



STATEMENT OF THE AMERICAN IMMIGRATION COUNCIL

SUBMITTED TO THE HOUSE COMMITTEE ON
THE JUDICIARY

HEARING ON OVERSIGHT OF FAMILY SEPARATION AND U.S. CUSTOMS AND BORDER
PROTECTION SHORT-TERM CUSTODY UNDER THE TRUMP ADMINISTRATION

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The American Immigration Council (Council) is a non-profit organization that has worked to increase public understanding of immigration law and policy - and the role of immigration in American society - for over 30 years. We write to thank the Committee for scheduling this hearing to discuss the impact of the President's prior "zero tolerance" policy and ongoing family separations at the border.

The full scale and impact of these policies remain unknown. Conducting a comprehensive and meaningful investigation of the agencies involved in the implementation of these policies will help to create greater levels of accountability and develop a historical record that we hope will prevent the United States from ever revisiting such policies in the future.

As the Committee is aware, former Secretary of Homeland Security (DHS), John Kelly, confirmed that the department was considering a policy to systematically separate families at the border in March 2017 – more than a full year before the announcement of the administration's "zero tolerance" policy directing federal law enforcement to prosecute all adult immigrants who entered the country unlawfully. **The Council and its partner organizations uncovered a significant number of instances of kids – including at least eight infants under the age of one and at least 37 kids ages two and under - who had been separated from their families in the intervening time between Secretary Kelly's remarks in March of 2017 and the formal announcement of "zero tolerance" in April 2018.**

Specific examples of separations occurring in the summer and fall of 2017 were cited in a formal [administrative complaint](#) to the DHS Offices for Civil Rights and Civil Liberties and Inspector General. The individual complaints that the Council and its partner organizations collected and conveyed to the DHS clearly documented the extreme trauma that this new policy forced upon immigrant families, and the related negative impact on their ability to effectively pursue relief in their respective immigration cases. Despite clear evidence of direct and possibly irreparable harm, the administration nevertheless moved



forward with a significant expansion of its family separation policy in formally announcing a “zero tolerance” policy mandating the criminal prosecution of everyone who crossed the southern border, including adults traveling with children.

The Council, along with the National Immigrant Justice Center, Kids in Need of Defense, Women’s Refugee Commission, and Florence Immigrant & Refugee Rights Project filed [requests for information](#) regarding family separation under the Freedom of Information Act (FOIA) in April 2018. The requests sought policies, guidelines, or procedures used by government agencies to address the processing and treatment of families at the U.S.-Mexico border, the separation of adult family members from minor children, the criminal prosecution of adult family members, and efforts to reunify families. In response, the Council has received a variety of key documents from the Department of Health and Human Services (HHS) that describe the scale and impact of family separation at the border following the implementation of “zero tolerance” that we believe could be of value in the Committee’s investigation of these policies.

These documents reveal that from January 2018 through March of 2019, the administration separated at least 3,109 kids from their families. Detailed information including the age, gender, country of origin, and reunification status for every child listed in the documents during the period described above is available [here](#). This information confirms that at least 108 kids under the age of five were seized by federal immigration authorities at the border. Critically, these documents clearly demonstrate that family separations continue at the border with as many as five kids seized daily. Reports highlighting the emotional and physical distress experienced by the kids and families impacted by this policy continue to surface.

The documents received in response to the Council’s FOIA request also confirm that despite the extensive, documented harm inflicted by these policies, the administration continues to separate families at the border on a regular basis. These ongoing separations are carried out on the basis of suspected allegations of “criminal history”, “medical issues”, “gang affiliation”, or because a familial relationship is “not verifiable”. The documents suggest that the administration may be relying on unsubstantiated information regarding alleged criminal histories and gang affiliation. Perhaps most importantly, the seizure of kids based on these allegations is carried out without any meaningful level of due process as parents are not presented with the evidence forming the basis for the separation or a meaningful opportunity to challenge their separation in before a neutral third party.

The emotional and physical stress children and families are experiencing as they seek refuge in the United States is exacerbated by the additional trauma of being separated from their siblings, parents or other relatives and caregivers. We can no longer afford to sit idly by as the administration continues to pursue these policies with impunity. It is incumbent upon all of us to take meaningful action to elicit change and create meaningful accountability for those responsible for the creation and implementation of these policies. The American Immigration Council believes that the United States should honor its legacy of providing safe haven to those fleeing violence and its commitment to the fundamental value of family unity and reunification. Put simply, policies that tear kids from their families are contrary to our collective values, and they should be reserved for only the most extreme circumstances.



We thank you for the opportunity to submit this statement, and for the Committee's efforts to engage in a thoughtful conversation about the impact of immigration enforcement policies that lead to the separation of families at the border.