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**First Focus on Children**  
**Statement for the Record**  
**U.S. House of Representatives Committee on Oversight and Reform**  
**Hearing on Accountability and Lessons Learned from the Trump Administration’s Child Separation Policy**

Chairman Maloney, Ranking Member James Comer, and Member of the House Committee on Oversight and Reform, we thank you for the opportunity to submit this statement for the record. First Focus on Children is a bipartisan children’s advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. As an organization that advocates for the health and well-being of all children in the United States, we are deeply concerned about the lingering legacy of the Trump Administration’s family separation policy.

All aspects of the immigration system have a significant impact on the lives of children. As such, they should always be guided by a “best interest of the child” standard. As the past four years have made clear, immigration policy is not guided by children’s best interests. In fact, children are often treated as an afterthought in policy efforts related to immigration. Even worse, intentional cruelty toward children has even been the purpose of some policies. Almost no policy brings this to light more clearly than the Trump administration’s family separation policy.

Multiple government reports confirm that the government began separating families in 2017 under the El Paso Pilot Program, expanded separations under the 2018 “zero-tolerance” policy, and continued separations based on specious reasoning after a federal court ordered the government to stop widespread separations. Most recently, the report of the Department of Justice Office of the Inspector General (DOJ OIG) confirmed that the then-Attorney General was a driving force of the policy, starting with a memo released on April 11, 2017 prioritizing the prosecution of federal immigration offenses.<sup>1</sup>

Many of those involved in formulating the zero-tolerance policy knew that it would result in the separation of families or took no steps to understand the impact it would have on children.<sup>2</sup> Specifically, the report states that its review “found that the Department’s single-minded focus on increasing prosecutions came at the expense of careful and appropriate consideration of the impact that prosecution of family unit adults and family separations would have on children traveling with them and the government’s ability to later reunite the children’s with their parents.”<sup>3</sup> Evidence of the chaos and harm inflicted from the 2017 El Paso pilot program and the execution of the zero-tolerance policy also did nothing to deter the then-Attorney General from plowing forward with the policy.<sup>4</sup> As a result, over 5,000 children were separated from their families

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<sup>1</sup> Dep’t of Justice, Office of the Inspector General, 21-028, *Review of the Department of Justice’s Planning and Implementation of Its Zero Tolerance Policy and Its Coordination with the Departments of Homeland Security and Health and Human Services* [hereinafter DOJ OIG Report] 8-9 (January 2021), [https://oig.justice.gov/sites/default/files/reports/21-028\\_0.pdf](https://oig.justice.gov/sites/default/files/reports/21-028_0.pdf).

<sup>2</sup> *Id.* at 8.

<sup>3</sup> *Id.* at 69.

<sup>4</sup> *Id.* at 13-19.

under zero-tolerance and related policies, and 611 children remain separated from parents that organizations are still trying to locate.<sup>5</sup>

In the report, DOJ officials repeatedly passed the buck on responsibility for the zero-tolerance policy's impact on children. DOJ officials stated that DHS should have minimized family separations, and that they assumed DHS and HHS has appropriate systems in place to track and reunify children.<sup>6</sup> While the family separation policy was the collective effort of multiple federal agencies, the DOJ OIG determined that DOJ's deterrent-priorities were the "driving force" behind the disaster that was family separation,<sup>7</sup> and as such agency officials had a responsibility to examine the consequences of the zero-tolerance policy and halt its implementation based on the cruelty it would inflict on children. Those at DOJ who had a role in this policy, therefore, must be held accountable, and DOJ must implement structural safeguards to ensure that every policy it considers, including those requiring coordination with other agencies, is evaluated for its impact on children's safety and well-being.

## Recommendations

1. **Develop a system of child impact assessments for all policies, including those related to immigration enforcement or other immigration priorities.** This assessment procedure must be developed in consultation with experts in children's issues. Where policies involve coordination with other agencies, assessments must include consultation with those agencies. Government officials use these assessments to determine whether a policy moves forward.
2. **Establish a White House Office or Interagency Task Force on Children and an Independent Children's Commissioner.** The inter-agency nature of the family separation policy makes clear that immigration and children's issues require high-level coordination and alignment. Immigration policy is a children's issue and must not be examined in a silo. We therefore call for the creation of a White House Office on Children and Youth or an Interagency Task Force on Children that can coordinate programs that impact children across various agencies, including those affecting immigrant or refugee children. Similarly, an Independent Children's Commissioner would examine policy choices and make recommendations across government regarding children's health and well-being. These entities would ensure that all areas of children's well-being, including family unity, income security, nutrition, housing, and education, are integrated into policy issues of importance and unique to children, including immigration policy considerations.
3. **The United States should adopt a Best Interests of the Child Standard for all immigration decisions.** A best interest of the child standard is one of many safeguards necessary to ensure that government policies consider the needs of children. A best interest of the child standard would ensure that children's safety, views, family unity, liberty, health, and development are considered in immigration policy.<sup>8</sup>

We thank you again for the opportunity to submit this written testimony. We look forward to working with you on continued oversight to ensure that government agencies consider the best interests of children so that all children can thrive in the United States. Should you have any further questions, please contact Miriam Abaya, Senior Director for Immigration and Children's Rights at [miriama@firstfocus.org](mailto:miriama@firstfocus.org).

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<sup>5</sup> Ms. L v. ICE, No. 18-cv-00428-DMS-MDD (S. Cal. Jan. 13, 2021) (status report), <https://www.courtlistener.com/recap/gov.uscourts.casd.564097/gov.uscourts.casd.564097.567.0.pdf>.

<sup>6</sup> DOJ OIG Report, *supra* note 1, at 33-34, 49, 51, 52, 57.

<sup>7</sup> *Id.* at 33.

<sup>8</sup> Jennifer Nagda & Maria Woltjen, "Best Interests of the Child Standard: Bringing Common Sense to Immigration Decisions," Big Ideas 2015 – Pioneering Change: Innovative Ideas for Children and Families, 11, March, 2015, <https://firstfocus.org/wp-content/uploads/2015/04/Best-Interests-of-the-Child-Standard.pdf>.