated children, 431 could not be reunited because the adult they had accompanied had been deported. The government deemed other separated children "ineligible" for reunification, in cases where the parent had a criminal history or other "red flag," where the parent was in criminal custody, where the relative from whom the child was separated was not a parent, and where the parent had "waived reunification."¹⁷

Reunifications have continued, but at a very slow pace. As of this report's publication, hundreds of children, including children younger than five years old, remain in ORR custody, separated from their parents. Most of those children have not been reunited with their parent because their parent has been deported.¹⁸

Part 1:

Local government responses to the family separation crisis

Local government leaders quickly recognized the humanitarian crisis created by the practice of family separation, and they swiftly took steps to express their concerns publicly and to support the needs of separated children in the care of local ORR-contracted providers. This section describes collective advocacy work done by local government leaders as well as local responses by officials from four C4A localities.

Collective advocacy against family separation

Mayors and county executives demanded transparency about the needs of children held in their communities, and they helped draw the public's attention to the ways in which separation and detention traumatized children and negatively impacted public safety.

Mayors contacted the federal government directly to express their opposition to family separation. On June 7, 2018, the mayors of Los Angeles, Houston, Albuquerque, and Tucson sent a letter to Attorney General Sessions and DHS Secretary Kirstjen Nielsen. The mayors called for an immediate end to family separation and for comprehensive immigration reform. The signatories noted that, even though mayors do not write immigration law, as mayors in border states they have "front-row seats to the challenges posed by every shift in our actions toward immigrants."¹⁹

The following day, Seattle's Mayor Jenny Durkan led 25 mayors and county officials in sending another letter to Sessions and Nielsen. The local leaders pointed out that many families had come to the United States to seek safety from threats in their home countries. Separating children from their parents, they wrote, "exacerbates the

trauma that many have already suffered before coming to the United States." They argued that the practice fueled hostility toward immigrants and harmed public safety in their localities, noting that:

"As mayors, we are deeply troubled by the culture of fear perpetuated by the federal government that discourages immigrants from contacting local police and other public agencies."²⁰

Mayor Durkan also introduced a resolution at the annual meeting of the United States Conference of Mayors (USCM), a non-partisan national organization representing the mayors of cities with at least 30,000 residents. The resolution, passed on June 11 in Boston, registered USCM's "strong opposition to separating children from their families at the border." It stated that families apprehended together should be allowed to stay together whenever possible "to help avoid the heartbreak and irreversible trauma of forced separation."²¹

On June 21, USCM President and Columbia, SC Mayor Steve Benjamin led a bipartisan group of 18 mayors to Tornillo, TX.²² The mayors attempted to visit a temporary tent city at the port of entry where the federal government was housing unaccompanied children, but the group was not permitted to enter. The mayors held a press conference calling for the rapid reunification of separated families and transparency from the federal government about conditions in ORR-contracted facilities and about specifics of the reunification process.

Mayor Benjamin said, “The President’s indecision and erratic policymaking has impacted and, frankly, traumatized thousands of lives.”²³ After his participation in the trip to Tornillo, New York City Mayor Bill de Blasio wrote to HHS Secretary Alex Azar requesting information about separated children being held in the city.²⁴ Other individual mayors also sent letters to the federal government asking for increased transparency and an end to the family separation practice.

On July 2, USCM followed this action with an advocacy letter signed by 140 U.S. mayors declaring their solidarity with the 18 mayors who had gone to Tornillo. The letter called on the Trump Administration to quickly reunite children with their parents and “provide local and state leaders full access to information regarding children separated from their parents who have been sent to their jurisdictions so that they can help to make sure these children are getting the services they need.”²⁵

Mayors and county executives continued their advocacy throughout the summer, participating in local rallies and vigils that called for the end of family separation and requesting information from HHS about separated children held in their cities.²⁶ City officials received little information from the federal government, and after the government missed the July 10 deadline for reunifying all children under age five, USCM criticized its lack of transparency, stating, “As city leaders, we want to ensure that the children who have been sent to shelters or other facilities in our cities have the services and assistance they need. But federal authorities generally do not notify us when they send children to our cities, and they do not make it easy to find out if they are there.”²⁷

Understanding the gravity of the national family separation crisis, local leaders were able to utilize their individual and collective platforms to further public awareness and heighten pressure on federal officials to reverse course from those harmful practices.

Case Studies:

Local efforts to support separated children and families

This section describes local government responses to the family separation crisis by the City of New York, the City and County of Los Angeles, and the City of San Antonio. Responses varied due to differing local conditions, relationships, and staff capacities, but four key lessons emerged about the ways that local government leaders, working alongside key partners, successfully responded to the crisis scenario. Those best practices included:

- **Leveraging existing programs.** Local governments were able to respond efficiently to emergency needs by connecting separated children and families to existing services, rather than by creating new programs. The quickly-emerging needs of separated children- including specialized medical care, legal representation and other legal assistance, mental health services, and trauma support for young children- exceeded federally contracted providers' capabilities. Local governments had the infrastructure to share relevant expertise, programs, and connections to nonprofit service providers.
- **Expanding access to legal services.** Children in federal custody did not have free and accessible legal representation, and coordinated legal service programs were a key component of local responses to the family separation crisis. In Los Angeles County and New York City, existing programs enabled local governments to meet a sudden increase in need by mobilizing networks of local legal services providers. The providers also shared information about children in federal custody and families' non-legal needs.

- **Engaging local partnerships.** Since the federal government did not share information about the crisis with localities, local officials obtained information about the separated children and their needs through the children's family members, legal service providers, consulates, community organizations, and other partners. These partnerships were also crucial for coordinating outreach and service delivery.

Across all of these efforts, local governments were able to respond swiftly because they had staff and offices dedicated to immigrant affairs. Staff had the expertise, partnerships, and policy knowledge to help coordinate local responses.

1 New York City

In early June, a constituent request first alerted New York City to the presence of separated children in the city. Friends and relatives of a nine-year-old Honduran boy contacted the NYC Mayor's Office of Immigrant Affairs (MOIA) to report that the boy had been separated from his mother at the U.S.-Mexico border and sent to New York City.²⁸

City officials soon discovered that approximately 300 separated children were living in the city in ORR custody. Mayor de Blasio made aiding the children a top priority, and city agencies and local partners collaborated to extend existing City services and programs to the children.

City officials had difficulty obtaining information from the federal government about the separated children. In mid-June, MOIA and the City's Administration for Children's Services (ACS) contacted HHS multiple times, asking for the number and location of separated children living in New York City and about ways the City could assist them. City officials never received complete information, even after Mayor de Blasio's June 22 letter to HHS Secretary Azar requesting information about the children, their health care, and the federal government's plan to reunite them with their families.²⁹

City officials instead relied on existing relationships with ORR-contracted providers for information. The City works with foster care providers across the city- including organizations that hold contracts with ORR to care for unaccompanied children- and reached out to the providers directly. On June 20, the Mayor visited a federally contracted facility that also provides placements for unaccompanied



**Mayor Bill de Blasio's visit to
an ORR-contracted foster
care provider – 20 June, 2018**

Photo: Benjamin Kanter,
NYC Mayoral Photo Office



children. He was joined by City officials, including the Commissioners of MOIA, ACS, and the Department of Health and Mental Hygiene (DOHMH). They learned that the facility was caring for 239 separated children, the youngest just nine months old. Following the visit, the Mayor held a press conference calling on the federal government to provide complete information about separated children in the city.³⁰

MOIA representatives quickly coordinated a collaborative, interagency rapid response effort. City officials visited separated children in the care of two other local providers and maintained consistent communication with providers to assess needs. For five weeks, the interagency group held daily phone calls to coordinate City agencies' responses. The agencies offered streamlined access to City services to the children as well as to their foster parents, sponsors, and parents.

MOIA was well-prepared to coordinate the City's response because of its significant experience responding to changes in federal immigration policies and its strong relationships with other City agencies and community partners. MOIA representatives communicated with the ORR-contracted facilities and connected them to City agencies and partner organizations that could provide the assistance that the facilities requested. City officials held briefings for local, state, and national elected officials on family separation. When they learned that parents had been released from detention and were coming to New York City to reunite with their children, City representatives also worked with non-profits and legal services providers to provide support and services.

MOIA and the Human Resources Administration (HRA)'s Office of Civil Justice (OCJ) played a crucial role in connecting separated children to legal representation. Through OCJ, the City funds local nonprofit organizations to provide free immigration legal services to low-income immigrants in the city, and it determined that separated children in ORR custody in the city were eligible for those services. MOIA and OCJ convened the City-funded legal providers to understand their capacity and develop a plan to increase availability of legal assistance as needed. Catholic Charities, one of the City-contracted

providers, also had an ORR-funded contract to provide unaccompanied minors, including separated children, with legal screenings and Know Your Rights information sessions. Catholic Charities was not, however, funded by ORR to provide children with full legal representation. The City coordinated with and increased funding for a range of local providers, including Catholic Charities, so that they could make full legal representation available to every separated child in the city. The City also helped connect potential sponsors for separated children to legal assistance.

The separated children who were placed in New York City had a range of pressing physical and mental health needs that exceeded the ORR-contracted providers' treatment capabilities. DOHMH and the City's public healthcare system, Health and Hospitals (H+H), worked with the three ORR-contracted providers in the city to provide consultations, staff training, and specialty care. H+H officials visited all three providers and DOHMH organized health consultations. Many of the separated children required trauma therapy and were much younger than the children for whom those providers usually cared. DOHMH delivered trauma trainings to providers, and H+H provided the services of a Spanish-speaking child psychiatrist. The City set up an expedited referral hotline and alerted staff in all H+H pediatric emergency rooms that they should be prepared to treat separated children. In order to ensure streamlined care and access, H+H quickly contracted with the federally contracted health insurance company available to these children to ensure that insurance issues would not slow down the children's access to care.

ACS also shared its expertise and trainings with the children, their foster parents, and the facilities' staff. The agency had existing parenting skills classes and trauma training resources for foster parents and providers. ACS quickly shared its online trainings, including Spanish-language resources, and organized tailored in-person workshops. Some facilities requested that ACS's parenting courses be made available for teenagers in their care who had been separated from their parents and now were parenting their own young children alone. ACS organized multiple trainings in July and August.



**NYC Families Belong
Together Rally –
30 June, 2018**

Photo: Ed Reed,
NYC Mayoral Office

Other City agencies also supported the children. The Department of Parks & Recreation organized weekly recreational opportunities and provided the children with passes to City recreational centers. The Department of Cultural Affairs coordinated activities, such as art classes offered at the facilities by local non-profits, and arranged field trips, including trips to the New York Aquarium, the Bronx Zoo, and American Museum of Natural History. Additionally, ORR-contracted providers and foster parents were concerned about safety after incidents in which individuals, including members of the press, attempted to enter facilities without authorization and followed foster parents home. The City's interagency collaborative alerted the New York City Police Department (NYPD) of those concerns, and the NYPD immediately provided additional security.

The City also coordinated donations and volunteers. The mayor's leadership and national press coverage on the issue led community organizations and members of

the public to approach the City with offers of help. The Mayor's Fund to Advance New York City, a not-for-profit organization that manages the City's public-private partnerships, coordinated monetary donations on its website, where individuals could donate to local and national organizations that support unaccompanied children.³¹ When the foster care providers identified a need, the interagency collaborative connected them with interested donors that could fulfill that request. For example, local companies provided requested items from teddy bears and paint to soccer balls and Spanish-language children's books.

New York City was able to respond swiftly because of its robust services available to all immigrant City residents. City agencies and their community partners built upon their existing collaborations and services to offer a range of health, legal, and child welfare services to affected children.

2

The City of Los Angeles and Los Angeles County

More than 100 separated children were held in ORR custody in Los Angeles County, and additional families came to the area after they were reunited. The City of Los Angeles and Los Angeles County³² convened regional stakeholders, including a range of local service providers, to coordinate assistance to separated and reunited families in southern California. Significantly, they expanded the County's immigration legal services coverage- previously limited to County residents- to separated families who arrived in the region.

To assess needs and organize a regional response, Los Angeles Mayor Eric Garcetti and County Supervisor Hilda Solis convened City and County officials, legal service providers, philanthropic partners, public school officials, health service providers, and the consulates of several Latin American countries. The group met monthly, with their first convening focussed on developing a plan of action to respond to the family separation crisis.

In the absence of information provided by the federal government on the separated children, the City and County worked with local partners, especially consulates and legal services providers contracted by ORR, to understand the number of separated children in the region; their locations; reunification efforts with parents and/or sponsors; and needed services. In addition, the local consulates provided information on the conditions of the facilities and shelters. Los Angeles City and County were also destinations for many reunified families, and the City and County relied on partners to alert them to new arrivals so that they could connect them to local services.

The Los Angeles Housing + Community Investment Development Department (HCID), directed families to FamilySource Centers that offered streamlined access to services. Sixteen FamilySource Centers across Los Angeles serve as one-stop locations where residents can access a range of social, work, education, and family support services, including English classes, food distribution, employment support, and benefit screenings.³³ HCID identified a case manager at each of their centers to guide the families.

Since the County provides a broad range of social services, the LA County Office of Immigrant Affairs (OIA) internally convened relevant County departments to coordinate the County's outreach response and service

**Los Angeles Mayor
Eric Garcetti at the
Keep Families Together
March at LA City Hall –
30 June, 2018**

Photo: Office of Los Angeles
Mayor Eric Garcetti





delivery. The County designated OIA as the families' initial point of contact. After assessing their needs, OIA directed designated liaisons from appropriate departments to proactively contact the families to provide them with relevant services.

The City and County also prioritized enrolling children in school after their release from ORR custody. The Los Angeles Unified School District (LAUSD) had already provided assistance to unaccompanied children, and it also made those services accessible to reunified children. The LAUSD's School Enrollment Placement and Assessment (SEPA) Centers helped families with the school enrollment process, offering services including health assessments, immunizations, and connections to legal services providers.³⁴

Recognizing that separated families would need legal assistance, the City and County quickly ensured that they had access to locally-available immigration legal services. The City, County, and two foundations had created the LA Justice Fund, a public-private partnership that funds organizations providing immigration legal services in the County, in 2017.³⁵ On July 3, 2018, the City Council and County Board of Supervisors approved motions to expand the LA Justice Fund to provide legal representation for children who were separated from their families and who are detained or housed in Los Angeles and their respective parents or sponsors.³⁶

The City and County also responded to the public's desire to donate and volunteer. The City and County could not accept donations of goods, funds, or services, but they directed contributions to the California Community Foundation, which administers the LA Justice Fund. They connected attorneys to local organizations which coordinated immigration pro bono networks. Furthermore, the County engaged the American Academy of Pediatrics (AAP), which trains pediatricians to conduct trauma assessments and write medical reports necessary for children and parents' legal relief cases. The County, OIA, AAP, and legal services providers began organizing a November 2018 training summit to explore ways that doctors and lawyers can more closely collaborate to protect the rights of separated immigrant children and their families.

Los Angeles City and County drew upon existing services and partnerships to offer a range of assistance to both separated children and reunited families arriving in the county. Crucially, both City and County leaders recognized the urgency of providing immigration legal services to affected children and families and quickly expanded access to the LA Justice Fund.

3 San Antonio

An estimated 100 separated children were held in the City of San Antonio, but a lack of transparency about their needs led San Antonio officials to focus on local efforts that aided reunified families passing through the city. Under the leadership of Mayor Ron Nirenberg, City officials primarily worked with existing community partners and directed donations to support their response to the family separation crisis.



San Antonio Families Belong Together Rally in the Main Plaza in front of the San Fernando Cathedral - June 30, 2018

Photo: Tina Gallegos

San Antonio is a major transit point for individuals and families released from immigration detention in Texas. San Antonio is the closest major city to the South Texas Detention Center in Pearsall, TX and to two family detention centers: the South Texas Family Residential Center in Dilley, TX and the Karnes County Residential Center in Karnes City, TX. Upon release, many immigrants, including unaccompanied children and families, travel through San Antonio's airport and bus stations.

The uncertainty surrounding family separation made planning the City's response very difficult. No one knew how long the practice would last or how many children would arrive in San Antonio, but based on past experience, City officials were concerned. In both 2012 and 2014, the increase in unaccompanied minors held in ORR custody far exceeded ORR's capacity across South Texas, and the federal government had temporarily housed unaccompanied children at San Antonio's Lackland Air Force Base.³⁷

In 2018, the city's ORR capacity was not overwhelmed, but San Antonio officials still struggled to obtain information about separated children in their jurisdiction and ways that the City could assist them. City officials learned that unaccompanied minors were in the care of six local ORR-contracted providers, but the federal government was not forthcoming about the number of separated children. Officials contacted the providers directly, but only one would share the number of separated children in its care, and providers did not make specific requests for volunteers or donations.

City officials determined that they could best play a behind-the-scenes role, connecting volunteers and donations to other local organizations that assisted families after court-ordered reunifications. The City worked with Catholic Charities, Archdiocese of San Antonio, which helped to coordinate family reunifications and assist other families that had been reunited in other cities. Donations collected through the City government supported Catholic Charities in providing newly-reunited families with information, clothes, toys, food, and shelter as well as opportunities to call relatives in the United States and other countries.³⁸ The City also supported the Interfaith Welcome Coalition (IWC), a local volunteer network that since 2014 has aided immigrants traveling through San Antonio. The IWC provided information, food, and backpacks to immigrants at the city's bus station and airport.³⁹

In both cases, City representatives shared the organizations' needs with other groups and members of the public who wanted to help. For example, the City directed donations towards items that the organizations had specifically requested—such as phone cards—rather than large quantities of nonperishable foods that the organizations did not have sufficient space to store.

City of San Antonio officials worked to identify separated children's needs and ways that the City could meet them. When officials determined that the best means was to assist local organizations already working with families in transit, City representatives utilized their local partnerships to help address the needs.



Part 2:

Risks of institutional congregate care and best practices in immediate care and family reunification

As evidenced by the trauma prompted by the federal government's adoption of the "zero tolerance" policy and the resulting separation of immigrant families at the southwestern U.S. border, family separation is harmful to the well-being of children. From a child welfare perspective, it should only occur in exceptional cases, when remaining with the primary adult family caregiver poses a credible risk to the child. In these rare instances, responsible authorities must act in the best interests of children, wherever possible ensuring their placement in a family-based setting and working toward reunification as quickly as possible.

In light of the significant role played by non-government actors during the 2018 family separation crisis, it is important for policymakers and practitioners to have resources enabling a full understanding of the harms of detention and best practices for immediate care and reunification. The Lumos Foundation has extensive experience reunifying families and helping them manage the trauma of separation. Informed by Lumos' expertise at the international level, Part II of this report highlights the risks of institutional congregate care- placing children in large, institutional facilities- and provides an overview of the serious concerns that underscore the need to avoid family separation, and detention of children generally, outside of extraordinary circumstances. It then presents best practices drawn from Lumos' international expertise, as well as research from the international and U.S. contexts, addressing immediate care concerns of separated children and facilitating family reunification.

Institutional congregate care:

Institutional congregate care is defined here as any residential care facility where numbers of children are large or where an institutional culture pervades. In facilities with an institutional culture, children are isolated from the community; children and their families have insufficient influence over decisions that affect them; and the needs of the organization take precedence over the needs of the individual child. Federal custody settings for immigrant children in the United States may involve institutional congregate care, and family detention may be characterized by the features of institutional congregate care. Some forms of congregate care may be considered as a temporary solution for children for whom family reunification processes have been delayed and foster family placement is not appropriate. These congregate care settings should be small, with as family-like an atmosphere as possible, with suitably qualified, trained, and supported personnel.

Risks of institutional congregate care for the well-being of children

Caring for children in institutional settings, both with and without their parents, poses many risks to children's well-being. Given these risks, children should be placed in family-based care whenever possible and not held in immigration detention.

The apparent psychological harm to children and parents caused by family separation at the U.S.-Mexico border

has been well-publicized, with child development experts highlighting the increased risk of toxic stress for separated children and an array of potentially ensuing health problems in later life.⁴⁰ In keeping with 80 years of research on the harm of institutional congregate care,⁴¹

the American Academy of Pediatrics (AAP) has stressed that the placement of separated children in detention facilities, holding centers, and shelters compounds trauma experienced during separation and en route to the border.⁴²

Due to an absence of emotional and physical contact and insufficient interaction with a responsive caregiver, children in institutional congregate care settings face difficulties forming secure attachments essential to healthy development.⁴³ This inability of institutional environments to meet children's individual needs can lead to developmental delays and challenging behaviors.⁴⁴ Research by Harvard, Maryland, and Tulane universities found that young children raised in institutions had considerably under-developed brains compared with those in foster families.⁴⁵ Even short-term placements in institutional congregate care can irreparably damage a child's physical and mental health, with young children being most vulnerable.⁴⁶ Typically infants in federal custody are placed in family-based care, however, during the separation crisis some babies have reportedly been placed into institutional congregate care facilities, which is of particular concern.⁴⁷

Children in institutional congregate care are at a significantly higher risk of all forms of abuse than their peers in families.⁴⁸ The U.S. Department of State's 2018 Trafficking in Persons Report highlights links between institutional congregate care and trafficking, noting "the physical and psychological effects of staying in residential institutions" render children particularly vulnerable to traffickers⁴⁹ and stressing that removal of

children from families should be considered only as a temporary, last resort.⁵⁰ The targeting by traffickers of children in federally-funded shelters underscores the need to keep together immigrant families entering the United States.⁵¹

Children separated from their families at the U.S.-Mexico border included some with disabilities,⁵² for whom the potential harm of institutional congregate care may be even greater.⁵³ In general, children with disabilities require greater support than their peers to develop healthily. Institutional congregate care rarely meets their needs⁵⁴ and is much more likely to harm development and exacerbate existing impairments and health conditions.⁵⁵ Children with disabilities in institutional congregate care are more vulnerable than their peers to all forms of abuse.⁵⁶

Under the *Flores* settlement, immigrant children in federal custody must be held in child-appropriate settings.⁵⁷ However, problems such as understaffing and overcrowding have been reported to result in practices that control children rather than respond to their needs, e.g. the use of psychotropic drugs to control the behavior of children in detention facilities.⁵⁸

The harmful effects of institutional settings upon children's well-being also extend to family detention.

The American College of Physicians (ACP) has warned that detention of children alongside their primary adult caregivers will likely cause “considerable adverse harm” to the physical and mental health of detained children.⁵⁹

Alternatives to detention have been shown to be cheaper, effective at ensuring compliance, and less likely to cause trauma⁶⁰ and should be considered in all family immigration cases.

Addressing immediate care concerns

Child protection protocols

The family separation crisis has seen an increasing number of grassroots and civil society organizations mobilize to fill gaps in support for affected families. In light of the risks discussed in the previous section, it is critical that all organizations and individuals working with separated and unaccompanied children and their families are capable of recognizing symptoms of abuse. This is key to ensuring suspected abuse is properly reported and investigated and that children are provided appropriate support.

In the United States, each state is responsible for defining child abuse and neglect within their respective statutory codes. The federal Child Abuse Prevention and Treatment Act (CAPTA) defines child abuse and neglect as:

- "Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation"; or
- "An act or failure to act which presents an imminent risk of serious harm."⁶¹

Children separated from families and placed in institutional congregate care- even for short periods- may display signs of institutional abuse. Institutional abuse has been defined in academic literature as mistreatment by a regime or individuals within a care facility, including detention centers and shelters. This may range from isolated incidents to systematic ill-treatment.

The following features, inter alia, are indicative of institutional abuse: control-based regimes, restricting children's movement or ability to make basic choices; subjecting children to derogatory remarks or degrading treatment; delayed response to medical and personal care requests; unusual level of recurring illnesses; inappropriate restraint such as using physical restraints, isolation cells, or psychotropic medication; children

sharing bedrooms with others of different ages or genders; and children with disabilities being force-fed or eating lying down.

Outcomes and behaviors common amongst children subject to institutional abuse include, inter alia: delayed Early Brain Development (EBD) in infants; severe delayed physical, cognitive and emotional development; enuresis, sleep disorders, and nightmares; hoarding and gorging food; eating disorders; self-harming; aggression; difficulties forming relationship; and indiscriminate affection towards strangers.⁶²

Employees and volunteers of any organization working directly with vulnerable children must be trained by child welfare professionals on how to respond if a child discloses abuse or neglect to them. In general, individuals are recommended to do the following:

- Listen carefully and let the child set the pace.
- Once you have the information, do not ask the child to repeat it.
- Be honest and do not promise confidentiality, as it may be your duty to report abuse.⁶³
- Note down any injuries the child shows you.
- Reassure the child that they will be taken seriously; explain what will happen next.

Any person concerned that a child has suffered or is at risk of significant harm from abuse; has been told by a child that they have been or may be harmed; or is aware of an allegation of harm or serious risk, should report their concerns to child protective services office or law enforcement.⁶⁴ The individual must not conduct any investigative process to determine the veracity of allegations.⁶⁵ Mandatory reporting legislation varies between states but most designate professionals in regular contact with children as mandatory reporters.⁶⁶

Adequate medical care

Federal authorities provide immigrant children in their custody with health care services.⁶⁷ However, evidence from organizations working with children and families

that has been shared with Lumos suggests that adequate medical care has not been provided during the current crisis.⁶⁸ As a priority, children in federal custody should receive full medical examinations and be provided with necessary treatment. It is paramount that these services be delivered in a high-quality and timely manner.

In terms of medical needs after children are released, it is important to be aware that under current U.S. legislation,⁶⁹ all children have a right to emergency medical care, irrespective of immigration status. Some states provide free public health insurance.⁷⁰ Children may also need specialized nutrition or access to urgent care for conditions that have gone untreated in custody. Children with disabilities may require additional support from specialists including speech and language therapists, psychologists, or physiotherapists. If treatment has not been provided prior to reunification or placement in another setting, authorities should ensure appropriate and timely medical follow-up.

Considerations for cases involving children with disabilities in federal custody

Children with disabilities are at greater risk in institutional congregate care than their peers and should be prioritized by authorities in efforts to move children back into the care of their families or into other appropriate family-based settings.

To enable children with disabilities to develop and flourish within communities, authorities should seek to ensure the provision of:

- **Specialized medical assessments and care** – This care should be addressed as outlined in the above section.
- **Specialist foster families** – Specialist foster families must be experienced in caring for children with disabilities and children with challenging behaviors and may require additional remuneration to cover medical care, home adaptations, assistive technology, and other costs.

- **Inclusive education** – Children with disabilities should be provided with additional supports and individual education plans (IEPs) on an equal basis with American children.

Children with disabilities also require additional preparation before reunification with their families or moves into other care placements.

Placement in a family-based setting to prevent further trauma and harm to development

Placement in institutional congregate care can severely hamper a child's physical and cognitive development, exposing them to a much higher risk of abuse. For example, a 2002 study found that young children in congregate care in the United States had poorer cognitive, social, and emotional outcomes than their peers in foster families.⁷¹ Even short-term placements in detention centers and shelters can irreparably harm a child, compounding trauma experienced during family separation, en route to the border, or in countries of origin.

Unlike institutional congregate care, family-based settings can provide immigrant children greater opportunities to acclimate to life in the United States, such as, in some cases, enrollment in local schools, which helps provide a routine from which children may benefit in recovering from trauma, as discussed further below.

Research demonstrates institutional congregate care placements cost three to five times the amount of family-based placements.⁷² Therefore, in addition to immediate benefits to children, family-based care may create savings for the federal government.

It is imperative that immigrant families are kept together and children are not subject to immigration detention unless there are exceptional circumstances. Authorities should endeavor to ensure all children awaiting reunification with families or sponsors- or those arriving unaccompanied- are placed in high-quality family-based settings rather than institutional congregate care. Authorities should seek to reduce the capacity of existing large congregate care facilities and move towards family-based care for unaccompanied and separated children. Authorities should also strive to increase the number of registered and trained foster families to ensure that future responses to unaccompanied children in crises are predominantly family-based.

The role of schooling in providing normalcy and routine

Inclusion in a local school offers separated and unaccompanied children a degree of routine and normalcy essential to recovering from trauma. Proper schooling also provides mental stimulation, opportunities for play and creativity, and positive individual attention from adult caregivers, which are necessary for healthy development. Furthermore, research highlights the efficacy of school-based mental health services in helping children recover from trauma.⁷³

Under the *Flores* settlement, federally contracted facilities must conduct educational assessments of unaccompanied children within 72 hours of admission and provide appropriate educational services.⁷⁴ But recent reports of underqualified teachers and poor resources suggest not all facilities meet this requirement.⁷⁵ States and local authorities are legally required to provide all children equal access to elementary and secondary public education, regardless of immigration status.⁷⁶

Facilitating family reunification

When the federal government instituted the “zero tolerance” policy in May 2018, it did not have a plan to reunify families. The capacity of federally contracted service providers was quickly overwhelmed. Non-governmental actors stepped in to help reunify families, and Lumos worked closely with a number of these organizations across the United States. Lumos observed that, in such extraordinary circumstances, organizations could benefit from information about best practices for family reunification. The recommendations below are based on Lumos’ international expertise for facilitating family reunification, as well as drawing from best practices from the United States. Some tasks included here should only be undertaken by trained professionals.

Access to legal services for children and families

Unlike defendants in criminal cases, individuals in immigration cases such as those facing removal or seeking asylum are not legally entitled to free legal assistance. ORR contracts with the Vera Institute for Justice to support a national network of legal organizations offering free legal advice and assistance to children in immigration cases,⁷⁷ but representation is not guaranteed.

Unaccompanied and separated children and their families, however, often require legal assistance that includes full legal representation in court or other proceedings. During the separation crisis, as evidenced in Part I of this report, city authorities took measures to ensure families and children received legal assistance. In addition, many grassroots organizations and legal firms posted bond for parents and provided legal representation. Despite this, children and families encountered gaps in support, as evidenced by cases of separated children appearing alone in court.⁷⁸

Separated and unaccompanied children- many suffering from trauma and facing language barriers- cannot represent themselves. All children in immigration cases- separated, unaccompanied, or with their families- should receive free legal representation.

Coordinated, interagency planning for children

ORR typically develops individual care plans for immigrant children moving into family care. However, reports from civil society suggest this has been inconsistent during the separation crisis.⁷⁹

Care plans require input from all stakeholders with a responsibility to the child, including, for example: the child (dependent on age); the child’s family or sponsor(s); assigned child advocates; the child’s attorney; representatives from service providers; the local Child Protective Services agency, and ORR. Each child should be assigned a dedicated point person to coordinate different agencies’ inputs, ensure services are delivered, and regularly review the plan to meet children’s evolving needs.

Family tracing methodology

Family reunification may be delayed, especially in cases where parents or primary caregivers have been deported. However, family tracing- the process of locating family members and/or potential caregivers for a child- is important to restore communication between the child and family. If parents are not found, other relatives who could provide support might be traced. During the separation crisis, grassroots organizations, legal non-profits, and other groups have supported tracing efforts. For their awareness, an introductory summary of best practice, including aspects for which government authorities are ultimately responsible, is provided here.⁸⁰



Authorities must establish the identity of separated and unaccompanied children in their custody as quickly as possible and produce accompanying documentation. Identity can be verified through examining existing documents and possessions and by having a trained bilingual social worker sensitively interview the child and others who could provide relevant information. Children might also disclose identifying information outside interviews. Tracing should be explained to children and progress updates should be provided. All tracing must be informed by rigorous child protection and risk assessment practices. In this regard, documentation or photographs must be securely stored.

Federal agencies must actively engage in tracing and prioritize searching for the families of very young children; agencies responsible for immigrant children and adults respectively must collaborate effectively. Data must be securely stored in a centralized database to allow cross referencing and to ensure new information can be shared rapidly. Community groups can be of assistance in tracing.

Where there is doubt around an individual's identity, there are various means of verification. These include, inter alia, asking the presumed family member to: produce documentation corroborating their relationship to the child (embassies may also be able to assist); provide detailed information about the child's physical appearance and personality; or identify a child from a line-up of photographs. In some cases- young children, those with communication difficulties, or children who have been separated for long periods- there is no identifying or corroborating data other than the word of the presumed family member. In cases where, as a last resort, DNA testing is considered, it should only be pursued with appropriate confidentiality and consent measures.

Tracing can be challenging, especially when families have been deported. But all children have the right, where possible, to be reunited, so resources should be allocated to tracing family abroad.

Social work methods to prepare children and parents for reunification

Moves from federal custody to families can be confusing and re-traumatizing for children. Without proper preparation, children are likely to display difficult behaviors. The longer the separation, the more challenging reunification becomes. Young children or those with intellectual disabilities may not recognize family members. Some children feel abandoned or angry. Parents can be distressed by perceived abnormal behaviors on the part of children and may not know how to respond.

Lack of adequate preparation for reunification significantly increases the risk of compound trauma and future family breakdown. Risks are significantly reduced by careful preparation of children. ORR has extensive protocols for preparing and reunifying unaccompanied children with families or sponsors.⁸¹ However, anecdotal evidence from non-governmental actors suggests these procedures have not uniformly been followed during the separation crisis when services have been stretched.⁸² Below is a summary of best practice methods that should be followed to prepare children and parents for reunification:

- **Preparation programs help children adjust to their new home.** Preparation programs help the child readjust to life with their parents or family members, or build a relationship with new foster families; say goodbye to friends and caregivers in the placement they are leaving; express their wishes and feelings; and recover from trauma and build self-esteem.
- **Length of a preparation program.** This varies from child to child, but babies and young children require shorter, more intensive programs; older children require longer programs. Children with disabilities separated for a long period may require an even longer program and specialist therapeutic intervention.
- **Planning.** Shorter periods of separation reduce requirements for preparation. For children separated months or years, planning should begin as soon as



the child's family or sponsors have been traced, or a foster family has been identified. Children who are old enough and wish to attend should be invited to planning meetings, along with parents, family members, sponsors, or foster families. Children should be informed about the move in a manner appropriate to their age and communication needs.

- **Preparing children.** Every child separated for longer than a matter of days needs to become reacquainted with their family, at their pace, in a safe environment. Children need individualized support to understand what will happen and opportunities to express worries and ask questions. Calendars on which children cross off the days until they move and games that rehearse moving placement can help. Children also need to acclimate to their new family home, school, and surrounding area. Transitional objects- toys or favorite books- can reassure children moving to families. For

young children and those with severe disabilities, familiar sensory experiences (music, smells, textures) help them feel safe and secure in their new home. For children who have been separated for some time, life-story books or memory boxes can help make sense of what happened and why they were separated. Understanding the past helps children accept and accommodate the change to come.

- **Preparing parents and families.** Parents separated from their children have experienced trauma and need support during reunification. They should be enabled to communicate with their children as soon as possible and should be involved in all decisions regarding their children's care. If visits are unfeasible, phone calls, video calls, and exchange of photographs are beneficial. Parents should be prepared so they know how to respond if children exhibit challenging behaviors or signs of trauma, or do not recognize their

family. Parents should be advised on controlling their own emotions and reassuring their children. They should also be provided information regarding post-reunification support services.

- **Saying goodbye.** Children separated for longer periods often fear the next step. Saying goodbye matters. Memories, photographs, and friends' contact details should be collected and travel with them. Children should be encouraged to take all their belongings, including things they made. Seemingly unimportant items may have emotional significance. Children's choices of what to take with them should be respected.
- **Monitoring and support.** Once the child has been reunited or has moved into a transitional foster family, a social worker should check how the child is settling in. Monitoring should ensure the child is being well-treated by their family and is accessing necessary services, such as education and health care.⁸³

Complex cross-border reunification

Most of the children who were separated during the recent crisis and have still not been reunited have parents who have already been deported. Though there may not be generalizable answers to where reunification should take place for each child, it is helpful to be aware of the increased complexity of cross-border reunification. While working across borders increases the challenge of reunification, it does not make it impossible. Similar processes as those outlined above apply, but they are complicated by distance and legal jurisdiction. Key aspects include: the US organization working with children should identify a suitably qualified partner organization in children's countries of origin to undertake family tracing and assessment and post-reunification monitoring; children may need additional preparation for a long, daunting journey; and transferring the child home may involve time-consuming and costly complications such as obtaining passports or travel authorizations.

Supporting children after reunification

Family separation inflicts significant and potentially long-lasting trauma on children, which is not always resolved by reunification. Longer periods of separation and placement in institutional congregate care can exacerbate trauma, making reunification more challenging.⁸⁴

If not properly addressed, trauma can hamper the reunification process, increasing risk of future family breakdown. Organizations supporting affected families should be aware of the methods available to parents or sponsors to support children's recovery. These include:

- **Maintaining routines and creating familiarity.** Ensuring family routines are consistent wherever possible helps reassure children, creating a sense of security. Inclusion in a local school- with its concomitant routine, opportunities for learning and play and development of friendships- provides normalcy for the child. Bringing children their favorite toys, singing familiar lullabies, and preparing favorite foods can also help children feel safe. For children with disabilities or communication difficulties, other sensory approaches may help, such as a favorite blanket or something that smells like home.
- **Managing self-response.** Children look for reassurance when faced with crisis. Their reactions are heavily influenced by their parent's response, who should therefore endeavor to control their emotions in times of adversity and focus upon comforting the child.
- **Communicating clearly.** Parents and caregivers should listen and talk clearly to children about what they have experienced while reassuring them that they are safe and loved.
- **Managing new behaviors.** Children traumatized by separation and time spent in institutional congregate care may exhibit new behaviors such as outbursts of anger, lying, stealing, bed wetting, sleep disorders, eating disorders, hoarding and gorging on food, self-harming, or withdrawal. These behaviors should not be dealt with through punishment. Instead, children need love and reassurance to rebuild attachments to parents or caregivers.
- **Accessing mental health services.** Mental health professionals can offer individualized strategies for supporting children's recovery.⁸⁵
- **Recognizing and reporting signs of child abuse in custody.** Children may have experienced abuse or neglect while separated. Accordingly, families should be sensitively advised of the symptoms of abuse, and be provided information on how to respond to children, report abuse, and access support services.

Organizations and other actors supporting affected families can reference the above guidelines in understanding best practices for the reunification of families and post-reunification support for children.

Concluding remarks

As the federal government considers policy changes that would enable the expanded detention of immigrant children and families, it is essential that policymakers and practitioners understand the harms of child detention and best practices for supporting the immediate care of separated children and the reunification of families. Alongside key partners, local governments across the United States will continue supporting immigrant families in their communities.

LAS FAMILIAS
MERECEMOS
ESTAR UNIDAS

**NYC Families Belong
Together Rally –
30 June, 2018**

Photo: Ed Reed,
NYC Mayoral Office

FAMILIAS

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