



**Americans for
Immigrant Justice**

FAMILY SEPARATION

**BROKEN SYSTEMS,
BROKEN FAMILIES**

JANUARY 2019 | WWW.AIJUSTICE.ORG

This report is dedicated to the brave, resourceful and always inspiring children we have the privilege of serving and who teach us so much each and every day.

FAMILY SEPARATION

BROKEN SYSTEMS, BROKEN FAMILIES

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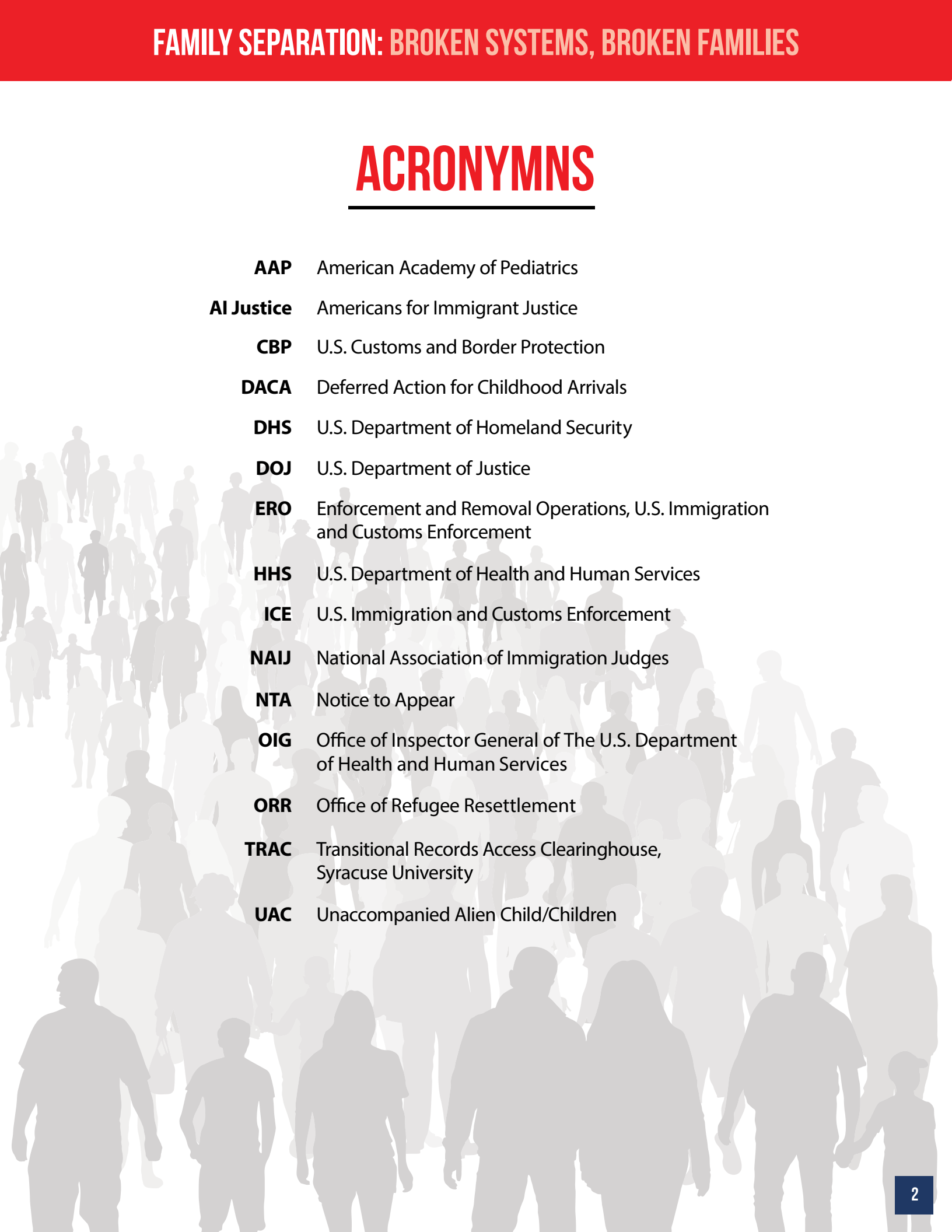
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ACRONYMNS



AAP	American Academy of Pediatrics
AI Justice	Americans for Immigrant Justice
CBP	U.S. Customs and Border Protection
DACA	Deferred Action for Childhood Arrivals
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
ERO	Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement
HHS	U.S. Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
NAIJ	National Association of Immigration Judges
NTA	Notice to Appear
OIG	Office of Inspector General of The U.S. Department of Health and Human Services
ORR	Office of Refugee Resettlement
TRAC	Transitional Records Access Clearinghouse, Syracuse University
UAC	Unaccompanied Alien Child/Children

CHAPTER 1

QUESTIONS AND ANSWERS ABOUT IMMIGRATION IN 2018

WHO ARE THE IMMIGRANTS ARRIVING AT THE BORDER?

Most of the immigrants arriving at the U.S.-Mexico border are from El Salvador, Guatemala and Honduras, three of the most violent countries in the world. They are fleeing gang violence, rape and extortion, many seeing flight as the only way to save their lives and the lives of their children. U.S. policy toward Central America, dating back decades, played a significant role in the failure of those countries to develop strong democratic institutions. The end of Temporary Protected Status, which could send up to 57,000 Hondurans, 2,550 Nicaraguans and 195,000 Salvadorans back to countries that cannot support them, is likely to further exacerbate problems in the region.¹

WHY DON'T THESE IMMIGRANTS GET IN LINE AND COME LEGALLY?

Immigrants can't apply for asylum from outside the United States. For most people fleeing Central America, there is no line they could enter or process they could follow to immigrate legally, beyond seeking asylum.² Under U.S. law and international treaties, anyone who enters the United States, no matter how they cross the border, can lawfully apply for asylum within

one year of entry.³ During the past few years, immigrants who present themselves at official ports of entry have been turned away or told that Border Patrol's daily quotas have already been met.⁴

WHY WERE FAMILIES SEPARATED?

Families arriving at the border seeking asylum have occasionally been separated in the past.⁵ But separating ALL families who crossed the border, whether they entered legally or not, was a unique Trump administration strategy that began in the summer of 2017 and was formally implemented in 2018 to "deter" families from legally seeking asylum here.⁶ Following public outcry and a lawsuit challenging the new policy, many families have now been reunited. However, the administration threatens to expand family detention and pursue other strategies to detain families indefinitely or remove them quickly upon arrival.⁷

WHAT IS THE "ZERO TOLERANCE" POLICY?

On May 7, 2018, President Trump's administration announced that all families who crossed the border without inspection should not only be separated but also charged in federal court with the misdemeanor crime of illegal entry.⁸ Most federal cases were completed in a few days, with immigrants pleading

guilty, paying a \$10 fine and being sentenced to time served. While asylum seekers who arrive with children are not being separated at this time, the zero-tolerance policy still applies to adults who arrive without children.

WHERE WERE THE CHILDREN SENT ONCE THEIR PARENTS WERE DETAINED?

The children were taken from their parents and sent to a network of more than 100 shelters scattered throughout the United States, including three in South Florida. The shelters are overseen by the Office of Refugee Resettlement (ORR), an agency of the U.S. Department of Health and Human Services (HHS), which is charged with finding a safe place for children to live while their immigration cases are pending.⁹

In the past, most children were released to relatives who agreed to be their sponsors. But many family members became reluctant to come forward when the government started requiring that all members of the household be fingerprinted and all information, including immigration status, be shared with U.S. Immigration and Customs Enforcement (ICE).¹⁰ A number of undocumented immigrants were arrested, and the result was that children were spending far longer in

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ORR custody and were more likely to age out and be transferred to ICE custody. The policy has since been modified to require only the sponsor to be fingerprinted. Currently, over 14,000 immigrant children are in government custody.¹²

WHERE ARE THE ADULTS KEPT?

Parents criminally charged with illegal entry were placed in U.S. Marshal custody to await their federal court appearance. After appearing in court, these adults were moved to ICE custody, a network of various adult detention centers, and either pursued their asylum claims or waited to be deported back to their home country. The vast majority of ICE detainees are kept in private prisons run by The GEO Group and CoreCivic, two major donors to the Trump presidential campaign.¹³ At any given time, about 44,000 people are detained, and the Trump administration is seeking additional money to expand the number of beds.¹⁴

WHAT WAS THE PROCESS TO REUNITE FAMILIES?

Initially, there was no system in place to reunite parents with their children, and hundreds of parents were deported without their children. As the federal judge assigned to a lawsuit challenging family separation noted:

*"What was lost in the process was the family. The parents didn't know where the children were, and the children didn't know where the parents were. And the government didn't know either."*¹⁵

— Judge Dana M. Sabraw at a July 27, 2018 Court Hearing in San Diego, CA



A Border Patrol agent speaks with a young Salvadoran woman being taken into custody for illegally entering the United States by crossing the Rio Grande River in Fronzon, Texas.

Only after a federal court order did the administration begin to reunite families.¹⁶ However, children whose parents were deported continued to struggle to contact their parents, and hundreds of them remained separated for months because the government deemed them ineligible for reunification.

ARE IMMIGRANTS, INCLUDING CHILDREN, REALLY KEPT IN CAGES?

The pictures of immigrants in chain-link enclosures are real, though some are from 2014 when there was a surge of unaccompanied minors arriving at the Southwest Texas border. Spanish-speaking immigrants call the cages "perreras," or dog kennels. These facilities are run by U.S. Customs and Border Protection (CBP), which usse these cages to

detain immigrants, both adults and children, when they first arrive in the U.S. The lights are kept on 24 hours a day, and both adults and children sleep on mats on concrete floors, sometimes for several days. Other immigrants report being held in CBP facilities they have dubbed *hieleras*, or iceboxes, because they are so cold. These crowded cells have no mattresses, beds or chairs. There is no shower, and detainees are not given a change of clothes, toothbrushes, soap, or other basic hygiene items. Americans for Immigrant Justice (AI Justice) has been sounding the alarm bell about these CBP "holding stations" for years.¹⁷ In the past few years, AI Justice won landmark lawsuits in federal court challenging conditions in *hieleras* and the treatment of immigrants held there. Two children died in U.S. custody at

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the border in December 2018, raising new questions about conditions of detention.¹⁸

ARE CHILDREN REQUIRED TO REPRESENT THEMSELVES IN IMMIGRATION COURT?

Yes. Even toddlers without lawyers must appear in immigration court, going up against government lawyers who seek to deport them. Immigrants, whether adults or children, are not entitled to any free legal help to fight their removal. While immigrants can hire private attorneys or seek pro bono help, agencies such as AI Justice can't begin to meet the demand for services. Legal representation in

immigration court is critical; immigrants with lawyers are five times more likely to win their asylum cases.¹⁹

WHAT IS AI JUSTICE DOING TO HELP ARRIVING CHILDREN?

Back in 1999, one of our attorneys stumbled upon an 18-month-old toddler alone in Miami immigration court at the Krome Detention Center, abandoned after she was smuggled into the United States. The attorney took on baby "Margaret" as a client, and from that encounter the agency that was to become AI Justice took on a new mission: We represent immigrant children.

For more than two decades, AI Justice has been privileged to provide free legal services to children who arrive alone, in search of safety and a better life. We are the only agency authorized by the federal government to meet with children in South Florida immigration shelters, advise them of their rights, and determine their eligibility for legal status. In the past year, AI Justice staff members screened roughly 2,700 children's cases to determine their eligibility to remain here legally in addition to advising thousands of children about their basic rights and representing many of them in immigration and state court.

"AI Justice's work honors our values as a nation of immigrants. They have made a tremendous difference in the lives of immigrants throughout Florida and the country through their victories both large and small."

— **Harry Reid**, Former United States Senator

OUR MISSION

To protect and promote the basic human rights of immigrants through a unique combination of free direct services, impact litigation, policy reform, and public education at local, state, and national levels.



OUR VISION

To bring about an American society where immigrants are not subjected to abuse or injustice, are not afraid to seek help, have a fair opportunity to make their case in the system that governs them and have their contributions valued and encouraged.

"Such successes have turned [AI Justice] into a powerhouse in national advocacy for persecuted migrants too poor to hire a lawyer."

— **The Miami Herald**, January 2, 2006

CHAPTER 2

EXECUTIVE SUMMARY

AI JUSTICE AND ITS FIGHT FOR CHILDREN'S LEGAL RIGHTS

“While the border is the epicenter for many headline-seizing developments in the complicated web of immigration law and policy, it is just the first stop for many hopeful immigrants. Not long after they arrive at the border, huge numbers [of children] end up in South Florida for the duration of their detention... [W]hen it comes time to sit down and roll up our sleeves and do the hard work on the majority of these immigration cases, that is happening in our very own backyard, at the offices of AI Justice and in the many South Florida shelters and detentions facilities they serve.”

— **Johanna Rousseaux**, Jones Day of Counsel and AI Justice Board Member

In nearly 20 years of representing children, documenting abuses in the U.S. immigration enforcement system, and advocating for free legal representation for immigrant children, we have never seen anything like the policy employed by U.S. officials in response to families seeking asylum near the U.S. border: the forcible separation of thousands of immigrant children from their parents regardless of their manner of entry.

The family separation policy has done irreparable harm to our child clients and has created unprecedented challenges for our staff as they struggle to help these children navigate our complex immigration system. AI Justice began helping children separated from their parents at the Southwest Texas border in July 2017. Since then, our staff has represented about 120 of these children, some as young as three years old, and we have helped reunite dozens of children with their parents. Government officials



Federal Courthouse, Pecos, Texas.

acknowledge that more than 2,600 children, some as young as two, were forcibly removed from their parents.²⁰ Once separated, most children were sent to distant states with no way to contact the mothers or fathers who had brought them to the United States. Parents had no idea where their children were, and many were tricked into giving up their asylum cases and agreeing to quick deportation in exchange for being reunited with their children — only to be deported alone, their children left behind in shelters or foster homes.

Federal Magistrate Judge Ronald G. Morgan, a judge in Brownsville, Texas, who ruled on many cases of arriving parents charged with illegal entry, voiced his criticism of the “zero tolerance” policy:

Because what you’ve done, in effect, by separating these children is you’re putting them in some place without their parents. If you can imagine there’s a hell, that’s probably what it looks like.”²¹

PEDRO

Eight-year-old “Pedro” was one of the first immigrant children separated from a parent under the Trump administration, in an early round of separations that took place largely outside public view.

Pedro and his father fled in July 2017, undertaking the dangerous journey through the Arizona desert before being apprehended by immigration officers. Pedro screamed as officers threw his father to the ground, stomped on him, and took him away. No immigration officer on the scene spoke Acateco, Pedro’s language, or explained what was happening.

He and his father were briefly reunited in a cold holding cell for three days, until officers forcibly removed Pedro from his father again, despite the young boy’s screams. Pedro, who did not speak Spanish, ended up in a shelter in Florida, and AI Justice took his case.

Pedro cried every time he recalled the incident, and for months he had no idea where his father was.

AI Justice staff searched for his father on the ICE detainee locator and it took nearly a year to discover that his father had been deported to Guatemala. Pedro is now living in South Florida with a family member who was his ORR sponsor.

Hundreds of these separated children ended up in South Florida shelters, and our attorneys had to regroup to determine how best to represent young clients who don’t even know their last names, let alone why they fled their home countries. We are in uncharted waters, navigating new challenges and struggling with the most basic questions:

How do we learn whether the child has a viable claim for asylum?

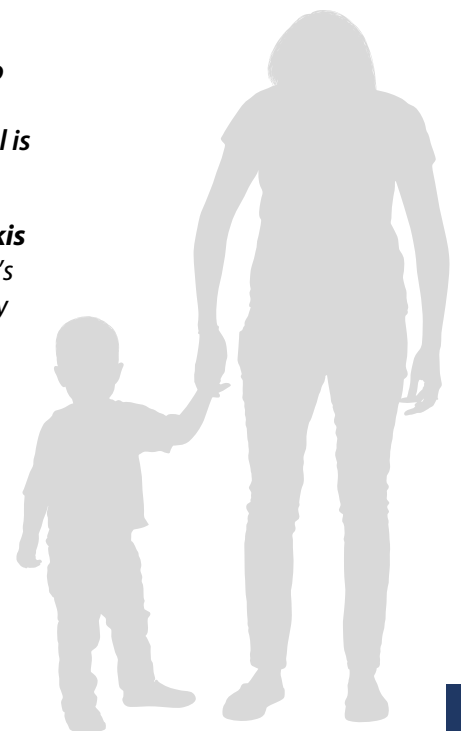
How do we know whether the child would want us to fight their removal?

“Young children need help with the most basic of tasks. Sometimes you need to hold their hand on the way to your office. A lot of times I find myself sitting on the floor with the small children when I’m communicating with them. I have a stuffed animal in my office that I give to children to help them feel comfortable. Sometimes the stuffed animal is bigger than my client.”

— **Angeliki “Angela” Bouliakis Andronis**, AI Justice’s Children’s Legal Program, Senior Attorney

The struggle to help children separated from their families is far from over. Removing young children from their parents is a trauma from which some may never recover. While many of the children have now been reunited with their parents thanks to a federal court ruling, countless children remain separated as their cases proceed in court. A November 25, 2018, *60 Minutes* report noted that information from “various agencies shows at least 5,000 children have been held since Mr. Trump’s inauguration.”²² The *60 Minutes* piece concluded:

[G]iven the bungled record keeping, and no public accounting of the mysterious El Paso pilot program during July to November 2017, there may never be an accurate count of how many children were taken from their parents.”²³



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Children who remain separated must appear in court without their parents. These cases could take a year or longer before a final decision is made.

“One of the most distressing aspects of immigration detention, for both adults and children, is how invisible the detained can become, even when they’re imprisoned in our proverbial backyards. Had the world not seen the images of children wrapped in Mylar blankets and sleeping inside cages, and heard babies and toddlers crying for their parents, both as a result of the Trump Administration’s ‘zero-tolerance’ policy, some might not have believed that these children had been yanked from their parents’ arms — one, reportedly, while being breast-fed. Even in the light of clear and horrifying evidence, many would rather hold fast to their willful denial, branding the cages sets, the detained children actors, and the detention facilities the equivalent of boarding schools and summer camps.”²³

— **Edwidge Danticat**, *The New Yorker*, June 26, 2018

Adding insult to injury, children are being held with their families in adult jails — so-called “family detention” facilities — on the Texas border for months on end. This is in violation of a landmark federal court settlement that ensures children be held in the least restrictive setting and orders that the government cannot keep



An undated photo made available on June 18, 2018, by the U.S. Customs and Border Protection, showing children inside a Border Patrol processing center in McAllen, Texas.

migrant children detained with their parents for more than 20 days.²⁵

The Trump administration is seeking to deprive child immigrants of as many rights as possible, ripping away their Unaccompanied Alien Child (UAC) status and working to expedite their removal at the border.

This administration has not only thrown humanity out the window, it has gutted established asylum protections as well, arbitrarily treating both adults and children as badly as possible in a supposed ploy to deter immigrants — many fleeing to save their lives and the lives of their children — from seeking refuge here.

On November 9, 2018, Trump issued a proclamation preventing immigrants who do not cross our border at designated entry ports from applying for asylum, a clear violation of domestic laws and international agreements.²⁶ Entering

at official ports of entry is also harder than ever, with U.S. Customs agents limiting the number of asylum seekers who can approach pedestrian entry lanes.²⁷ Immigrants now wait for days to enter at many legal border crossings.²⁸

Meanwhile, the federal court system, which normally deals with major criminal cases, has left U.S. attorneys, federal public defenders, federal marshals and federal detention center staff to deal with the consequences of criminally charging children’s family members for “illegal entry,” and U.S. taxpayers are picking up the tab.

Taking the most vulnerable immigrants among us — children — and needlessly subjecting them to lasting trauma not only is bad immigration policy, it’s an exercise in gratuitous cruelty that benefits no one and belies the real compassion of the American people.

CHAPTER 3

WHY FAMILIES FLEE

“The most common misconception is that these children are gang members. Nothing could be further from the truth. These children are fleeing the vicious gangs and conditions that our laws are designed to give them protection from. Our role as attorneys and advocates is to remind everyone that our legal system is meant to protect people fleeing dangerous conditions in their home countries when their government has failed to protect them and criminals act with impunity.”

— **Noemi Samuel Del Rosario**, AI Justice’s Children’s Legal Program, Staff Attorney

A marked increase in the number of children fleeing El Salvador, Guatemala and Honduras began in 2014 when vicious gangs like MS-13 and drug cartels that acted with impunity grew increasingly dangerous. Since then, the number of Central Americans seeking protection in the United States has ebbed and flowed.

El Salvador, Guatemala, and Honduras are among the most dangerous countries in the world, with some of the highest homicide rates. A July 2017 Marshall Project report, “Fearful of Court, Asylum Seekers are Banished in Absentia,” describes children and adults telling stories of “being extorted at gunpoint, raped, kidnapped and their families killed.”²⁹ Meanwhile, corrupt politicians and police fuel the violence.³⁰ One of AI Justice’s clients, 18-year-old Marisol who fled El Salvador, told us:

People don’t keep in mind that in these [Central American] countries kids don’t go to school — kids get stolen, they get thrown into gangs, they get molested, they die in the streets when they refuse to do what gang members want you to do.

Much of the gang activity in Central America today has been fueled by the power vacuum left following civil wars in these countries — civil wars in which the United States played a key role.

Most Central Americans arriving at our border don’t try to hide. They seek out Border Patrol officers so they can make a legal claim for asylum. It takes an enormous amount of desperation to flee your home, with children in tow, and undertake a perilous journey of thousands of miles. But many see it as preferable to risking their lives by staying home. These families have been called “non-

impactable” by CBP officers — they can’t be deterred by walls or stricter enforcement because the horrors they are fleeing are so much worse.



CHAPTER 4

NO PLAN FOR REUNIFICATION


“There were three agencies, and each was like its own stovepipe. Each had its own boss, and they did not communicate.”³¹

— **Judge Dana M. Sabraw** at a July 27, 2018 Court Hearing in San Diego, CA

While the United States operates an immigrant detention network that imprisons an average of 40,000-plus people daily, at a cost of more than three billion dollars in fiscal year 2018, it undertook a policy of splitting parents and children with absolutely no plan to ever get them back together.³² Surely such a well-funded and expansive system should be able to keep track of a few thousand people.

Hundreds of parents had no idea where their children were taken, and hundreds of children not only didn't know where their parents were but were too young to provide advocates with the information needed to track them down — information as basic as their parents' full names.

Moreover, when children and parents are separated, they enter separate bureaucratic worlds, run by different agencies and operating under different rules. Adults are held in local jails and private prisons, while children are placed in the custody of ORR and treated as “unaccompanied minors,” following the same track as children who cross the border alone. This status gives children additional protections and more possibilities for legal relief.



U.S. Immigration and Customs Enforcement
Enforcement and Removal Operations

Separated Parent's Removal Form

Purpose: This form is for detained alien parents with administratively final orders of removal who are class members in the *Ms. L. v. I.C.E.*, No. 18-0428, (S.D. Cal. Filed Feb. 26, 2018) lawsuit. Class members are entitled to be reunited with their child(ren) and may choose for their child(ren) to accompany them on their removal or may choose to be removed without their child(ren). Any such decision must be made affirmatively, knowingly, and voluntarily.

Instructions: This form must be read to the alien parent in a language that he/she understands. The alien parent should indicate which option he/she is choosing by signing the appropriate box below.

Parent Name / Nombre de Padre: _____
Parent A # / A # de Padre: _____
Country of Citizenship / Pais de Ciudadania: _____
Detention Facility / El Centro de Detención: _____

Child(ren) Name(s) / Nombre de Hijo: _____
Child(ren) A # / A # de Hijo: _____
Shelter / Albergue: _____

English: I am requesting to reunite with my child(ren) for the purpose of repatriation to my country of citizenship.

Signature / Firma: _____

English: I am affirmatively, knowingly, and voluntarily requesting to return to my country of citizenship without my minor child(ren) who I understand will remain in the United States to pursue available claims of relief.

Signature / Firma: _____

Certificate of Service

I hereby certify that this form was served by me at _____ (Location)
on _____ (Name of Alien) on _____ (Date of Service), and the contents of this
notice were read to him or her in the _____ (Language) language.

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

AILA Doc. No. 18070532. (Posted 7/5/18)

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"The unfortunate reality is that under our present system immigrant children are not accounted for with the same efficiency and accuracy as property."

— **Judge Dana Sabraw**, Ms. L; et al v Immigration and Customs Enforcement (ICE); et al. Order Granting Plaintiffs' Motion for Class Wide Preliminary Injunction June 26, 2018

When Trump's Executive Order — ostensibly ending family separation — was signed on June 20, 2018, at least 2,300 children had reportedly been separated from their parents.³³ A few weeks later, HHS Secretary Alex Azar noted that almost 3,000 children may have been separated from their parents, if they included families separated before the family separation policy was announced.³⁴

"The Trump administration separated 81 migrant children from their families at the U.S.-Mexico border since the June executive order that stopped the general practice amid a crack-down on illegal crossings, according to government data obtained by The Associated Press."

— **Colleen Long**, *The New York Times*, December 6, 2018

Since July 2017, AI Justice staff have worked tirelessly to reunite children with their families. However, even when we learned the whereabouts of our clients' parents, we experienced cruel and unnecessary delays in the reunification process.

PARENTS COERCED INTO WAIVING THEIR RIGHT TO CLAIM ASYLUM

Once the family separation policy began, countless parents felt pressured to agree to expedited removal, giving up their rights to seek asylum in exchange for reunification with their children, something that has been called "airport reunification." Parents were given the "Separated Parent's Removal Form" by ICE officials, which required them to either request reunification with their child in order to be deported or voluntarily agree to be removed without their child. Many were given this form before even seeing a judge, and despite not having a final removal order. The form is only partially translated into Spanish and was not available in other languages.

AI Justice staff represented dozens of children whose parents felt pressured or tricked into waiving their constitutional right to pursue an asylum claim in order to see their children again. Eight-year-old "Carla," a Guatemalan girl, was separated from her father for more than three months. Her dad was deported just days after they crossed the border and was misled into agreeing to deportation after immigration agents promised he would be reunified with Carla if he signed the form. In an interview with VICE, Carla's father, who speaks only Spanish, told the reporter:

They gave me a form in English and I asked them to explain what it said... and they said it was so I could be deported together with my daughter... but they deceived me...[My daughter] asks

*me, 'Papa, how is my case going? I want to be back with you. I'm a child and I didn't do anything,' and she cries. I tell her she'll be home soon, but I have no good answer... I'm desperate... They told us they were separating us for a short time, to bring her to our destination first, in Houston. I never went to court or anything. There's not even a reason we're still apart. I need my daughter.*³⁵

Carla's father was deported in late May 2018, after making repeated requests to be returned to Guatemala with his daughter. It was not until he was sitting at the airport waiting for a flight home that officials told him his daughter was not coming with him.

Despite AI Justice attorneys' persistent requests, the Department of Homeland Security (DHS) failed to promptly facilitate the reunification. Instead, DHS claimed that Carla had to appear before an immigration judge to request voluntary return to her home country before she could be reunited with her father — a process that can take weeks, or even months. During this past year, AI Justice attorneys were repeatedly told that our child clients had to first conclude their immigration court cases in order to reunite with their parent. Following a court order in August 2018, children are no longer required to go through this process, and in late September, Carla was reunited with her father after being separated for approximately three and half months.³⁶

JESUS

“Jesus,” 15, traveled from Honduras with his father, fleeing gang violence. Once separated, his father was sent to adult detention in Texas, and Jesus was put on a plane to Miami and ended up in a South Florida shelter.

After a few weeks, he was taken from the shelter back to Port Isabel, Texas for what he thought was to be a reunion with his father.

The day after Jesus arrived, he sat with other children in the detention center waiting room from 8 a.m. to 10 p.m., waiting to see his dad, watching all the other children be called until he was the only one left. The following day the same thing happened, and Jesus was left waiting from 8 a.m. to 1 a.m. During all this time, no one explained to Jesus what was happening.

Then he was sent back to the shelter in South Florida, still without talking to his father.

Only after he was returned to the shelter did he learn that his father had undergone emergency surgery and was never even told that his son was in Texas.

Jesus has since learned that immigration officials pressured his father into signing a voluntary departure order, telling him that unless he did, he and Jesus would both be “locked up” for a long time. Finally, after two months at the shelter, Jesus was reunited with his father.



CHAPTER 5

FAMILY DETENTION

“President Trump traded one border crisis for another: instead of separating immigrant children from their parents, it appears that the U.S. government will now detain moms and dads indefinitely alongside their sons and daughters.”³⁷

— Sarah Stillman, *The New Yorker*, June 21, 2018

The settlement agreement in *Flores v. Reno* established basic protections for children in custody. Those protections include requiring that children be kept in the least restrictive setting and mandating they cannot be held in adult detention for more than 20 days.

The day following Trump’s announcement claiming to end family separation, the administration filed a lawsuit asking the federal court to amend the *Flores* agreement so that children could be held indefinitely in adult jails along with their parents.³⁸ The court rejected the government’s filing, and the administration has proposed new regulations that would allow DHS to ignore the *Flores* ruling and pursue alternative licensing, writing its own standards of care for children. These proposed regulations are likely to be challenged in federal court.³⁹

Additionally, DHS has asked the Department of Defense (DOD) to provide 8,000 beds to hold families in tents and ICE is looking for space to increase its family detention



Karnes Family Detention Center in Texas.

capacity six-fold, hoping to keep up to 15,000 family members in custody, at taxpayer expense.⁴⁰ Meanwhile, reports of the mistreatment of children in detention continue. In April 2018, attorneys in the *Flores* case told the presiding judge, Dolly Gee, that employees at the Shiloh Residential Treatment Center, which is contracted and overseen by HHS, administered psychotropic drugs to minors without their parents’ consent, kept some minors in overly restrictive confinement, and forbade minors

from making private phone calls.⁴¹ On July 27, 2018, Judge Gee ordered that an independent monitor provide “realistic, unbiased reports about what is happening” to children detained in border processing centers and facilities that detain children.⁴² On July 30, 2018, Judge Gee subsequently ordered the government to transfer all minors detained at Shiloh to a more appropriate facility.⁴³

JUAN

In July 2018, a family of four that was separated many times over was finally reunited. Both parents fled Honduras with their two children following death threats. Upon arrival here, the mother and father were transferred to different ICE facilities and the children, including AI Justice client “Juan” who was in need of a liver transplant, were sent to different ORR shelters. Even after Juan’s mother and younger sister were reunified, Juan remained detained at the South Florida shelter. He was not released to his mother because a court order required him to be released to his father, the parent from whom he was separated at the time of their encounter with immigration officials.

Although Juan was eventually reunited with his father, instead of being released from detention, both were sent to the Karnes Family Detention Center in Texas. Based on Juan’s urgent medical needs, AI Justice attorneys, in collaboration with Texas attorneys, helped Juan’s mother draft a letter of support explaining the life-and-death consequences further detention could have on her young son. Juan and his father were finally released from ICE detention and the family is together again. Most important, Juan is now getting the medical care he needs.

*Juan reunited
with his father,
mother and sister.*



CHAPTER 6

CHALLENGES REPRESENTING CHILDREN

“There is a huge due process issue as we are being asked to expedite children’s cases. It is extremely hard to get information from a 5-year-old, an 8-year-old, or a 10-year-old. We can meet with a child ten times, but they may leave out the most horrific or important detail from the story. Maybe they only tell us the day before the interview, leading us to now need new documents. They are kids and it takes time to learn their stories, but we are being asked to do so in a very short time.”

— **Jennifer Anzardo Valdes**, AI Justice’s Children’s Legal Program,
Director, *Miami Herald* Roundtable, July 12, 2018

Children taken from their parents, as well as minors who enter the U.S. alone, have the right to apply for asylum. Those without attorneys go into immigration court alone, including toddlers who can’t recite their complete names, facing off against a government attorney working for their deportation.

Those children who are lucky enough to find an attorney through AI Justice or another agency at least are not going into court alone. However, representing children who can’t answer such basic questions as “where are you from” and “why did you leave” is immensely challenging.

Furthermore, it can be very difficult for children to discuss why they fled their home country or their journey here, but without this information attorneys cannot determine what relief, if any, the child is entitled to. A young child is rarely able to comprehend and articulate why they



Created by Cindy Torres, Rosario Paz, and Armando Atencio.

fled. That makes it extraordinarily difficult to develop a legal strategy that’s in the best interest of the child.

As younger children arrived in South Florida this past year, AI Justice staff had to devise new ways

to connect with them in order to provide potentially life-saving legal assistance. A coloring book was designed by a local artist to help our young children make sense of the immigration process. As reported in *The New Yorker*, this “Know Your Rights” coloring book “shows a smiling family of four holding hands. Another page shows a map of the United States, to help the children identify where they are. Another shows a Santa Claus-like judge with the words ‘La Corte’ (‘The Court’) printed above his head.”⁴⁴

In late August 2018, *The New York Times* video op-ed, “Your Honor, Can I Play With That Gavel?,” demonstrated the way in which AI Justice staff use the coloring book to help children understand how their cases will move forward.⁴⁵

The coloring book has become a crucial tool for our staff as cases are quickly moved along due to a quota

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system implemented by former Attorney General Sessions. Decisions by Sessions, as well as the Executive Office of Immigration Review, require that asylum cases be adjudicated within 180 days of filing a case with the court.⁴⁶ It can take weeks, if not months, to prepare the case and get essential documentation from the child's home country, especially if they live in remote areas.

Winning your case too often depends on the judge and where your case is being heard. We have many sibling groups in our office that have presented the same case with the same attorney, but each child may be assigned a different asylum officer, and they may go before different judges. One child is granted asylum while their sibling is denied.

Several of the children we represent went months without seeing their parents, which further traumatized them and seriously impaired their ability to help us prepare their case. Unless they have an attorney by their side, they have little to no chance of winning their cases.

"We don't always win even when we think we have the most deserving client. That is crushing but at the end of the day many of my clients say, 'Thank you for trying.' This is the first time anyone has ever stood up for me.' It keeps me going."

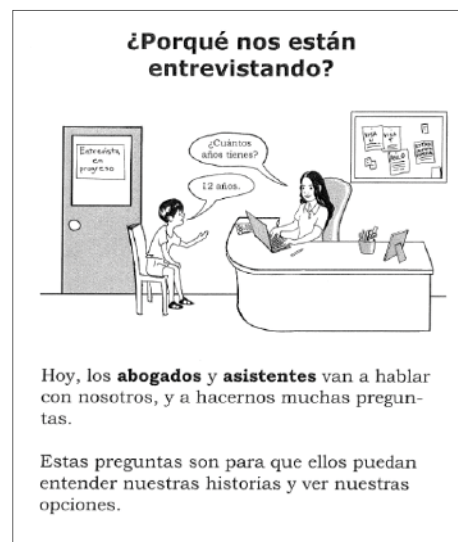
— **Martha Vanessa Alvarez**, Al Justice's Children's Legal Program, Staff Attorney, *Miami Herald* Roundtable, July 12, 2018



Al Justice Children's Legal Program Staff Attorney, Angeliki Bouliakis Andronis, with a stuffed toy used to comfort young clients.

During meetings with our attorneys, many children spend much of the time crying and begging to see their parents again. Emilio Araos, an Al Justice Children's Legal Program Shelter Advocate, who is a father himself, shares his own experiences:

I know my own child's six different cries – I know which cry means she's hungry, she's tired, and so on. When I talk to a child who is crying because they were separated from their parent at the border, that's a cry I don't recognize...I interviewed an 8-year-old child and when he began to talk about being separated from his parents, his eyes began to well up with tears. It's very sad. This is a feeling no child should have to suffer.



Page nine from coloring book used by staff to help young clients understand how their attorneys will help them.

CHAPTER 7

KIDS GOING TO COURT

“My client is four. He did not understand that the government is trying to deport him. We go to court and he is initially asked to leave because he is speaking too loudly. He did not realize the gravity of the situation. The judge could barely look my client in the eye — it was as if he knew the 4-year-old should not be there.”

— **Ivana Alvarez**, AI Justice's Children's Legal Program, Staff Attorney, *Miami Herald* Roundtable July 12, 2018

Seeing children still in diapers appearing alone in immigration court to make their cases for asylum points out the absurdity of the U.S. immigration system.

The younger children can't even see over the defense table once seated. The chairs are too big for them and their feet can't touch the floor. Our lawyers not only have to make their cases for relief, they must take on child-minding during the proceedings.

Toddlers can barely state their own names and struggle to sit patiently during a full afternoon of master calendar hearings. Most important, these children are unable to comprehend the severity of the situation they face in which a government attorney is arguing for their removal.

“These cases are akin to criminal proceedings. They have serious consequences on a child's life. If you don't get the relief you need, you will be deported and brought back to your home country, no matter the danger you may face or your age.”

— **Ivana Alvarez**, AI Justice's Children's Legal Program, Staff Attorney, *Miami Herald* Roundtable July 12, 2018

In fiscal year 2017, 24 infants under the age of one were placed in removal proceedings, while 341 children under five were ordered to appear.⁴⁷ As of July 2018, the Justice Department had issued Notices to Appear to at least 70 children under age one for the year.⁴⁸

Even older children often don't understand what's happening, and thousands go into immigration court

in Miami and throughout the country with no attorneys to help them. That means that a teenager who doesn't speak English is arguing for his life against a government lawyer.

“There was a 17-year-old who was not represented and ordered voluntary departure. It was evident she had no idea what she was agreeing to. At the end of the hearing, the judge gave her the order and told her she needed to be back in her home country by a certain date. The girl was confused and said, ‘I'm not going back. I can't go back.’ She had no idea that every time she was answering ‘Yes’ to the judge she was agreeing to go back to her home country.”

— **Jennifer Anzardo Valdes**, AI Justice's Children's Legal Program, Director, *Miami Herald* Roundtable July 12, 2018

8,348

Number of children without lawyers with cases pending in the Miami immigration court as of November 2018.⁴⁹

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At Justice Children's Legal Program Shelter Advocate, Rosario Paz, using our coloring book to help young clients understand their rights and our nation's complex legal system.

Cuando alguien no entra de esa manera, tiene que ir a **la Corte** y hablar con un **juez de inmigración**. Los **abogados** nos ayudan a ir a **la Corte** y hablar con un **Juez**.



Es muy importante ir a **la Corte**. ¡No podemos faltar! Si no vamos a **la Corte**, **el Juez** nos puede devolver a nuestro país.

Page seven from coloring book used by staff to help young clients understand how their cases will proceed before an immigration judge.

Exacerbating matters, the Trump administration is increasingly conducting video hearings for these children, including in Miami immigration court, making it even more difficult for judges to assess children's credibility or for children to understand what is happening in their proceedings. Children in Miami shelters in one location will be testifying to judges somewhere else via video. That makes it difficult to hear one another or know with whom you're speaking, especially if interpreters are at a third location. The stakes are high in these hearings, but the fragmented process makes it even more difficult for children to share very personal details in hopes of gaining a decision that may save their lives. Judge Ashley Tabaddor, President of the National Association of Immigration Judges (NAIJ), has complained about this process and called the video teleconference equipment "very, very difficult to work with, causing unnecessary delays in the process."⁵⁰

According to the Transactional Records Access Clearinghouse (TRAC), during FY 2018 (October 2017-October 2018), 67 percent of all immigrant children were without lawyers in immigration court.⁵¹



ANA

Three-year-old “Ana” was taken from her father after they crossed the border in July 2017. Ana’s mother died in Guatemala shortly after she and her father reached the United States. Ana and her father were detained together in a crowded facility for two days, and Ana’s father was then told that she was going to be taken care of elsewhere. He had no idea where she was taken and was told he would see her again as soon as she was released. Before her father was deported in December 2017, he asked that Ana return with him and has not seen her since. The government subsequently released Ana to her grandmother, who lives in Florida.

Ana cannot explain why she left Guatemala and isn’t able to tell her attorney her full name. When you ask her how old she is, she holds up three fingers.

When Ana appeared in immigration court in July 2018, she clung tightly to her caseworker’s leg and remained silent as her name was called. Ana’s caseworker noted it was Ana’s nap time and that she had fallen asleep in the car on her way to court. The courtroom was small, just three rows of wooden benches and was filled that afternoon with children sitting next to their guardians and attorneys.

Standing against the wall, wearing a teal dress with a tulle skirt, her hair pulled back with elastic bands, Ana pulled on AI Justice lawyer Jennifer’s bag, trying to see what was inside, as she waited her turn. She tapped on Jennifer’s back and ran back and forth in the pew. She scribbled on a piece

of paper, oblivious to the significance of these court proceedings.

The clerk called out Ana’s alien number, the number attached to each person’s immigration case, and Ana ran to the gate. Her lawyer, Noemi, opened the gate for her, and Ana approached the chair but couldn’t climb up into the seat. She was too little. Her lawyer lifted her client onto the chair and slid the chair up to the table. Ana touched the microphone at the respondent’s table but did not say a word. Her lawyer moved the microphone out of reach, and Ana turned her head around to look at Jennifer and her caseworker as if she was searching for a familiar face and affirmation that she was okay. Once she made eye contact with the caseworker, Ana turned her attention to the knobs on the table in front of her, flapping them up and down.

When Ana’s case was called, the immigration judge stated her full name and reminded all present of her young age. He noted that Ana’s mother is deceased, and that her dad was deported. Ana stared at the floor and didn’t focus her gaze on the judge. He seemed shocked at having such a young child appear before him and asked whether she was living in a safe environment.

As the judge and attorneys talked about her case, Ana stared curiously down at the floor and then to the side. She did not look at the judge. Ana turned around and smiled at the 4-year-old boy sitting behind her. She laid her upper body on the table as the adult discussion that would determine her fate continued.

Ana’s AI Justice attorney moved to terminate her removal proceedings because Ana’s Notice to Appear in court did not indicate when or where she needed to show up. The judge gave her attorney 30 days to submit a brief supporting her motion.

Once the hearing was finished, Ana slid out of her chair and ran towards the door, as the immigration judge said, “Bye, Ana!” She left without turning back.

Ana’s motion to terminate her case has been denied, and we are fighting her removal. She continues to live with a family member who was her sponsor in South Florida.




LANGUAGE AND RELATED ISSUES

Many children do not speak English or, if they do, it's not their first language. Most speak Spanish or indigenous languages. Children who speak any language other than English must communicate with a judge through an interpreter. However, judges frequently are challenged to find an interpreter for indigenous languages like Kanjobal and K'iche'.

During initial immigration proceedings children rarely, if ever, have an interpreter available except for those who speak Spanish. Children are nonetheless asked to confirm facts with or without an interpreter. It is common for us to see children agreeing with what the judge is saying simply because they do not want to be disrespectful or disappoint the judge, even when they do not understand what is being asked of them.

Even when an interpreter is available, teaching children to use one through a phone is often a challenge. The idea of an interpreter may be a new concept to children or they may not understand who is on the other end of the phone and whether they can trust that person with intimate details of abuse and hardship.




“My client, a 14-year-old girl, did not know what language she spoke. We started listing different languages. We called the interpreter services for help. They suggested that I ask the minor what color corte [traditional Guatemalan skirt] her mother wears. We used a color wheel for her to identify and point to the color. She pointed to brown. We told the interpreter, who said she may be from the K'iche' region of Guatemala. They gave us a K'iche' interpreter and the girl was able to communicate.”

— **Rosario Paz**, AI Justice's Children's Legal Program,
Shelter Advocate, *Miami Herald* Roundtable July 12, 2018

“I interviewed a girl who was 7 years old and she did not know what language she spoke. It took a while for us to identify the language, but once we did, she said, ‘I’m so glad to have finally found someone who I can speak to freely’. And she spoke so much.”

— **Andrea Acosta**, AI Justice's Children's Legal Program, Paralegal,
Miami Herald Roundtable July 12, 2018



CHAPTER 8

DEALING WITH CHILDREN'S TRAUMA

“This is a child health issue. When children are separated from their parents, it can cause irreparable harm to their health...[it] can harm the developing brain and harm short- and long-term health. Family separation robs children of the buffer that a parent or caregiver provides against toxic stress.”

— **Colleen Kraft**, President of the American Academy of Pediatrics

So many of these children experience unbelievable trauma in their home country, during the treacherous journey here, and then while detained in cages at the border. To suddenly be separated from their parents, not knowing why, or if they would ever see them again, has caused these children immeasurable harm.

During the past year, AI Justice staff members have spoken at great lengths with an alarming number of children, many younger than 15, who were separated from a parent at the border. Many children report not being able to say goodbye to a parent; not understanding that they would be transferred across the country, thousands of miles from their parent; not being able to communicate with their parent; not knowing where their parent is; and experiencing a general sense of confusion, trauma, and fear. Frequently these teens and children were lied to when separated. Many were told that they were “going to school” but were instead transferred without their parent to a Miami shelter.



Six-year-old Adayanci (“Yanci”) spent three and a half months in Michigan foster homes after she was separated from her father at the U.S.-Mexico border.

When our attorneys meet with young children to prepare their legal cases, children spend much of the time crying, asking, “When can I see my papi? When can I see my mami?” They often ask our staff if they can use our phones to call their parents.

Six-year-old Adayanci (“Yanci”) spent three and a half months in Michigan

foster homes after she was separated from her father at the U.S.-Mexico border.⁵²

Once she was transferred from the border to the care of ORR in Michigan, Yanci called her aunt in Lake Worth, Florida and she cried, asking what happened to her father. Yanci’s relatives in Florida sought

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the assistance of local immigrant advocates, who were able to connect the dots and find out that Yanci was in Michigan.

Before her father was deported, he sent in a request at the center where he was detained asking about the location of his daughter. He got a written response back from an ICE officer that stated, "Your daughter is in Michigan. Gracias." This was the only information Yanci's father received about his daughter before he was deported to Guatemala.

With the assistance of pro bono counsel in Michigan, Yanci was finally returned to her parents in Guatemala.

Once back in her small, impoverished hometown, Yanci did not remember her aunts or her classmates. She now spends long moments staring into the distance and she has become aggressive towards her family members. She also seems introverted, rebellious, and sad. She no longer sleeps through the night and wakes up with nightmares and memories of her foster family in Michigan.

In Michigan, Yanci was given a psychological evaluation and was diagnosed with Post Traumatic Stress Disorder (PTSD) with the acute trauma being the separation from her father. The consequences of this trauma continue to play out even though Yanci has been reunited with her family.

Yanci and her family in Guatemala struggle to return to a sense of normalcy after the experience of being separated. Yanci's advocates in the United States are still seeking



YANCI'S JOURNEY

- 1 Yanci departs** from the village of Santa Ana, in Guatemala.
- 2 She is apprehended** by Border Patrol officers in Arizona on May 12, 2018 and separated the next day.
- 3 Yanci is transferred** into ORR and placed in the care of Bethany Christian Services in Kalamazoo, Michigan. During her time in Michigan, she spent time with a foster family. She was represented by Michigan Immigrant Rights Center pro bono.
- 4 Yanci calls her aunt** in Lake Worth, Florida, crying and asking what happened to her father. Her relatives were unable to locate Yanci even with the assistance of local immigrant advocates.
- 5 She is deported** to Guatemala around August 30, 2018, to the capital of Guatemala. Her parents and her three year old brother traveled six hours in a pickup truck to meet Yanci.

psychological treatment for her in Guatemala and supporting Yanci's mother and father as they grapple with the consequences of family separation and their young daughter's trauma.

CHAPTER 9

TURNING 18 CAN MEAN ADULT PRISON

When a child in ORR custody turns 18 years old, that milestone birthday is often marked by being handcuffed, sometimes shackled in leg irons, and taken to adult immigration prison.

There, these young people no longer receive the support of social workers and attorneys familiar with their cases, like AI Justice's own Children's Legal team. They are placed in removal proceedings like the other detained adults, and these proceedings tend to move rather quickly. They will likely not be afforded the protections that UAC status bestows upon minors and will have to fight their asylum case in court at the detention center. If these 18-years-olds are unable to find an attorney in time, they will be forced to represent themselves before the immigration judge when fighting their deportation.

Applying for asylum is a lengthy and complex legal process. Being detained in an isolated setting with limited phone access makes it much more difficult for immigrants to gather the documentation needed for their cases and to successfully present their asylum claims. These teenagers have already been traumatized by the events that caused them to flee, and a number of them also suffered separation from their parents at the border. Many end up relinquishing their asylum claims and risk the danger of returning to their home countries because prolonged detention becomes too much to bear.



"Leonardo" was 17 when he arrived at the U.S.-Mexico border with his father in June 2018. Initially the two were detained together in a *hielera* and then, suddenly, Leonardo was separated from his father and transferred to a shelter for unaccompanied minors in South Florida. He never heard from his father again and later learned through a family member in the U.S. that his father had been deported back to Guatemala.

The day Leonardo turned 18, ICE officers handcuffed him and brought him to the Broward Transitional Center, an adult detention facility in Pompano Beach, Florida. During meetings there with an AI Justice attorney, Leonardo was very quiet,

looked panicked and made no eye contact. The absence of his father was the only thing on his mind.

AI Justice filed a habeas corpus petition in federal district court on Leonardo's behalf, and he was subsequently released to family living in Arizona, where his immigration case will proceed.

AI Justice has successfully filed habeas petitions on behalf of a number of these teenagers, leading to their release from detention while their immigration cases are pending.⁵³ A class certification in a case filed in the District of Columbia was granted in August 2018.⁵⁴

CHAPTER 10

CONCLUSIONS AND RECOMMENDATIONS

“In the first nine months of this fiscal year, 68,560 families and 37,450 unaccompanied children were apprehended at our southern border. That’s not a ‘flood.’ It’s one football stadium of people. We can afford that level of compassion in this country.”⁵⁵

— **Sonia Nazario**, *The New York Times*, July 11, 2018

How did we get here? Immigration was Trump’s defining issue right out of the gate. Failing to build his “great, beautiful” wall, he has doubled down on other means to close the border, systematically eroding immigrants’ basic rights and working to deprive immigrants of the due process protections afforded them under our laws.⁵⁶ While a decade ago the vast majority of people apprehended at the border were Mexican, most people arriving at our border today are fleeing uncontrolled violence in Central America, and Trump has made it clear he does not want Central Americans to be allowed to enter.⁵⁷

Only a small percentage of asylum seekers make it through the exhaustive legal process. But we owe every single one of them humane treatment and due process of law. We owe them this not just because of who they are, but because of who we are as Americans. We should never accept policies or rulings that intimidate and dehumanize asylum seekers with nowhere else to turn.⁵⁸

In their rush to close the border, officials are ignoring the push factors, what’s causing families to undertake

the perilous journey here. El Salvador, Honduras and Guatemala are among the most dangerous countries in the world, with alarming numbers of homicides. They are gang infested and run by drug cartels that operate with impunity. The push factor will outweigh the fear of detention and facing criminal charges once here. People will flee until they can seek safety and justice at home. Not surprisingly, Mexico is experiencing a sharp increase in asylum requests from Central Americans.⁵⁹

Congress’s failure to enact meaningful immigration reform has left the United States with a massively complex and broken system that fails to provide even the most basic due process protections and neglects the essential role immigrants play in a thriving economy. Until Congress steps up and does the right thing, all of us will suffer the consequences.

RECOMMENDATIONS⁶⁰

■ DON’T FORCIBLY SEPARATE FAMILIES

Family separation is a cruel, dehumanizing practice, and it must never happen again. Asylum seekers

should not be punished for exercising their legal right to seek asylum and protection from harm in the U.S., and Congress must pass a law barring the prosecution of asylum seekers for illegal entry.

The U.S. government also needs to assume responsibility for reunification of separated families and Congress needs to create an effective, efficient tracking system so that if families are separated through detention and deportation they can be quickly reunited.

■ USE ALTERNATIVES TO DETENTION

According to Congressional findings, alternative programs contribute to more effective enforcement of immigration and at far less cost (averaging between \$5 and \$6 per person per day versus an average of \$128 per person per day for detention).⁶¹ The Family Case Management Program, which began in 2015 and was terminated by Trump in 2017, allowed families to be released together and monitored by caseworkers who helped them meet their legal obligations.⁶² Of the families in that program, 100 percent

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appeared for their court hearings, and 99 percent made it to their court appearances.⁶³

■ PAROLE APPLICANTS AFTER CREDIBLE FEAR INTERVIEWS

ICE officers should quickly parole asylum seekers who have passed their credible fear interviews, without requiring them to pay exorbitant amounts of money as is now routinely done. On July 2, 2018, a federal judge in the District of Columbia blocked the arbitrary detention of asylum seekers, requiring a case-by-case custody determination about whether asylum seekers should be released on parole.⁶⁴

■ DON'T KEEP CHILDREN IN 'HIELERAS' OR LANGUISHING IN FAMILY DETENTION

The decades-old Flores settlement agreement ensures that children are housed in the least restrictive settings and are treated humanely.⁶⁵ While

the 2002 Homeland Security Act eventually resulted in the transfer of custody of unaccompanied children from Immigration and Naturalization Service (INS) to ORR, which was a good thing, Congress still needs to address the legal and social services needs of children.⁶⁶

■ PROVIDE FREE ATTORNEYS TO CHILDREN IN IMMIGRATION CASES

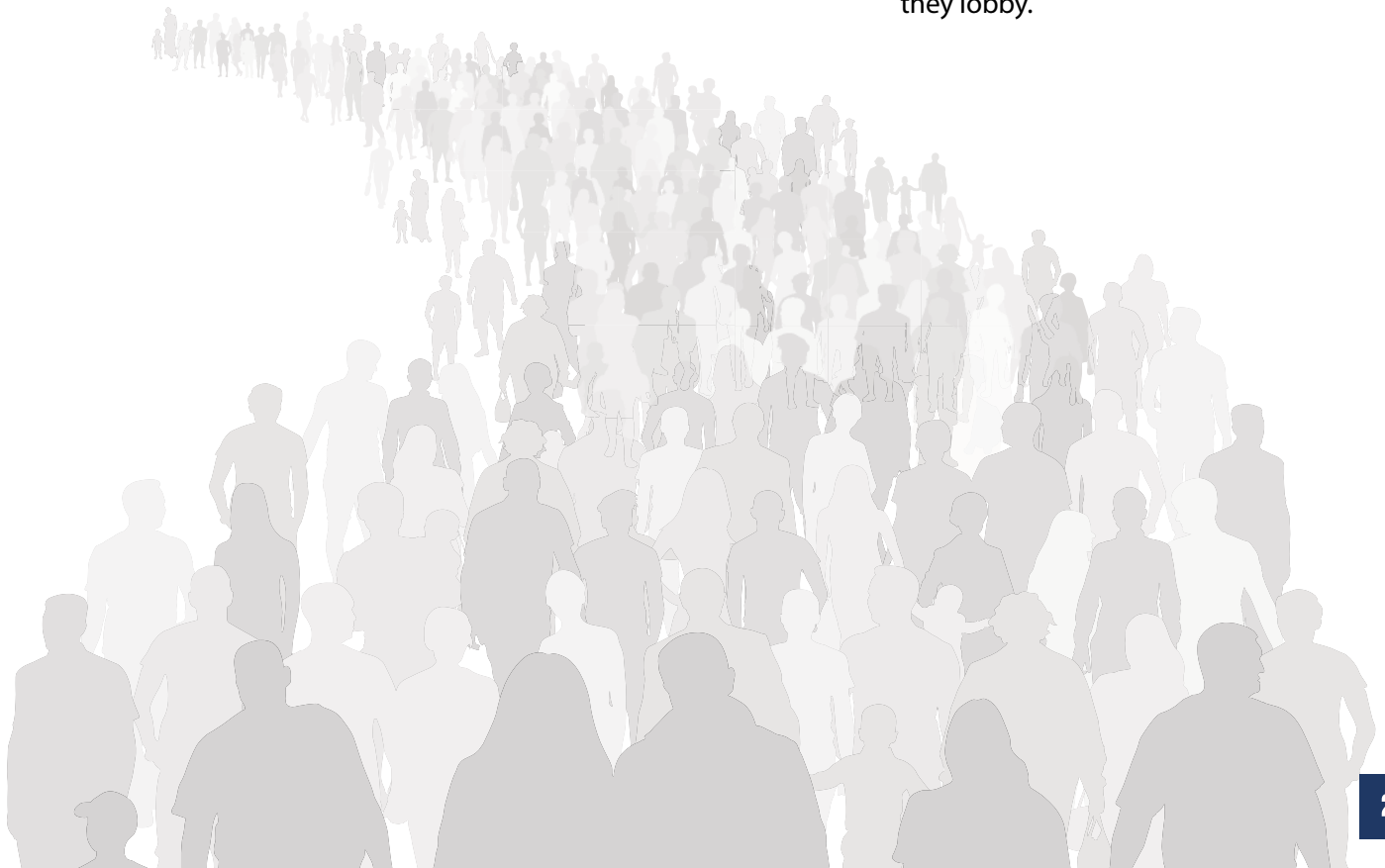
While those in removal proceedings have "the privilege of being represented," this is "at no expense to the Government."⁶⁷ Without attorneys, children have little to no chance of winning their case. In 2016, Senate Minority Leader Harry Reid (D-Nev) introduced the "Fair Day in Court for Kids Act" that would require the federal government to appoint an attorney to assist unaccompanied minors and other vulnerable immigrants, like victims of torture or abuse.⁶⁸

■ RESTORE JUDICIAL DISCRETION AND END JUDGE QUOTAS

The Trump administration has worked tirelessly to prevent Central American asylum seekers from exercising their legal right to request asylum and has required immigration judges to rush cases, even though this is reducing their ability to make fair decisions. Judicial discretion must be restored to immigration judges and current out-of-control judicial backlogs must be addressed by hiring more immigration judges while simultaneously reducing the number of ICE agents detaining immigrants in the interior.

■ END THE USE OF PRIVATE PRISONS FOR IMMIGRATION DETAINEES

ICE should end its relationship with private prison companies, including GEO Group and Core Civic, that profit off the fast-growing number of immigration detentions, for which they lobby.



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**Americans for
Immigrant Justice**

April 2019

Addendum to the Report: “Family Separation: Broken Systems, Broken Families”

Since our report was published in January 2019, additional noteworthy developments include:

- During a visit to Calexico in early April, President Trump said of immigrants, “We can’t take you anymore. We can’t take you. Our country is full.” This statement runs counter to data collected by expert demographers and economists, which shows that many U.S. cities and towns are underpopulated due to aging and declining birth rates, *The New York Times*, April 9, 2019.
- Despite Trump’s false claims that Obama created the family separation policy and Trump put an end to it, the President is considering a return to the family separation policy. In addition to urging Trump to reinstate the family separation policy, advisors close to the President, including Stephen Miller and Kris Kobach, have also pushed for even tougher policies like the so-called binary choice policy which would force asylum-seeking parents to choose between “voluntary” separation from their children or indefinite family detention together, *The New York Times*, April 8, 2019.
- In late January 2019, [DHS announced](#) the implementation of the Migrant Protection Protocols (MPP) to force many asylum seekers, including those who arrive legally, to wait in Mexico while their immigration proceedings are pending. In early April, U.S. District Judge Richard Seeborg found “the policy was not supported by federal immigration law and did not sufficiently safeguard the lives and freedom of migrants,” *Politico*, April 8, 2019.
- Thousands more children were separated from their parents than the administration has previously acknowledged. Given this development, a federal judge ruled in March that all families separated from the time the policy was initially implemented, in July 2017, should be included in the class-action lawsuit. In response to the suit, the government released a proposed plan for reunification of separated families, estimating it could take up to 2 years to identify all separated families, *CNN*, April, 6, 2019.
- In a [statement to the press](#) on April 5, President Trump remarked, “They have to get rid of the whole asylum system because it doesn’t work. And, frankly, we should get rid of judges.”
- Following the death of two young children while in Customs Border Protection (CBP) custody last December, CBP Commissioner McAleenan promised sweeping changes to address serious health care inadequacies at the border. Despite these promises, two additional immigrants have died in CBP custody since the children’s deaths.
- On March 6, 2019, the U.S. Senate introduced a Fair Day in Court for Kids Act of 2019, which would guarantee appointed lawyers for unaccompanied children and strengthen legal orientation programs.
- As of early March 2019, over 10,000 children whose cases were pending in the Miami immigration court were without lawyers. “Juveniles—Immigration Court Deportation Proceedings,” Transactional Records Access Clearinghouse (TRAC), accessed March 5, 2019.
- Health and Human Services (HHS) documents reveal that during a four a year span (October 2014 to July 2018) the federal government received over 4,500 complaints of sexual abuse of immigrant children held in government-funded detention facilities. There was a notable increase in complaints while the family separation policy was in place. Matthew Haag, “Thousands of Immigrant Children Said They Were Sexually Abused in U.S. Detention Centers, Report Says,” *The New York Times*, February 27, 2019.
- The largest temporary shelter housing unaccompanied minors, in a “tent city” in Tornillo, Texas held as many as 2,700 children, including many who were separated from their parents. Conditions there were harsh and in early January Tornillo was closed. Madlin Mekelburg, “Official: No migrant children remain at Tornillo tent shelter as it heads toward closure,” *El Paso Times*, January 11, 2019.

A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants