



HISPANIC BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

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July 12, 2018

Via Electronic Mail

Senate Majority Leader Mitch McConnell
317 Russell Senate Office Building
Washington, DC 20510

Chairman Chuck Grassley
224 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Dianne Feinstein
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Support the Keep Families Together Act

Dear Senators McConnell, Grassley, & Feinstein:

The Hispanic Bar Association of the District of Columbia (“HBA-DC”) supports the Keep Families Together Act (S.3036) and urges Congress to swiftly pass the legislation. The Act is critical to ensuring that our government ceases to forcibly separate families after crossing the US-Mexico border.

The Administration’s shocking policy of separating families seeking asylum relief at the border is a human rights crisis. Unfortunately, the United States is not a signatory to the 1951 Convention and Protocol Relating to the Status of Refugees, which prohibits the punishment of those seeking asylum.¹ But the U.S. is a signatory to the Convention’s 1967 Protocol, which acknowledges the “unity of the family” and urges nations to “take the necessary measures for the protection of the refugee’s family.”² Indeed, apart from its stated commitment to international law, the United States has never had a history of separating families entering the country. To the contrary, the U.S. policy of “family reunification” has been enshrined for decades in the Immigration and Naturalization Act.

¹ Article 31 of the 1951 Convention relating to the Status of Refugees: Non-penalization, Detention, and Protection, available at: <http://www.unhcr.org/3bcfdf164.pdf>.

² States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, available at: <http://www.unhcr.org/en-us/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html>; 1967 Protocol, Principle of unity of the family, available at: <http://www.unhcr.org/en-us/protection/basic/3b66c2aa10/convention-protocol-relating-status-refugees.html>.

The Administration's rejection of traditional American immigration and refugee policy has led to a humanitarian crisis of its own making. To be clear: no law requires that the Administration separate these families. The press has widely reported that asylum seekers are being turned away at lawful points of entry. Those desperate for safety then cross the border, often surrendering themselves to authorities, at which point children are taken from parents seeking protection rather than punishment. Over 2,000 children have already been separated from their parents and the government has no official process in place to reunite them. This crisis likely would never have arisen had the Administration simply continued the Family Case Management Program, an existing pilot program that provided an alternative to family detention. The Inspector General reported that 99% of participants under this program appeared for immigration check-ins and appointments, and 100% of participants showed up for their immigration court dates.

The only reliable solution to this crisis is for Congress to pass the Keep Families Together Act. The Administration's recently announced Executive Order is not an acceptable solution because it merely requires that families be detained together but ignores the decades-old court order in the *Flores* settlement prohibiting long-term detention of families and actually seeks to overturn that order.³ The recent federal court order in the Federal District Court in San Diego requiring the reunification of families, though hopeful, likely is the start of a long protracted legal battle with the Justice Department.⁴ The Keeping Families Together Act addresses the crisis by ending the practice of family separation, creating a preference for keeping families together, restricting the prosecution of parents who seek asylum, and requiring the Department of Homeland Security to develop family reunification procedures.

The HBA-DC, a non-partisan organization of Hispanic legal professionals, adds its voice to the objections raised by Americans of all political backgrounds, that the "Zero Tolerance" policy of family separation is both un-American and harmful to families. Indeed, the American Academy of Pediatrics, an organization of 66,000 pediatricians, strongly opposed the administration's separation policy, noting that "highly stressful experiences, like family separation, can cause *irreparable harm*, disrupting a child's brain architecture and affecting his or her short- and long-term health. *This type of prolonged exposure to serious stress - known as toxic stress - can carry lifelong consequences for children.*"⁵ Compounding this harm, the Administration has placed newly separated children in holding facilities, in some cases converted warehouses or Wal-Marts, rather than with family members.⁶

The practice of separating families seeking asylum or other protections must be eliminated immediately. The practice contradicts the longstanding American tradition of respecting the

³ Executive Order, issued June 20, 2018, available at: <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation>.

⁴ The New York Times, *Federal Judge in California Halts Splitting of Migrant Families at the Border*, available at: <https://www.nytimes.com/2018/06/26/us/politics/family-separations-congress-states.html>.

⁵ AAP Statement Opposing Separation of Children and Parents at the Border, available at: <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx> (emphasis added).

⁶ National Public Radio, *What We Know: Family Separation And 'Zero Tolerance' At The Border*, available at: <https://www.npr.org/2018/06/19/621065383/what-we-know-family-separation-and-zero-tolerance-at-the-border>.

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unity of immigrant families. It is affirmatively harmful to the development of children. It has sparked outrage from all corners of the country. For these reasons, the HBA-DC urges swift passage of the Keeping Families Together Act, the best vehicle to respect American values and protect vulnerable families.

Thank you for your time and consideration. Please contact HBA-DC at president@hbadc.org if we can provide more information.

Sincerely,



Richard V. Rodriguez
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Hispanic Bar Association of D.C.



Maritza Perez
Board Member
Hispanic Bar Association of DC



Osvaldo Vazquez
Member, Legislative and Policy Issues Committee
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