



MEMORANDUM

New York City Council Hearing: The Impacts of Trump Administration Family Separation Policy on New York City July 12, 2018

Summary

On July 12, 2018, the New York City Council called a joint hearing held by the Committee on Immigration, Committee of Health and Committee on General Welfare to address the impacts of the Trump administration's "Zero Tolerance Policy," and identify continued areas of need for the children who have been separated from their families at the southern border, and relocated to New York City for placement in federal immigration foster care. The hearing included testimony from the three foster care agencies currently serving separated children in the five boroughs, Cayuga Centers, Lutheran Social Services of New York (LSS), and Catholic Guardian Charities (CGC)¹, the city agencies that provide legal, health and mental health and child welfare services, and advocates.

There are an estimated three hundred separated children temporary housed in New York City federal immigration foster care facilities. Many of them are between the ages of four and twelve, however, some are infants and pre-verbal toddlers. Although Cayuga, LSS and CGC have both city and federal contracts, the immigration foster care services they provide for both unaccompanied and separated children are funded by the Office of Refugee Settlement (ORR) and are entirely distinct from those funded by New York City's Administration of Children's Services (ACS). Although ACS has no oversight over ORR programs, Cayuga and LSS follow the same model as ACS for certifying, training, and licensing a foster home, with the added requirement that the foster parent serving children through the federal ORR contract must be linguistically matched with the child.

Due to the city's investment in supports for unaccompanied children in 2014 following the surge of children over the southern border, service providers have been uniquely well positioned to respond to the needs of the separated children relocated to New York City under the Zero Tolerance Policy. Many of the programs developed in response to the surge of unaccompanied children have been essential to responding to this crisis. There is a successful template for providing services to immigrant children, however, much of its success depends on the collaboration with and transparency of the federal government. During this crisis, ORR and other federal government agencies have refused to share information with New York City about the separated children, creating a challenge to effectively caring for them.

¹ There are also separated children housed outside New York City at Children's Village, the JCCA, Abbot House, MercyFirst, and Rising Ground.

In response to the current administration's apparent impending expansion of a federal immigration law which allows it to deny permanent residence to anyone that uses certain public benefits, CDF-NY submitted written testimony highlighting the need for proactive private factor engagement in order to mitigate the damage caused by the inaccessibility of safety-net programs that is likely to result. A copy of CDF-NY testimony is attached to this memorandum. This memo summarizes the testimony from city agencies, service providers and other advocates at the hearing.

I. Foster Care Providers Serving Separated Youth in NYC

The panel of foster care providers included 1) Lorraine Sanchez, Vice president of NYC Operations and Community Relations at Cayuga Centers, 2) Damyn Kelly, President and CEO of Lutheran Social Services of New York, and 3) Monsignor Kevin Sullivan, Executive Director of Catholic Guardian Charities.

A. Cayuga Centers

Cayuga Centers is a New York based nonprofit agency that provides foster care programs through contracts with both state and federal agencies. It has two foster care programs for unaccompanied children in which each child is placed in the least restrictive environment and released to a parent or legal guardian without delay. Since the inception of its unaccompanied child program, it has reunited more than 7000 children with sponsors in the US. Cayuga provides children with a variety of services including:

- Immediate medical, dental, and psychological counseling and exams;
- Placement in an education program;
- Medical care through clinics and referral to outside specialists; Cayuga staffs one clinician for every 12 children;
- Child participation in weekly group therapy and referrals to agencies that provide specialized mental health care;
- Physical activity, education and fieldtrips;
- Case management for each child with the goal of reunification. Cayuga works to identify sponsors to whom the child may be released and will assist in departure to their home country.

B. Lutheran Social Services of New York

Lutheran Social Services provides recreational, educational and support services for unaccompanied children and employs staff that are culturally competent and have received training in case management practices. Children either reside in the residential facility, or they are sent to trained foster homes comprised of guardians who are often of the same ethnicity of the child, but at a minimum, speak the same language.

C. Catholic Guardian Charities

Catholic Guardian Charities provided an intake and consultation for each separated child. It has provided two reunified families family-like residence for two months after being reunited. The Executive Director highlighted that the reason foster care providers have been able to immediately help the separated children is due to the infrastructure maintained by NYC that includes a robust set of service providers that are available when a new emergency arises.

D. Reunification

- In all three organizations, seven children under the age of five have been reunited with their parents. Approximately twelve of the two dozen children under the age of 5 that were eligible for reunification in the New York area were reunified in the last few days.
- The federal government lacks an actual reunification plan, which is critical due to the risk of re-traumatizing children when general disorganization and lack of communication leads children to expect to be reunited, and providers to prepare for reunification one day, only to discover that the plans have changed.
- The primary way of reuniting a child with a parent who has been deported to their home country is a deportation proceeding which is back logged. Therefore, the only other way is voluntary departure in front of a judge.
- The policy has had a chilling effect on potential sponsors to take in children because many families that are able to provide homes are now afraid to step forward and risk having to disclose their immigration status, or the status of those in their household.
- Reunification is also difficult in many cases because many children do not carry family contact information with them. In prior years, unaccompanied children arrived with contact information sewn into their clothes. However, because this separation was unexpected, families did not prepare like they used to, and the contact information remained in with the parents.
- Many of the children remain in limbo because the federal government has designated them ineligible for reunification due to either child welfare issues, or because the parents are unreachable or have been deported.
- The ultimate goal is reunification for both those who have been separated at the border but also for unaccompanied children.
 - For unaccompanied children, the goal is to either reunite them with a family member or a suitable adult that the family is familiar with. In order to do so, staff reaches out to family and friends to make sure that if their child is placed with a family in the United States, the family has a relationship with the parents and the parents understand where their child has been placed.
 - For separated children, the goal is reunification with a parent upon their release from detention.
- Due to confidentiality issues, the organizations could not provide data regarding the average length of stay in unaccompanied children cases prior to Trump's zero tolerance policy or whether the average length of stay has been affected.

E. Health Services

- Many of the children have received immunizations and most are physically fine, however, the mental health literature is very clear regarding the long term emotional challenges of being separated from parents.
- The lack of complete medical histories poses a problems in terms of immunizations and other care. Case managers are working with sponsors within the United States and in home countries to obtain as much of a complete medical history as possible.
- LSS has health professionals and arrangements with community health centers and other providers. H+H and DOHMH approached LSS with an offer to assist in providing health and mental health care, and therefore children are sometimes referred to H+H facilities.

F. Requests

- LSS requests gift cards, books, toys, and personal hygiene items for both males and families to give to families once reunited because resources are limited and many lack clothing. It also preserves human dignity, as many are wearing the same clothes for over a week.
- Cayuga is seeking educational materials like books, recreational items and gift cards to send with families at the time of reunification.

II. Panel: City Agencies

The panel of city agencies included members of from the Mayor’s Office of Immigrant Affairs (MOIA), NYC Health and Hospitals (H+H), the Administration of Children’s Services (ACS) and the Office of Civil Justice (OCJ).

A. Bitta Mostofi, Commissioner, Mayor's Office of Immigrant Affairs

MOIA has taken an interagency approach, coordinating with agencies including H+H, ACS, the NYPD, OCJ, DP, leading to the provision of on-site child and adolescent mental and psychiatric services, healthcare at public hospitals city wide with direct referrals, training of staff serving facilities, increased security at day care facilities and foster homes with specialized NYPD groups, weekly recreational services, and parental coaching for teen mothers separated from their adult mothers.

MOIA has also worked with partners to support litigation, including joining an Amicus brief to oppose the attempts to strip protections from immigrant children. The Court rejected the government’s request to indefinitely detain children. In addition, there is a new state law that allows immigrant parents to designate a stand-by guardian for children in the event they are detained or deported. 311 has been set up to provide free confidential immigration assistance to appoint a stand-by guardian.

When news of the separated children first reached MOIA, it was in direct communication with federal agencies such as the Department of Health and Human Services (HHS), the Department of Homeland Security, and the Department of Justice (DOJ) in order to gain access to federal facilities, obtain data regarding the number of children relocated to New York City, and lay out the next steps. Since the initial contact, none of MOIA’s correspondence to the federal government has been responded to or met, despite numerous attempts to communicate.

B. Interagency Approach

1. Legal Services:

- As part of the holistic wraparound services provided through federal contracts, every child has received screening through Catholic Charities ORR funded services. MOIA has been working with the OCJ and an array of other legal service providers to identify areas of continued need. They have identified an additional need in terms of taking full representation for children and parents, and in providing legal advice to potential sponsors. To date, the city has identified 96 cases that will be taken based on city funding.
- The OCJ has prioritized identifying the needs of separated children in the care of ORR, and then widening the services to the larger group of unaccompanied children in order to ensure access to full legal representation that takes into account youth and vulnerability.

- The OCJ is currently attempting to calculate the cost associated with these particular cases. Given the uniquely vulnerable nature of the respondents, these proceedings are more complicated than a typical removal proceeding and may require social work and case management.
- The OCJ cannot commit to ensuring each child receives the legal representation they need because of the evolving nature of the crisis and changing number of children. It plans to continue relationships with providers and other stakeholders to understand the scale and nature of the problem, and find out what is feasible.
- Reunification:
 - There is a longer period of stay for children in ORR custody than the average stay for unaccompanied children before being placed with sponsors due to the children expressing a desire to go back to their parents, and no secondary sponsor.
 - The federal government makes the determination as to whether reunification is possible.
 - From city's point of view, going to third party sponsor is not reunification unless it is with the consent of child and parent (could possibly differ from federal opinion).
 - Additional problems stem from the fact that upon arrival to New York City, parents are not immediately allowed to be reunified with their child. Although they have daily visits, there is a cumbersome process to actual reunification

2. Mental Health Services:

- Separated and unaccompanied children are entitled to the same health care as New York City children, but there is a very specific need for access to child and adolescent psychiatry among the separated children. There are many children who have significant disorders associated with trauma; many have been gone through trauma in their home countries, in their journey crossing the border, and ultimately are experiencing on-going trauma as they remain separated from their families.
- H+H is providing bilingual child and adolescent psychiatrists to help staff at facilities with those children with more complicated cases.
- H+H facilitated a referral program at Bellevue Hospital for all foster agencies should they want a child in their care to be evaluated, and also work on-site with mental health professionals.
- There is no data regarding the actual number of children receiving treatment at H+H facilities due to its general policy not to ask about immigration status. Staff often are only able to determine which children are separated due to self-identification.
- H+H has collaborated with Cayuga, LSS and CGS and set up a hotline for pediatric specialty services since the agencies provide on-site medical care but lack subspecialty services.
- H+H is also working closely with Cayuga mental health staff to see the more complicated cases in addition to helping the staff learn how to distinguish trauma in younger kids, which often presents differently. It is also providing bilingual child and adolescent psychiatrists.
- For example, an H+H hospital saw a six year-old from Cayuga who presented with trauma in such a way that a less trained mental health professional might have diagnosed him as psychotic, when he was actually experiencing flashbacks.
- Providing services without a complete medical history is not uncommon with immigrant children or even ACS children, however, it is further complicated by the inability to speak to parents.

3. Support systems for agencies

- ACS is providing scheduled trauma trainings available in English and Spanish for staff and foster parents in ORR programs.
- It is also providing parenting coaching services for separated adolescents who are themselves parents, but whose adult mother is in detention elsewhere.
- H+H hospital programs such as Bellevue, have familiarity working with unaccompanied children, but they are often older children and adolescents. They need support in dealing with young children who present particular challenges. Before this policy went into place, they had not treated young children like this.

III. Panel: Advocates

1. Jo-Ann Yoo, Executive Director, Asian American Federation
 - Immigrants are not being detained only at the Southern border but also in Oregon and Albany.
 - There is a need for translation services, and the federation is coordinating with the governor's office to facilitate this.
 - There is tremendous anxiety and stress amongst the nonprofit community that works in immigration and a need for mental health support for frontline staff.
2. Hasan Shafiqullah, Attorney-in-Charge, Immigration Law Unit at The Legal Aid Society
 - Legal Aid has been able to meet the needs of the separated children due to the legal services community that the City Council and the Mayor's office have built.
 - It has been screening potential sponsors, meeting with children, reuniting where possible and representing children in independent hearings.
 - Many attorneys have stepped away from their caseloads in order to meet the needs of the separated children and therefore they are in need of additional resources, especially social workers, to assist with the unique needs of the young children. Some cases may end quickly as families reunite, but other cases that involve families remaining in the United States may take several years, similar to removal cases.
 - There has never been universal representation for children and Legal Aid is hoping to meet the needs of forcibly separated children first, but are concerned about being able to provide needed services to the separated children located outside the five boroughs.
 - It was discovered this week that another wave of 400 children are arriving.
3. Karina Albistegui-Amaya, Immigrant Health Advocate, New York Lawyers for the Public Interest
 - Forced separation cannot be viewed separate from the deplorable conditions of ICE detention facilities. The practice of separating children from their families dehumanizes the undocumented living in the city, as well as those seeking asylum.
 - There are many New York residents currently detained in ICE jails and denied freedoms even though they are not charged with criminal violations.
 - Many immigrants are denied vital medical care in detention centers, even resulting in the death of immigrants in ICE jails. Other examples include denying and delaying critical medical treatment such as diabetes medications, cancer treatment, and emergency surgery.
4. Stephanie Gendell, Associate Executive Director, Citizens Committee for Children (CCC)

- The trauma caused by separation has both short and long term implications for children, and it is incomprehensible that there is no government plan for reunification, or tracking system for separated children.
- Providing legal services to separated children is complicated by not knowing exactly how many require services and the unprecedented nature of the situation. Although legal services organizations have experience working with unaccompanied children and the related court process, the issue of forcibly separated children is an entirely new area. Therefore, it is unclear how long the process takes and what the results will be.
- CCC requested increased funding for Immigrant Children Advocates' Relief Effort (ICARE), a coalition that provides legal representation to the unaccompanied minors in removal proceedings before the New York Immigration Court, and also requested that the model also be funded to include social workers, given the unique nature and age of the youth the attorneys will represent.
- CCC also requested that the city help fund transportation and other costs associated with reunification, such as bail and bond, since the federal government has not paid for any of these costs.

5. Immigration and Nationality Law Committee of the New York Bar Association

- The committee previously provided a recommendation to the Mayor and the City Council on ways they can ensure immigrant New Yorkers have equal access to justice during this time, and recently joined with six other bar committees in sending a letter to Attorney General Sessions regarding the policies and practices of mandatory criminal prosecution, forcible separation and detention of families seeking asylum.
- The policies violate the United States' obligations under international human rights law, refugee law, and domestic law, and contradict the longstanding bipartisan tradition of offering refugee to people seeking safety.
- The United States must provide full access to the United State asylum system to determine which individuals meet the legal standard for such protection.
- Family detention is not a solution to family separation, as both hold children in jail-like facilities, absent due process and contrary to both domestic and international human rights law.

6. Megan Finn, Immigrant Families Together

- Immigrant Families Together is a newly formed group of New York mothers brought together by a disdain for President Trump's zero tolerance policy. Since then, they have mobilized a few thousand Americans to participate in direct action to reunify families, including crowd funding for bonds. To date, they have raised \$150,000 to pay for bonds and transportation of relocated mothers to get to their children and lay the ground work for proceedings in courts.
- They have bonded out 6 mothers, transported them to their final destination, and secured medical, legal and other support services for them working in local communities.
- During their work, they have heard stories of unimaginable abuses including:
 - Women who were told their children would be taken for a shower and returned to them, only to have them removed and sent to the care of others;
 - Women were put in an ICE box for up to nineteen days and interrogated mercilessly;
 - Women were fed spoiled food and thus forced to buy their own food from commissary, although many cannot afford to;
 - Women are not allowed to touch one another such that they begged for hugs from volunteers as soon as they were released;
 - Many have been released with medical conditions, such as raw peeling skin, hair loss and excessive weight loss.

7. Lorelei Williams, Advocacy Director for Staten Island Legal Services

- She submitted highly technical testimony regarding the language of the Keep Families Together Act and asks the council to refer to her testimony if it chooses to comment.
- Previously, she was an attorney for Catholic Charities of NY and has experience providing services to detained unaccompanied children. During her experience, she found that the biggest issue is the right of access to council. Federal funding limits ORR legal service providers from effectively advocating for children. Agencies that receive ORR funding will often greatly limit or change what is said publicly so as not to risk funding. She often found that her hands were tied and she could not pursue the best course of action, such as filing a habeas petition.
- Several other issues are raised to the attention of the council:
 - Abuse allegations in Abbot House, Mercy First and Children's Village. The news agency, www.documentedny.com, released an article on June 28, documenting various lawsuits alleging misconduct at agencies housing unaccompanied minors.
 - Lack of confidentiality: information given to medical providers in shelters under the guise of confidentiality has shown up in ICE records in immigration court and often has weighed heavily against children.
 - Some shelters medicate children without their consent, or without the informed consent of their parents.

8. Office of Public Advocates for the City of New York, Leticia James

- The office sent letter to Attorney General Sessions demanding that the Trump administration release a plan ensuring the reunification of families.

9. Member, Make the Road NY

- A member of Make the Road, NY told a personal story reminding the council that the crisis of separated families is happening outside the southern border as well. Her husband was detained by ICE during a routine marriage interview that is part of the process required to obtain lawful permanent residency, and has remained in detention for two months. Her children have only been able to see their father one day a week since then.