

This issue provides information about the federal administration's "zero tolerance policy" which has separated over 2000 young immigrant children from their parents. When I first heard about it, all I could think of was the movie "Sophie's Choice," wherein Sophie, as she is being taken away to a concentration camp in Nazi Germany, is forced to choose which of her two children will go with her and which she will likely (and, in fact) never see again. That our government is engaged in the separation of parents from their children breaks my heart. I urge you to take whatever steps you can to help reunite these families. This is a country that stands for the rights of all to protection of the law. It is our collective responsibility to ensure that we abide by it.

- Karen Richards

"Xenophobia is defined as the uncontrollable fear of foreigners. That fear should not dictate the immigration dialogue any longer."

- Elizabeth Flock



PHOTO CREDIT: John Moore, Getty Images

In This Issue

- [From the Executive Director](#)
- [Zero-Tolerance](#)
- [Family Separation Facts](#)
- [Executive Order](#)

Did you know?

On April 6, 2018 Attorney General Jeff Sessions enacted the “[zero-tolerance policy](#)” along the Southwest Border.

An NPR National news [report](#) states that according to the Department of [Homeland Security](#), 2,342 children crossing the Southern U.S. border have been separated from their parents since May 2018.

According to [Freedom For Immigrants](#) statistics 48% of immigrants are detained from two to four years, with only 7% being detained for less than six months.

Also according to Freedom for Immigrants [statistics](#), the [GEO Group](#) receives the most U.S. taxpayer dollars for immigration detention with \$184 million in FY 2017.

The United Nations High Commissioner for Refugees ([UNHCR](#)) reports the increase of violence in Mexico and Central America has driven a ‘notable increase’, 1,185%, of asylum applications .

UNHR additionally [reports](#) that out of 404 children they interviewed, 58% of them were “forcibly displaced because they suffered or faced harms that indicated a potential or actual need for international protection.

On June 11, 2018, Attorney General Jeff Sessions reversed an immigration appeals court ruling from 2014 that granted asylum to a Salvadoran woman who alleged being sexually, emotionally and physically abused by her husband. Stating: “Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by nongovernmental actors will not qualify for asylum. See his ruling [here](#).”



Zero -Tolerance

On April 6, 2018, a zero-tolerance policy was enacted by the Trump administration creating an unprecedented human rights crisis at our borders. The stated purpose of the policy was to deter immigrants from entering the country by separating children from their parents. This is so regardless of whether the individuals come legally seeking asylum or are caught crossing illegally. (See next page for more details).

The president and others in his administration claimed that this is not ‘their fault’ and instead either pointed blame at the Democrats, claiming it is “their law”, or the *Flores* consent decree. Neither is accurate. The truth is, this policy choice was entirely the administration’s and it can be ended by them. There are no laws mandating family separations. (See page 2).

Under this policy the Department of Homeland Security (DHS) was referring all adults “believed to have committed any crime, including illegal entry” to the Justice Department (DOJ) for prosecution. This is a lengthy process that could include incarceration and then deportation, though in most cases the border crossing is a misdemeanor. In the past, immigrants were released after a couple of days to a month to await deportation proceedings. This allowed families to remain together. Now the children of those detained are in the custody of DHS which then transfers custody to the Office of Refugee Resettlement (ORR). ORR then attempts to find sponsors or family members already in the country to place the children with. Ironically these sponsors might be undocumented immigrants. Those children without sponsors or relatives are detained indefinitely.

The inhumanity of this policy has caused a public outcry due to the significant rise in immigrant children being separated from their parents—over 2,000 in just six weeks between April and May 2018. As the world watched, countless photographs of tearful, frightened, traumatized children ranging in age from infants to teens paraded through our living rooms. Photographs of children sleeping in cages on mats resembling those you may find in any school gymnasium covered by nothing more than space blankets with no pillows, toys or any sign of comfort, while armed guards patrol and watch their every move, garnered outrage from the public, the international community and from politicians on both sides of the isle.

In their fervent desire to prosecute all attempting to cross the border, this administration recklessly, willingly and knowingly has traumatized over 2,000 innocent children who came here with parents seeking nothing more but a safer, better world. This administration knew when it enacted the zero-tolerance policy that they could not prosecute children along with their parents, and still made a decision to take this action. The results for these children and their parents will be lifelong trauma caused by our government.

We must stand up and tell our government that we have a zero-tolerance policy when it comes to traumatizing innocent children.

“Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door.” - Emma Lazarus



Facts About the Basis for Family Separation

While the Trump administration claims that there is a law that requires it to separate families, this is not true. The law allows for separation if there is evidence of abuse or if there is evidence that the person bringing the child is not the child's parent or lawful guardian. That is not what is happening here. And the *Flores* settlement, which the Trump administration is in the process of trying to get the court to rescind, does not require family separation either. It mandates that the federal government release any child from custody after about 20 days — even if the child is in custody with their parents and prevents their indefinite detention in unlicensed facilities. In the past this has resulted in the release of both parent and child. Overturning *Flores* would simply allow for indefinite detention of children with their parent. And ending family separation doesn't require family prisons. Prior to June 2017, the Family Case Management Program, allowed families to stay together and be placed into a program that connected them with a case manager and legal orientation designed to ensure they understood how to apply for asylum and the need to attend immigration court proceedings. This is not only a more humane alternative to family prisons; it's far less costly for taxpayers. Despite this and the program's 99.6 percent appearance rate at immigration court hearings for those enrolled, the Trump administration ended it about a year ago.

Another troubling aspect of the Administration's current policy is that in several cities along the border, Customs and Border Protection officers have been turning away asylum seekers, telling them that the port of entry is at capacity. Members of Congress who traveled to the border, including Vermont's Congressman Peter Welch, met asylum seekers who experienced just that. Secretary of DHS Nielsen tried to explain this by saying that asylum seekers are not being turned away per se, they are being told come back.

Asylum rights were created after World War II in the wake of millions of refugees displaced by the war. The U.N Convention Related to the Status of Refugees (Convention) established that individuals who are outside of their country of nationality who have fled or cannot return because of real, or a risk of, persecution and who face that persecution based on political opinion, race, religion, nationality or membership in a particular social group, should be eligible to seek asylum. The U.S. is a signatory to the Convention and these standards have been incorporated in our immigration statutes for 38 years. The ACLU filed a lawsuit back in February, before the policy change on behalf of two women, both of whom requested asylum and were found (one immediately and one later) to meet the standard of "credible fear" and yet both had children removed from them. (See next page for more details on the court's preliminary ruling). One has been released and reunited with her 4-year-old; the other has been released but had not been reunited with her 14-year-old son. As of the date of the court's hearing in *Ms. L v. ICE*, there were 2,044 children still in detention facilities. Challenges to reuniting these families remain despite the court's order. We must remain vigilant and continue to apply public pressure to end this humanitarian crisis.

EXECUTIVE ORDER

PHOTO CREDIT: ISTOCK

On June 20, 2018 President Trump signed executive order, [Affording Congress an Opportunity to Address Family Separation.](#), coming after intense scrutiny, political pressure and national outcry over this policy. The intent of the executive order is, presumably, to cease separating families at the border, however it fails in a number of respects to accomplish this task.

On June 27, 2018 a federal district court judge in California denied the government's motion to dismiss the substantive due process claims made by plaintiffs in the ACLU case, *Ms. L. v. ICE*. See the decision [here](#)

In its decision, the Judge Sabraw stated: "These allegations sufficiently describe government conduct that arbitrarily tears at the sacred bond between parent and child, and is emblematic of the 'exercise of power without any reasonable justification in the service of an otherwise legitimate government interest[.]' Such conduct, if true as it is assumed to be on the present motion, is brutal, offensive and fails to comport with traditional notions of fair play and decency." The court ordered the government to reunite children under the age of 5 with their parents within fourteen days and all other children within 30 days.

The Vermont Attorney General's Office has joined 17 states and the District of Columbia in a lawsuit challenging the President's actions on the grounds that the policy violates due process and equal protection, along with the Administrative Procedures Act and asylum laws. The lawsuit was filed today in the U.S. District Court for the Western District of Washington. "This policy is not only unconstitutional, it's simply wrong," Attorney General Donovan said. "Our country has always been a beacon of hope and safety. And our constitution entitles all people to equal protection under the law." Read Attorney General, Donovan's, press release [here](#)

DHS has stated that it will no longer refer these cases for prosecution, however, for the families already separated and detained, it is unclear what the administration's next steps will be. Efforts are underway by the administration to locate more facilities to essentially imprison parents and children together. This is not a solution. Multiple legislative initiatives have also been put forward with draconian provisions that would undo the *Flores* decision and allow for on-going detentions. This fight is far from over.

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RESOURCES

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[Association of Americans Living in Vermont \(AALV\)](#)

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