

Statement of the National Immigrant Justice Center (NIJC)

**U.S. House Judiciary Committee Hearing
Oversight of Family Separation and U.S. Customs and Border Protection Short-Term
Custody under the Trump Administration**

July 25, 2019

Background: The Trump administration continues to systemically tear apart immigrant families while hiding information about its actions from Congress, lawyers, and the public. Recently released FOIA documents along with testimonies from victims of the practice show the Department of Homeland Security regularly separates children from their parents on the basis of suspected and often erroneous gang affiliation, criminal histories that have no bearing on a parent’s fitness, and prosecutions for migration-related offenses (i.e. “zero tolerance”).¹ These continuing separations, made without any transparent governing process or policy, manifest a systematic circumvention of due process rights and leave children and families suffering incalculable trauma.

NIJC represents parents who were torn from their children on the basis of unsubstantiated allegations of criminality, months after the administration claimed to have stopped engaging in this abusive practice. Here are just a few recent examples.

Maria, a 19-year-old Salvadoran woman, fled El Salvador after suffering physical and sexual violence at the hands of gang members. In February 2019, immigration officials detained her and her three-year-old son into freezing cold conditions in a CBP processing center (*hielara*). Her son was then taken and placed ORR custody. In the newly released HHS document, Maria’s reason for separation is listed as “parent has a criminal history (US or home country).” It was not until a month after the separation, however, that Maria was told that the reason for the separation was based on allegations of a criminal record in her home country. NIJC lawyers working on her case had to obtain official documents from El Salvador confirming that she in fact had no criminal record. Maria and her son were apart for three months, before finally reuniting in June 2019. When they reunified, Maria’s son was withdrawn, and did not appear to recognize his mother.

Diana, a 25-year-old woman, fled El Salvador with her then one-year old baby, and upon arriving were immediately taken to a freezing cold processing facility (*hielera*) in March 2019. Diana came to the U.S. for seek asylum because of credible death threats from gang members and years of gender violence. DHS inappropriately classified Diana as a “high security” detainee and tore her daughter away mid-breast feeding on her second birthday. After extensive work by NIJC lawyers Diana finally learned the reason for the separation. On one occasion, Diana was

¹ Jesse Franzblau, “Family Separation Policy Continues, New Documents Show,” National Immigrant Justice Center, June 22, 2019, <https://bit.ly/2Z1zWrA>.

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forced to carry a small amount of marijuana under death threat by a powerful gang leader who was sexually abusing her. The very reason she fled to the United States for protection is now the basis of her continued separation from her young daughter, who was released from ORR custody to the care of a family friend. Deborah and her daughter continue to suffer excruciating trauma from being apart.

Elena is a Salvadoran mother of two children (17 and 12 years old) who was separated from her children after she entered the U.S. in April 2019. She was separated because a decade earlier she happened to be questioned by Salvadoran police and confused for a gang suspect because gang members were brought to the police station at the same time. After realizing their mistake, Salvadoran authorities released her after about three days with zero charges. NIJC provided the Justice Department with an official clearance document from the Salvadoran government, and Elena was released and reunified with her children, after being separated for more than two months.

Mariana is an Angolan mother who entered the U.S. in April 2019 with her two children (seven and five years old). She was separated from her children because the U.S. government appears to be asserting that her participation in peaceful demonstrations in support of running water, electricity and better schools classify her as a terrorist. She is seeking asylum based on severe gender violence by Angolan government soldiers. She remains detained, separated from her children, and is suffering from health issues.

Separations are also happening because agents falsely question family relationships. After fleeing violence in Guatemala, a teenage boy was separated from his father due to alleged, yet unfounded, fraudulent familial ties. When the separation initially happened, officials did not give the teenage boy or his father any explanation. Later, lawyers discovered that border officials separated the father and son because they questioned the father-son relationship, despite the fact that the boy's father presented official Guatemalan birth certificates.

When NIJC represents a separated parent, we find that they are sometimes given some verbal indication at their credible fear interviews of the basis for the separation, but no specific details or documentation. NIJC has asked numerous government officers for documentation to substantiate allegations of gang affiliation or criminal history. In all but one case, the government has refused to provide us with documentation reflecting the reason or justification for the separation. The time it takes to determine the reason for the separation and then obtain documents refuting the basis of the separation extends the separations of parents from their children by a minimum of several weeks.

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