



Friends Committee on
National Legislation

A Quaker Lobby in the Public Interest

January 25, 2022

SUBMITTED VIA WWW.REGULATIONS.GOV

Samantha Deshommès
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, D.C. 20529

Michelle Brané
Executive Director, Interagency Task Force on the Reunification of Families
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528

Re: Identifying Recommendations to Support the Work of the Interagency Task Force on the Reunification of Families; DHS-2021-0051

Dear Chief Deshommès and Director Brané,

The Friends Committee on National Legislation (FCNL) is a national, non-partisan Quaker organization that lobbies to advance peace, justice, and environmental stewardship. On behalf of FCNL and its network of the Religious Society of Friends' (Quakers) members as well as people of conscience, we respectfully submit this comment in response to the Department of Homeland Security's (DHS) request in support of the Interagency Task Force on the Reunification of Families' (Task Force) work to minimize the separation of migrant parents and legal guardians and children entering the United States.

FCNL's recommendations stem from our faith-based policy document, *The World We Seek*, which calls on FCNL to advance humane and welcoming migration policies that uplift migrants, regardless of their place of birth, religion, or race. FCNL believes in a migration scheme that recognizes the Light of God in each individual and prioritizes safety, compassion, and love for those seeking refuge – no exceptions. The public, the government, the private sector, and all our institutions are responsible for exacting this vision.

Migration is Not a Crime

The “zero tolerance” policy, which facilitated the separation of migrant families by detaining guardians and placing children in the custody of the Office of Refugee Resettlement Services, marred our nation’s domestic and international human rights obligations. The Trump administration weaponized unlawful entry and unlawful reentry laws to penalize families fleeing violence and instability in their countries of origin with hopes of accessing asylum or other forms of humanitarian protection in the United States.¹ Over 5,000 children were separated under zero tolerance.²

Although the Biden administration rescinded the zero tolerance policy, the administration continues imperialist, militarized, and racist border policies via instruments, such as metering, the Migrant Protection Protocols (MPP), and U.S.C. Title 42, which criminalize migration and violate immigration laws.³ Individuals subjected to these policies have suffered rape, kidnapping, violent assaults, and death, not to mention mental health and emotional harm.⁴ Among the human costs is family separation as hundreds of parents have instructed their children to cross the border alone in hopes of sparing them the harm caused by these exclusionary policies.⁵

Additionally, 11 million undocumented immigrants suffer the perils of family separation as they are denied a pathway to citizenship as well as an inherent right to travel internationally and bear the threat of unjust deportations.⁶

The Task Force should develop humane border reception policies that facilitate the unity of families, including reunification with relatives already present in the United States. This includes a framework where instead of U.S. Customs and Border Protection managing the reception and processing of vulnerable individuals, parties with humanitarian and refugee protection expertise administer processing and transition services.

Additionally, the U.S.’s immigration laws wrongfully criminalize migrants for violations of civil provisions. The Task Force must exercise its prosecutorial discretion to end militarized enforcement and establish guidance to counter the prosecution for unauthorized entry or unauthorized reentry of parents, guardians, and caretakers accompanied by children. Furthermore, the Task Force should also call on Congress to repeal the laws that make migration a crime.

¹ See Press Release, U.S. Dep’t of Justice Office of Public Affairs, Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry, (Apr. 6, 2018), <https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>; Memorandum from Jeff Sessions, Att’y Gen., Zero-Tolerance Offenses

² See BBC, Child Migrants: Massive drop in children held by border officials, (May 2, 2021), <https://www.bbc.com/news/world-us-canada-56405009>.

³ See Just Security, On International Migrants Day Reimagining Migration Beyond Imperialism, Militarism, and Racism, (Dec. 18, 2021), <https://www.justsecurity.org/79584/on-international-migrants-day-reimagining-migration-beyond-imperialism-militarism-and-racism/>.

⁴ See Human Rights First, New Report of Increasing Dangers Asylum Seekers Face as Biden Defends Use of Title 42 and Restarts MPP, (Oct. 21, 2021), <https://www.humanrightsfirst.org/press-release/new-report-increasing-dangers-asylum-seekers-face-biden-defends-use-title-42-and>.

⁵ See American Immigration Council, The “Migrant Protection Protocols,” (Jan. 7, 2022), <https://www.americanimmigrationcouncil.org/research/migrant-protection-protocols>.

⁶ See Biden’s Immigration Bill Could Repair the Harms of Family Separation, (Feb. 19, 2021), <https://www.washingtonpost.com/outlook/2021/02/19/bidens-immigration-bill-could-repair-harms-family-separation/>

Finally, the Biden administration cannot fortify family reunification without creating a pathway to citizenship and terminating deterrence and enforcement policies such as metering, MPP, and Title 42.

Detention is a Barrier to Family Reunification

Family separation practices derive from decades of perpetuating criminalization and detention as the appropriate — and only — responses to migration. The default that migrant children must either be separated from their parents or, alternatively, incarcerated was a false paradox. While the Biden administration has halted the operation of family detention centers, the unconscionable immigrant detention center machine continues.

The Task Force must denounce the reliance on immigration detention and embrace community-based alternatives as one solution to family separation and provide proposals to end the jailing of accompanied minors' primary caregivers. Additionally, punitive incarceration, which devastatingly separates families, must end for individuals exercising their right to seek asylum.

Resources and Support for Separated Families

In October 2021, more than 400 children were reported as still separated from their families.⁷ This nation can never fully reconcile the heart-wrenching cries of children pleading for their parents in the wake of our government forcing them apart. However, there should be no doubt about the moral and legal obligation for the United States to pursue amends. The impact of separation on children and families should be central to any decision regarding resources, settlements, or support.

This Task Force's report must outline reparatory justice for families and youth that endured the Trump administration's zero tolerance policy. The families subjected to separation will never forget the atrocity of zero tolerance – the memories are daily, and the harms persist. While nothing will assuage their trauma and agony, receiving justified resources and benefits will start the process for impacted individuals to seek the support they need to heal.

Conclusion

Communities of faith will always prioritize caring for the most vulnerable in our society. FCNL calls for the reunification of all families who endured zero tolerance and stresses the importance of resources, trauma counseling, and support for affected families. We also maintain that practices like detention, metering, MPP, Title 42, and barriers to a pathway to citizenship preserve family separation. The Task Force must name the mechanisms that engineer family separation and erode asylum and humanitarian protections for families. Simultaneously, it is imperative to curate policies that restrict funding, legislation, and rules that endorse the division of families.

Sincerely,

Friends Committee on National Legislation

⁷ <https://www.nytimes.com/2021/04/07/us/migrant-children-separated-border.html>