

# Social Justice Brief

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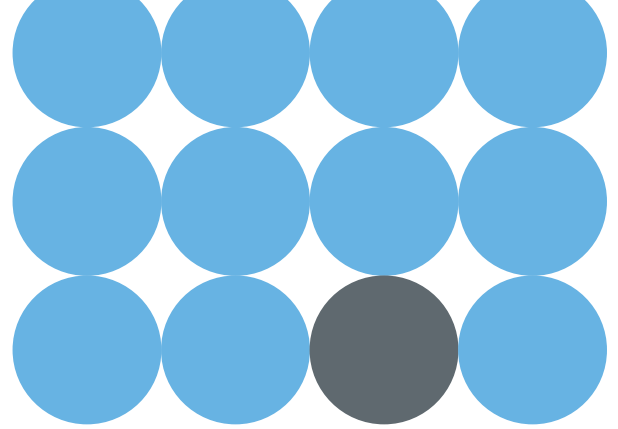
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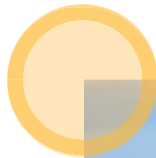
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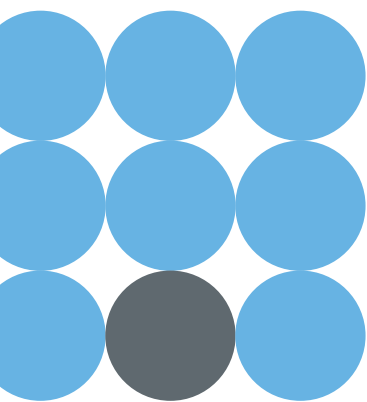


## Migrant and Asylum-Seeking Families: Analysis of Federal Government Policies and Procedures



The primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty.





# Migrant and Asylum-Seeking Families:

## Analysis of Federal Government Policies and Procedures

National policies on responding to families and unaccompanied minors, particularly those entering at the Mexico-U.S. border, recently took a sharp turn as the Trump administration implemented the so-called zero-tolerance policy. This policy - when coupled with family separation policies—has blurred the lines between how families and children are traditionally processed when they cross the border. As we know by now, the results have been that these unclear and rushed procedures have contributed to potentially life-long harm to both parents and children who are entangled in this morass.

### UNACCOMPANIED ALIEN CHILDREN (UAC) APPREHENSIONS BY COUNTRY

COUNTRY	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FYTD 2018
El Salvador	5,990	16,404	9,389	17,512	9,143	2,690
Guatemala	8,068	17,057	13,589	18,913	14,827	16,480
Honduras	6,747	18,244	5,409	10,468	7,784	6,350
Mexico	17,240	15,634	11,012	11,926	8,877	6,690

Source: [www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions](http://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions)

This **NASW social justice brief** is intended to present a comprehensive analysis of the complexities of that human rights crisis and the challenges that it poses related to

- » “ground-level” systems of adult and child detention procedures;
- » the conditions of detention;
- » social work involvement in both adult detention and child-welfare policies and service delivery;

- » legal due process protections for affected families and minors;
- » scope and capacities of family detention facilities; and
- » challenges related to child welfare, foster care, and family reunification.

The brief includes recommendations for policy reforms, best practices for justice, and comprehensive approaches to

addressing the psychosocial needs of immigrant children families.

## Background

*Migrant asylum-seeking families and unaccompanied migrant children have been crossing the Mexico-U.S. border for many years. The chart shows a statistical picture of the persistent movement of children to the United States by their country of origin. The trek for most of the children—and asylum-seeking families—can be close to 2,000 miles. It is well documented that children and their parents make such a perilous journey due to the violent and terrible economic conditions in their country of origin. Once at the border, the families (or unaccompanied children) can either declare themselves as asylum-seeking families or unaccompanied migrant children or illegally cross into the United States and face a minor misdemeanor charge under federal law.*

Either scenario places their case within the jurisdiction of the U.S. Department of Homeland Security (DHS), and their first contact in the United States will be an official from that agency. U.S. Customs and Border Protection, the largest federal law enforcement agency within the DHS, is responsible for processing asylum seekers and unaccompanied children. The second official contact for asylum-seeking adults is DHS's United States Citizenship and Immigration Services Bureau (USCIS).

Prior to the Trump administration's zero-tolerance and family separation policies, the government agencies managed the unaccompanied migrant children and asylum seeker processes with bureaucratic efficiencies, although there were flaws in the

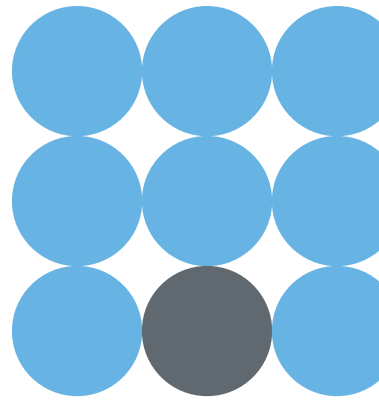
system. However, the announcement of zero tolerance by Attorney General Sessions not only exacerbated the deficiencies in our current system, but also created a policy and human rights crisis.

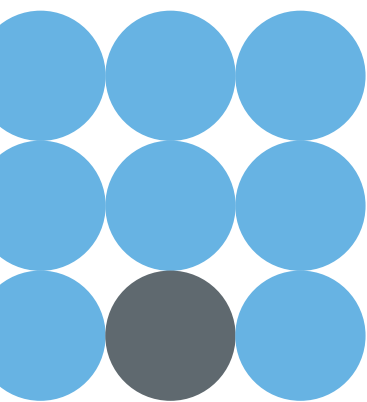
## Far-Reaching Anti-Immigration Policies That Prolong Family Separation

Zero-tolerance and family separation immigration policies did not emerge from a vacuum. As early as March of 2017, it was becoming clear that DHS had internal discussions about formulating and implementing a policy of separating children from their parents at the border. At the time, the Trump administration's stated goal was to deter mothers from making the arduous journey with their children from Central America to the U.S. border.

The architects of the family separation policy did not move to actualize it until later. Between July and October 2017 the Trump administration initiated a zero-tolerance "pilot program" in El Paso, Texas. During that period, court records and interviews with migrants reveal that federal prosecutors were aggressive in criminally charging any adult who entered the United States without documentation. What was significant about the pilot program was that migrant parents with young children were not exempt from being charged. The administration was able to simultaneously test its zero-tolerance and family separation strategies.

The Trump administration saw its crackdown as a deterrent that would reduce the number of undocumented people—especially families—coming to the United States. However,





data reported by DHS in July 2018 suggest that the zero-tolerance policy has had little effect. The data show that, from May to June, the number of arrested by the U.S. Border Patrol dipped a meager 0.4 percent. Ironically, some of that drop can be attributed to normal reductions of crossings due to increased temperature in the Southwest during that period.

More recently, the Trump administration made a series of policy and procedural changes that affirmed its parent-child separation intent. For example, in June of 2018, DHS officials began requiring that asylum-seeking parents sign a form that gave them a two-option ultimatum: (1) voluntarily leave the United States with their children or (2) be deported, leaving their children behind. There are indications that the form is even being given to asylum seekers who have passed a credible fear test hearings before an immigration judge. DHS has further exacerbated the already confusing and ill-planned family separation crisis by implementing the Trump administration's policy of intentionally denying bond to some parents who have been separated from their children. These parents are eligible to apply for asylum. Under this policy, parent-child separation is further and unnecessarily extended. The administration has taken these steps in spite of the fact that on June 2 through 6, 2018, a federal judge ordered the Trump administration to take immediate steps to reunify separated families. Migrants who are denied bail have a right to appeal. However, the appeal process is lengthy.

It is noteworthy that the U.S. Department of Justice (DOJ) increased the number of immigration judges in anticipation of an influx of immigration cases. DOJ also pressured judges to expedite deportation cases to such

a degree that in August 2018, immigration judges complained that DOJ is undermining their independence by reassigning cases to maximize deportations. In fact, the National Association of Immigration Judges (NAIJ) filed a labor grievance against the DOJ after Attorney General Sessions overrode an immigration judge's decision and removed dozens of cases from the judge's caseload.

After a person passes a credible fear interview, U.S. Immigration and Customs Enforcement (ICE) deportation officers will make a bond determination. This is what the individual must pay to be released from detention while his or her case is being adjudicated. On average, immigration bonds are close to \$1,500. Though the asylum seeker's bond money is reimbursed after their case is resolved, many cannot afford to pay bail. As a result, the parent faces a double barrier to being released as they await their hearing. The parent is either being denied bail or is unable to afford bail. Needless to say, few parents post bail.

Perhaps one of the more insidious "under the radar" policy changes that affects asylum-seeking adults attempting to become financially viable while awaiting adjudication is the rescinding of an Obama-era employment guidance by Attorney General Sessions in June of 2018. The 2011 guidance, issued by the Office of Special Counsel for Immigration Unfair Employment Practices, ensured asylum seekers were *authorized to work indefinitely and could obtain Social Security cards "without employment restrictions."* Sessions deemed working rights protections to be "unnecessary, outdated, inconsistent with existing law," and had been imposed without congressional approval.

Collectively, anti-immigrant policies implemented by the Trump administration have produced almost insurmountable barriers for migrants and asylum-seeking parents. It is likely that the executive actions are tied to a comprehensive zero-tolerance initiative. Ultimately, they create conditions that will ensure that an increasing number of separated children will be placed in an Office of Refugee Resettlement (ORR) facility. This will also make family reunification far more difficult and increase the amount of additional trauma the children and families experience.

## Asylum Protections

**Asylum seekers** fit into a special category which is defined as a protection granted to foreign nationals already in the United States or at the border who meet the international law definition of a “refugee.” The United Nations 1951 Convention and 1967 Protocol define a refugee as a person who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future “on account of race, religion, nationality, membership in a particular social group, or political opinion.” Congress incorporated this definition into U.S. immigration law in the Refugee Act of 1980.

Because the United States signed the 1967 Protocol -and through U.S. immigration law- it has a presumed legal obligations to provide protection to those who qualify as refugees. The Refugee Act established two paths to obtain refugee status—either from abroad as a resettled refugee or in the United States as an asylum seeker.

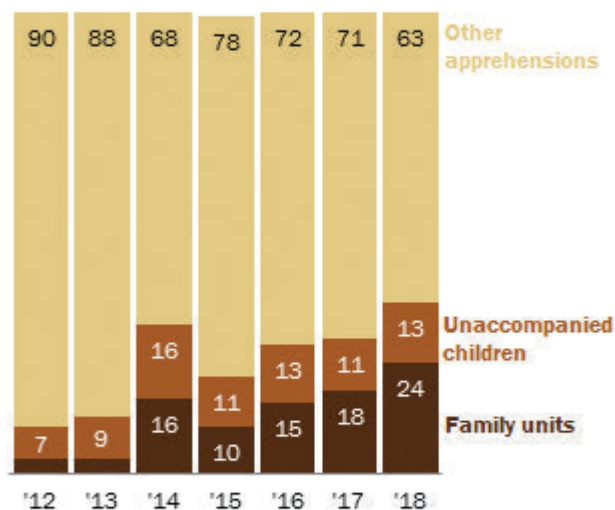
## Impact of Trump Administration Policies on Adults and Children

### Migrant Family Detention

To begin with, it’s important to clarify that in this brief we will not be focusing on unaccompanied migrant children, but rather on children who are part of a detained family unit. Since the implementation of zero-tolerance, the distinction between these two groups has been blurred, and DHS has been combining these two separate groups into one.

### Family units make up an increasing share of U.S. border apprehensions

*% of apprehensions at the Southwest border from January to June, by type*

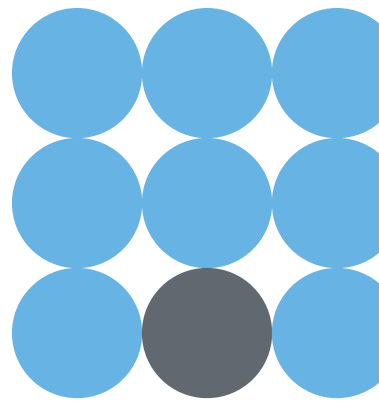


Source: U.S. Customs and Border Protection.

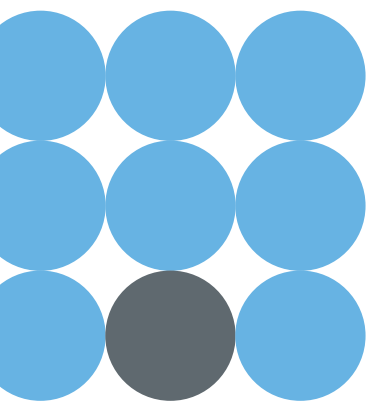
Note: Figures may not sum to 100 due to rounding.

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There were nearly 49,000 adults and children within family units apprehended at the U.S.-Mexico border between January and June of 2018. According to U.S. Customs and Border Protection data, this is over twice the number of family apprehensions as compared with those of the previous year.







During May 2018—the first month when the zero-tolerance and family separation policies were fully implemented—border agents apprehended 9,485 family members at the Southwest border. Though there was an increase as compared to apprehensions in May 2017, it is fewer people than in the same period of 2014 (12,772 apprehensions). The increase that began in 2013 was an immigration spike due to increases in border crossings among Central American children. The administration’s zero-tolerance policy resulted in a total of 2,342 children being separated from families between May 5 and June 9 of 2018. Close to 2,000 adults from those families were referred for prosecution. However, analyses of DHS records suggest that more than 4,100 children have been separated since October 2016.

The merging of children categorized as unaccompanied minors with those removed from families seeking asylum has generated a significant rule change—one also designed to deter asylum seeking families—that clearly blended these two different groups to frighten and therefore discourage families with legitimate claims from seeking solace and support in the United States. This change ensures that DHS will process children of asylum-seeking parents through different paths from their parents. The parents will go through the criminal justice system; the children go through the ORR’s child-welfare system. Perhaps reflecting the obvious scrutiny that the administration has received about early childhood trauma from family separation, HHS designated three facilities as tender age centers (a *tender age child* is defined as any child under the age of 13).

As a result, the 572 children separated from their parents—and yet to be reunited—will be lumped in with the 30,000 unaccompanied migrant children referred to ORR thus far in 2018. The immediate concern is that ORR’s child placement centers lack needed capacity and oversight as they face pressure to place these children.

### Children Required to Appear at Immigration Hearings Alone

When asylum-seeking children are labeled as unaccompanied migrants, this status forces them to go before an immigration court to determine if they qualify for refugee status without their parents present. Procedures for processing asylum and immigration petitions have on occasion reached the point of absurdity. There have been reports of children as young as three years old being made to appear alone in immigration court for deportation hearings. Although having unaccompanied minors go through deportation hearings without a parent or guardian is not new, since the administration’s family separation policy an increased number of preteen children—including toddlers—are being required to appear alone, exposing them to further trauma.

Some of the children recently separated from their parents could likely be asked to endure court proceedings—which they often cannot possibly comprehend or understand if they do not speak English—even as they emotionally struggle with the ongoing trauma of being taken from their parents. Prior to the zero-tolerance policy, parents were usually taken to immigration court along with their young children. During those hearings, the parent, *not the child*, was asked to explain the

circumstances that led the family to seek asylum in the United States.

We should be reminded that the children's health is predicated on a foundational relationship with a caring adult—especially a parent. When children are separated from their parents, their stress hormones respond with intensity, which can lead to developmental delays. Children develop speech slower, their motor skills don't come along as quickly as they should, and they start to have difficulty forming proper attachments with other human beings.

As pointed out by the head of the American Academy of Pediatrics, the presence of a social worker isn't enough to mitigate those effects. The younger the child—and the longer they are in this stressful situation—the more challenging it is to reverse the damage. Early traumatic experiences can have lifelong consequences, often leading to learning disabilities, high risk for drug and alcohol abuse, and potentially even higher risk of heart disease or cancer when they become adults.

## Trump Rescinds Family Separation Policy, But Keeps the Zero-Tolerance Policy in Place

In June 2018, under pressure from family and child advocates, Trump signed an executive order rescinding his family separation immigration policy. However, in announcing the change in family separations, the President "doubled down" on his zero-tolerance policy. By doing so, he made an already murky situation cloudier. The truth is that his new executive order ending the family separation policy did not resolve the problem of

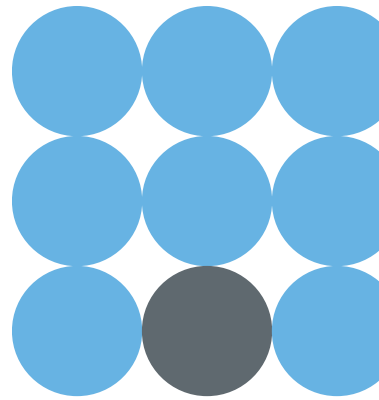
reunifying the 3,000 children who at that time were already separated.

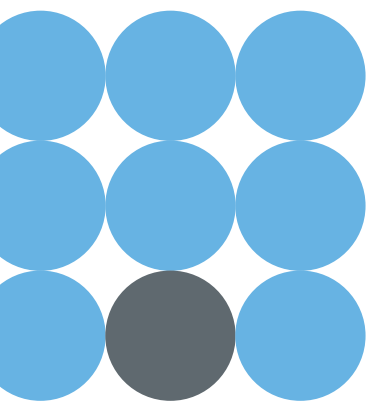
## Family Has Long Been Plan A: Flores Agreement's Role in Preventing Its Implementation

A policy of prolonged family detention is not without legal challenges. The Flores settlement—the court ruling that prevented children from being kept in immigration detention with their parents for more than 20 days—has been a standard for over 20 years. However, in spite of Flores, Attorney General Sessions announced that the government had begun detaining families throughout the completion of the adjudication of their immigration cases. That duration could easily mean months of detention (or longer) for some asylum seekers. In fact, well before Sessions' announcement, President Trump had argued that he should have the power to detain migrant families who cross the U.S.-Mexico border together.

The administration sought to modify the Flores settlement agreement to allow for the detention of children beyond 20 days. However, in July 2018, a federal judge in California pointedly rejected the administration's request. The U.S. District Court judge stated the administration's request was "wholly without merit." She found that "nothing prevents the government from reconsidering their current policy of family detention and reinstating prosecutorial discretion."

The challenges to family separation continue. For instance, in the summer of 2018, the American Civil Liberties Union filed a federal lawsuit (Ms. L v. ICE case) seeking to reunite





an asylum-seeking mother and her 7-year-old daughter fleeing violence in the Democratic Republic of Congo. Upon entering the United States, the mother and child were forcibly separated and placed apart in detention centers over 2,000 miles apart. As a result of the suit, a federal judge temporarily blocked the Trump administration from deporting parents and children that it forcibly separated. The Judge also temporarily put a hold on all family separation deportations until further briefing

### Jail-Like Conditions in Family Detention Facilities

One of the most problematic aspects of family detention policies under zero-tolerance is that families are placed in settings identical to jails. In a family detention model, the entire family is part of a criminal case. Therefore, their detention is incarceration and they are not free to leave unless they are granted bail. In the facilities currently used for long-term family detention conditions and restrictions exist for parents and children similar to jails. For example, in Berks County, Pennsylvania, bright lights reportedly keep children from sleeping well, and they can be disciplined if they try to climb into a parent's bed for comfort.

### Alternatives to Family Detention

These conditions are not necessary, as there are alternatives to family detention. Significantly, national law enforcement leaders have taken a lead on making this point. In June of 2018, over 50 high-ranking members of the Law Enforcement Immigration Task Force signed on to a letter to congressional leadership, asking them to consider evidence-based alternatives to family detention that also ensure families attend immigration hearings and keep required related appointments.

Some of the alternatives include regulated and mandated check-ins with law enforcement, communication with authorities by telephone, linking families to community-based psychosocial services, or electronic monitoring of some individuals.

Studies show that asylum seekers are very compliant in appearing for their immigration court hearings, with around 90 percent of children attending immigration proceedings when a lawyer is present. The Family Case Management pilot program was a proven alternative to detention, yet it was terminated last year by the Trump administration. The program was highly successful with the families present for hearings over 99 percent of the time. As stated by many law enforcement officials, immigrant families are not threats to national security. Furthermore, there is a consensus that incarcerating asylum-seeking families does not make our communities safer.

Until recently, there was an effort to divert families from detention. As previously mentioned, the Family Case Management Program was a promising program that served 1,600 individuals between 2015, when it was introduced by the DHS, and 2017. Instead of keeping children in detention centers with their parents, families in certain cities were released and monitored by social workers, who helped them find lawyers, housing, and transportation, and made sure they attended their court hearings. The program was designed to have social workers assume community supervision duties until the immigration court decided the fate of the family.

Using alternatives to family detention saves taxpayer dollars and creates opportunities to



reinvest detention budgets to more productive programs. In fiscal 2018, it cost ICE over \$200 per day to keep a family in detention; detaining a person in a specialized family detention is more than \$300. Alternatives to detention cost only around \$5 or \$6 per person. Perhaps more important, alternative programs do not result in detaining very small children, taking children away from their parents, or implementing policies that violate basic American values.

### Reunification: Overburdened Child-Welfare Centers

The highest priority for children who have already been separated from their families and are in the custody of ORR is reunification. This also appears to be the most difficult challenge. Because zero-tolerance and family separation were so poorly planned, there seems to be little or no interagency coordination between DHS and HHS. The plan of identifying all children using the names of their parents and the country of origin as the primary identifiers is fraught with challenges. Incredibly, when Trump rescinded his family separation policy, it was clear that HHS was struggling to even begin to reunify over 3,000 children with their parents.

### Recognizing the Needs of Detained Parents

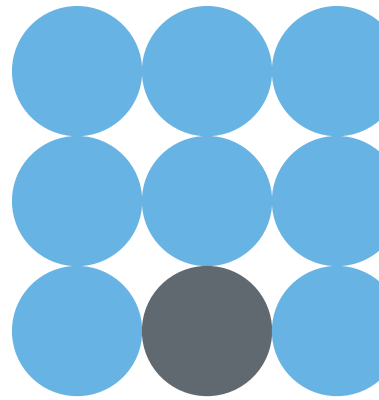
Understandably, there has been much anger and outrage about the aggressively anti-immigrant policies are directed at the plight of children. However, we must not overlook the vulnerable adults in this drama. During the first 15 months of the Trump administration, nearly 100,000 immigrants were apprehended at the U.S.-Mexico border.

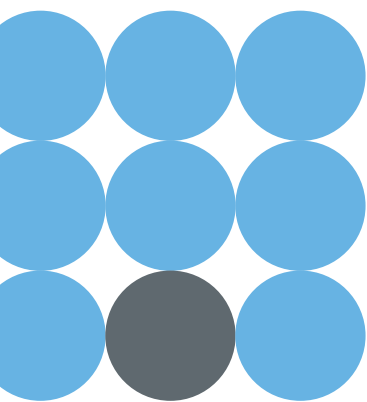
Over one-third of that total, more than 37,500, were unaccompanied minors and most of the rest were the 61,000 members of family units. We know that the children were initially placed in an ICE family shelter. After 48 hours, the children who entered the country with a family could stay with their parents while the parent(s) awaited the outcome of their request for asylum. This was euphemistically referred to as catch and release. However, zero-tolerance changed all of that.

Once the administration decided to place an emphasis on criminalizing immigrant border crossings by asylum-seeking families and undocumented individuals, DHS and DOJ developed plans for resulting increases in detentions. Correspondingly, the administration planned for increased incarcerations and adjudications in immigration courts.

From the beginning, the administration anticipated the need for more detention beds for adults. During FY 2017, the daily population in ICE detention facilities was around 38,000. Tellingly, President Trump's FY 2018 budget's detention beds plan included request for \$1.5 billion to significantly expand detention capacity at the border and in the interior to 51,379 detention beds. Under the current "detention bed mandate," the government is required to fill a minimum of 34,000 beds in immigrant detention centers per night. The budget also proposes \$177 million for the Alternatives to Detention Program and \$485 million for transportation costs.

As early as February 2017, Attorney General Sessions reversed an Obama decision that had ended government contracts with private prison corporations. The move was a





precursor to implementing a zero-tolerance policy. Private prisons had the ability to accept detainees on short notice and had existing unused capacity. Moreover, private prison companies had experience in housing detained undocumented immigrants, and ICE has already been relying on them to absorb increased detentions during the Obama administration. Given the administration's public commitment to increase immigrant detentions, Attorney General Sessions took steps to ensure the resource of private prisons was available for use.

## Human Rights and Injustice Aspects of Immigration Detention

### Due Process

It is not uncommon for asylum-seeking migrants—including parents traveling with their children—to be held in detention for many months, while their asylum cases are being adjudicated. One of the reasons for these prolonged incarcerations is the high rate of denial of parole by DHS officials. In response to this problem, a class action lawsuit was filed to challenge denials of parole that cause thousands of asylum seekers to be held in detention.

While a recent Supreme Court decision held that the government is not obligated to guarantee detention hearings for asylum seekers detained for a long period of time, release on parole continues to be a right for detainees. The government affirmed in court oral arguments that, as policy, it grants paroles to arriving asylum seekers who meet the credible fear test, as well as flight risk and dangerousness criteria.

However, since the beginning of 2017, ICE appears to have disregarded DHS written policy on parole. In as many as five ICE districts, an average of 96 percent of arriving asylum seekers were denied parole.

Advocates have determined through Freedom of Information documents that many of those who were denied parole demonstrated that they met the criteria for eligibility for being release on parole.

### Lack of Access to Legal Services

The increase in arrest and detention of asylum seekers has led human rights advocates, including social workers, to voice concerns that the detained parents do not have a constitutional right to government-funded legal counsel. Because nearly all migrants are low-income, they cannot afford to hire an attorney. They are often unrepresented in legal proceedings or dependent on pro bono attorneys, if available. Retaining a lawyer can make the difference for incarcerated asylum seekers:

- » Nationally, only 14 percent of imprisoned immigrants are represented in deportation proceedings.
- » If an immigration detainee has counsel, he or she is over 10 times as likely to avoid deportation.
- » Immigrants incarcerated in detention facilities are seven times as likely to be granted bond if they have an attorney.
- » ICE detention centers are often located in remote areas. This is a significant barrier to getting pro bono lawyers.
- » Prison conditions are impediments to access and communications with an attorney.
  - » In one large detention center in Texas, there are only three attorney-visitation rooms for nearly 1,900 detainees.

- › Attorneys are frequently subjected to waits of longer than an hour—and sometimes two or three hours—to see their clients.
- › The visitation rooms do not have telephones, and attorneys are prohibited from bringing their own telephone.
- › There is often no way to call interpreters.

The significance of addressing this compromised due process and limited access to legal counsel for asylum seekers is seen through the U.S. government action. Under “zero-tolerance” it has reinforced its prosecutorial capacity. In May 2017, DOJ announced hiring 35 new assistant U.S. attorneys, all of whom will be assigned to the Southwest border. In addition, DOJ has assigned 18 supervisory immigration judges to hear immigration cases near the Southeast border.

The DOJ’s increase in its adjudication staff is based on data from DHS showing a 203 percent increase in the number of people apprehended at the border or who arrived at ports of entry without entry documents between March 2017 and March 2018. The disparity between asylum seekers’ access to adequate counsel to plead their cases, and the government’s capacity to adjudicate their cases, is very apparent.

### Private Prisons Are Benefiting from Trump’s Hardline Immigration Policies

As previously mentioned, in February 2017 the Trump administration rescinded an Obama-era directive to end all DOJ contracts with private prison corporations. That decision, primarily pushed by the newly appointed Attorney General Sessions, prompted suspicion about hidden political motives.

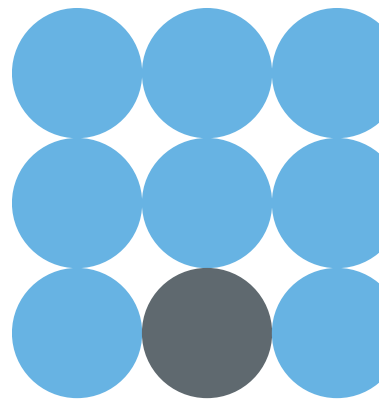
It was not lost on some that one of the largest private prison corporations had donated a significant amount of money to a Trump super Political Action Committee (PAC). The financial support became even more curious when almost immediately after of the Obama administration announced it was phasing out all private prison contracts the GEO Group made a \$100,000 contribution to the Trump campaign.

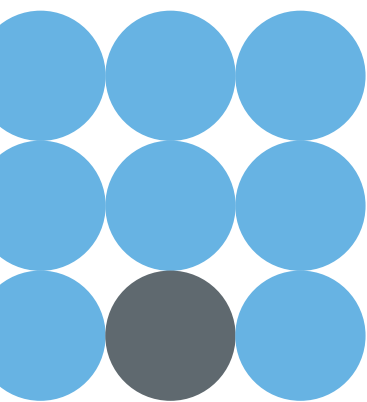
At the time, a government reform organization, the Campaign Legal Center, stated, “There’s a direct connection between GEO Group’s contributions and a policy goal that would directly benefit its bottom line.” Now, many months into the Trump presidency, the private prison industry is as strong as ever—and with the administration’s anti-immigrant policies, the industry is poised to greatly increase its revenues from government contracts.

What draws more scrutiny is that currently more than 70% of those detained by the DHS are held in privately owned facilities. It is not a stretch to surmise that, as it was planning its aggressive border crackdown, the Trump administration worked closely with the private prison industry to identify more detention facilities for the upsurge of undocumented immigrants. The zero-tolerance policy will be a boon to the earnings of the private prisons industry.

### Private Prison Industry Not Alone in Profiteering on Increased Immigration Detention

In rural southern Florida, Glades County has a relatively high rate of incarceration, immigrant detention, and deportation. Thirteen percent of adults in the county are in





jail—some at a private prison and some at the Glades County Detention Center. That there were many detained immigrants at the county jail was by design.

The fact is that county leaders working with private investors sought to increase their community's economic stability by increasing immigrant detention. The plan included using the county jail as tax-free profit for investors, County officials were banking on the likelihood that the then Obama administration's policy of increased immigration detention would result in a high demand for immigration detention beds.

In 2007, Glades County built a jail with a capacity to hold over 500 people. That is a notable fact because each year there are far fewer arrests of non-immigrant residents of Glades County. The jail was built with the expressed objective of raising revenues by leasing beds to ICE. This plan to use immigration and deportation policy as a business venture by a government entity signals the movement toward the criminalization of immigration.

For a number of reasons, the anticipated flow of immigrants to the detention center did not materialize during the Obama administration. However, the Trump administration's well-published intent to implement a zero-tolerance policy was actually good news for Glades County. Since the election of Donald Trump, ICE has been sending substantially more immigrant detainees to the Glades County Detention Center. As of April 2018, the jail held 450 immigrants for ICE.

## Recommendations

It is important to fully describe and discuss the implications of what many consider to be one of the nation's most heartless policy decisions in decades. The Trump administration's executive orders on zero-tolerance and the related family separation policies have been rightfully compared to the President Franklin Roosevelt's executive order that sent Japanese Americans to internment camps during World War II.

The zero-tolerance and family separation issue has shaken not only the nation, but also the social work community as it violates so much of what our profession stands for. It is, therefore, especially important for social workers to take a lead in identifying solutions that support the well-being of children and their parents, and that result in social justice for these vulnerable families.

The following are recommendations that provide guidance on child-welfare imperatives in light of the negative and unethical consequences of zero-tolerance and family separation

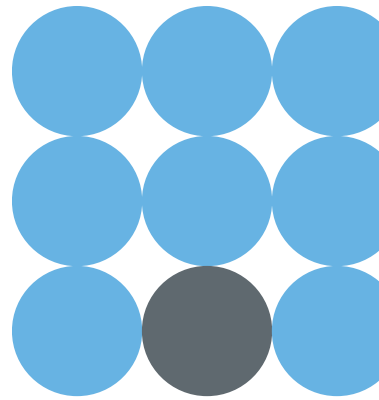
### NASW recommends the following:

- » The Trump administration should end its zero-tolerance policy. It is both ineffective and the genesis of unfair and inhumane treatment of families seeking asylum from extreme violence in their home countries.
- » As an extension of the executive order ending family separation, the administration should prioritize finding least restrictive alternatives that utilize community resources as opposed to family detention centers or, effectively, family prisons.

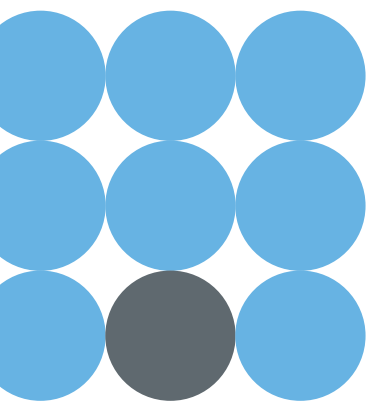
- » The White House must take the lead in forming an institutionalized interagency council that includes DHS, HHS, DOJ, and Department of Defense (DOD) and any other directly impacted federal, state, and local government agencies. The interagency taskforce's mandate will be to coordinate services for unaccompanied migrant children and children of asylum-seeking families.
- » Immediate creation of a comprehensive, coherent, intra-agency coordinated plan, led by DHS, for reunification of the over 500 children who currently remain separated from their parents.
- » Full transparency by the government as to the total number of children being detained and its progress toward a reasonable timeline for reunification of all the children.
- » The administration must comply with the court order to adhere to the Flores Agreement, which prohibits prolonged childhood detention.
- » DHS and HHS should fully commit to providing qualified mental health professionals to assess and provide services related to trauma-based emotional problems in children separated from their parents.
- » All staff, from border patrol agents to social workers, administrative staff, and anyone who works with children involved in the immigration system must receive trauma-informed training.
- » Clarification of designation of children from asylum-seeking families as different from unaccompanied migrant children. It is important that children who either seek asylum or have crossed the U.S border with their parent(s) be recognized as a part of a family unit and not unaccompanied.

We urge lawmakers to hold DHS and DOJ accountable by speaking out against family separation. Several legislative proposals have been introduced in Congress aimed at ensuring the safety and well-being of migrant children and families by halting the use of family separations. We urge policymakers to support the following:

- › H.R. 2572: Protect Family Values at the Border Act
- › H.R. 5950/S.2937: The HELP Separated Children Act
- › H.R. 2043/S. 2468: Fair Day in Court for Kids Act 2018
- › Protecting Immigrant Families
- » NASW agrees with the relevant provisions in the Help Separated Children Act, which would help mitigate some of the stress and instability of immigration enforcement on children including that the bill
  - › allows parents to make calls to arrange for the care of their children prior to being taken into custody.
  - › allows parents a meaningful opportunity to communicate with children by saying good-bye, reassuring them, and sharing information about their care arrangements before they are separated.
  - › protects children from having to translate ICE interrogations for their parents.
  - › requires ICE to consider children's best interests in decisions about parents' detention, transfer between detention facilities, and release from detention.







- › allows detained parents to have regular phone calls and contact visits with children.
- › allows parents to fully participate in child welfare proceedings during their detention.
- » Reinstatement of the Family Case Management Program.
- » Advocacy for DHS to allocate its budgeted immigration and removal operations toward alternatives to family detention programs. DHS has budget authority to spend funds on such programs.

## Conclusion

The current national immigration policies—and the methods of their implementation—discussed here unambiguously violate social work values. More important, the Trump administration’s approach to border protection violates a national human rights ethos that has been espoused in this country for centuries. The United States has at times not lived up to its own values and ideals, and we must learn from those past mistakes. For those reasons, the social work profession cannot be passive in our opposition to family separation immigration policies.

We must reaffirm American social justice values, as well as social work values, by working to reverse zero-tolerance and related policies. In so doing, we must replace unjust policies with those that ensure the protection of the rights of families and children, even as we seek to enforce immigration and asylum laws.

## What Can Social Workers Do?

At the height of the outcry when the country became aware of the Trump administration’s

family separation policy, social workers were asking, “What can we do?” It is admirable that social workers are anxious to lend their skills to help these children. However, it is not that easy. It must be remembered that the family facilities and the facilities for unaccompanied migrant children are managed by private contractors under DHS and HHS administrative control. This means that the providers do not have the latitude to allow social workers to volunteers to provide services to the children.

However, there are several opportunities for social workers to get involved. As suggested by Social Justice Solutions, social workers could consider the following:

- » Volunteer as interpreters for detained immigrants. If you’re a licensed social worker- who is proficient in Spanish-you can also assess a person’s mental health for their legal file.
- » Work or volunteer with community-trusted organizations that have a proven history of advocating for immigrant families. Undocumented individuals are more likely to trust organizations that have effectively supported their community members in the past.
- » Provide support to advocacy groups that work to unite families and to prevent separations. Families Belong Together, the Young Center for Immigrant Children’s Rights, Protecting Immigrant Families and the U.S. Committee for Refugees and Immigrants are some examples of such organizations.
- » Educate yourself on legal and policy issues about immigration status and how they affect child welfare and other matters.

- » Lobby your members of Congress, contact local elected officials, and push for laws to protect basic human rights.
- » Social workers who are employed in a public or private family detention center, adult detention center, or in an HHS child foster care facility must be cognizant of their ethical obligation to report all incidents of
  - › child maltreatment.
  - › inadequate medical, mental health, and social support services.
  - › inadequate licensure, staff positions and policies and procedures as defined by federal and state standards.

In summary, NASW is a major stakeholder for advocating for human rights, especially for marginalized low-income populations. The Trump administration's family separation policy qualifies as one of America's most shameful human rights abuses since the internment of 110,000 Japanese Americans during World War II. Therefore, it is without a doubt that NASW must join other major professional associations, immigration advocacy organizations, and human rights coalitions to never let such an inhumane government policy take root again.

NASW and its collaborators must stay engaged, informed, and prepared to act, which means that we have to be committed for the long term. It also means that we all must recognize that there is an intersection between voter participation, nominations and appointments to the federal judiciary, economic justice, criminal justice, and immigration equity. Therefore, we have to be prepared to respond to inequities using a multi-issue strategy. This can only be successful if we

share expertise and advocacy resources with a network of multidisciplinary coalitions.

## Immigration Resources

### American Civil Liberties Union

[www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/fact-checking-family-separation](http://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/fact-checking-family-separation)

### Detention Watch Network

[www.detentionwatchnetwork.org](http://www.detentionwatchnetwork.org)

### Families Belong Together

[www.familiesbelongtogether.org](http://www.familiesbelongtogether.org)

### The Immigration Hub

<https://theimmigrationhub.org>

### Immigration Taskforce – Leadership Conference for Civil and Human Rights

<https://civilrights.org/immigration>

### National Immigration Law Center (NILC)

[www.nilc.org](http://www.nilc.org)

### League of United Latin American Citizens (LULAC)

<https://lulac.org/advocacy/issues/immigration>

### MALDEF

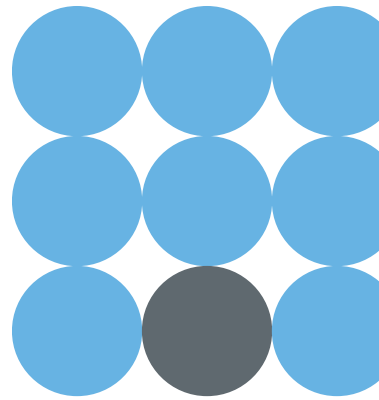
[www.maldef.org/immigration/index.html](http://www.maldef.org/immigration/index.html)

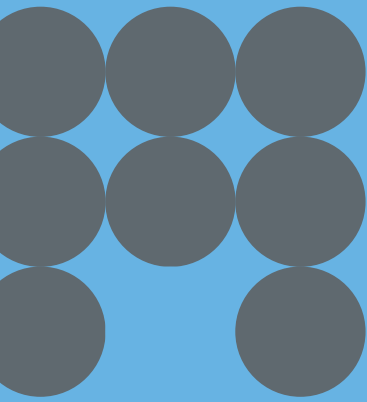
### Office of Refugee Resettlement

[www.bing.com/search?q=office+of+refugee+resettlement&q=ONR&pq=office+of+r&sc=8-11&cvid=D60F5D3800104C7D8A3E3097C97B09F6&FORM=QBRE&sp=1](http://www.bing.com/search?q=office+of+refugee+resettlement&q=ONR&pq=office+of+r&sc=8-11&cvid=D60F5D3800104C7D8A3E3097C97B09F6&FORM=QBRE&sp=1)

### Social Justice Solutions

[www.socialjusticesolutions.org/2018/07/11/social-workers-can-address-trauma-family-separation](http://www.socialjusticesolutions.org/2018/07/11/social-workers-can-address-trauma-family-separation)





# NASW Resources

**NASW** » [SocialWorkers.org](https://www.socialworkers.org)

**NASW Foundation** » [NASWFoundation.org](https://www.naswfoundation.org)

**NASW Press** » [NASWPress.org](https://www.naswpress.org)

**NASW Assurance Services, Inc.** » [NASWAssurance.org](https://www.naswassurance.org)

**NASW Center for Workforce Studies** » [Workforce.SocialWorkers.org](https://workforce.socialworkers.org)

**Help Starts Here** » [HelpStartsHere.org](https://www.helpstartshere.org)

**Social Work Reinvestment Initiative** » [SocialWorkReinvestment.org](https://www.socialworkreinvestment.org)

**Social Work Policy Institute** » [SocialWorkPolicy.org](https://www.socialworkpolicy.org)

**Social Work Portal** » [SocialWorkers.org/swportal](https://www.socialworkers.org/swportal)

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