

January 25, 2022

Family Reunification Task Force  
Department of Homeland Security

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

To Whom It May Concern:

Thank you for the opportunity to submit comments to the Department of Homeland Security (DHS) on recommendations to both reduce the separation of migrant parents, legal guardians, and children and such separations' impact. We are deeply appreciative of the Administration's Executive Order 14011, Establishment of Interagency Task Force on the Reunification of Families, which recognizes the inhumane application of US immigration laws, including the Zero-Tolerance Policy, and commits to preventing separation and protecting family unity. On behalf of Children's HealthWatch, a network of pediatricians, public health researchers, and policy and child health experts, please accept these comments and our evidence-based suggestions for DHS.

The mission of Children's HealthWatch is to improve the health and development of young children by informing policies that address and alleviate economic hardships. We accomplish this mission by interviewing caregivers of young children in emergency departments and primary care clinics in five cities: Boston, Minneapolis, Little Rock, Baltimore, and Philadelphia. Since 1998, we have interviewed more than 75,000 caregivers and analyzed data from those interviews to determine the impact of public policies on the health and development of young children. Approximately 25 percent of children in this dataset have immigrant mothers, mirroring national statistics that one in four children under age 8 in the US has at least one immigrant parent.<sup>1</sup>

As pediatricians and public health researchers, we are acutely aware of the harmful health and economic consequences resulting from increased immigration and enforcement actions – such as the Zero-Tolerance Policy – as well as long-standing exclusions of immigrant families from public programs. These policies threaten the health and well-being of immigrant families, especially children.<sup>2,3,4,5</sup> As such, we are gravely concerned about the culture of fear that has been perpetuated by policies that target immigrants across the United States and at our Southern border, including families with young children.

Research has demonstrated the detrimental effects of both the culture of fear and discriminatory policies on increasing family economic hardship and harming health.<sup>6</sup> The damaging process of separating children, especially young children, from their parents when they attempt to enter the US, many of them seeking asylum,<sup>7</sup> and placing children in makeshift detention facilities is extremely detrimental to the health of migrant children as well as children living in families residing in the U.S. Moreover, the atmosphere of fear related to potential family separations affects children living in families already residing in the US. The first years of life are crucial for children's healthy growth and

development. Exposure to trauma and disruption during this critical window has grave impacts on the long-term physical, socioemotional, cognitive and mental health of infants and toddlers.<sup>8,9,10,11,12</sup>

Our immigration laws often fail to consider the best interests of children, and the real or perceived threat of separation from a parent due to immigration enforcement that creates instability and constant stress for children in mixed-status families. It is critical that the Task Force address the harm that the Zero-Tolerance Policy has caused for children and families, as well as other enforcement policies, including forced separation, that continue to cause injury to immigrant families and their children. Furthermore, the immigration system must also be strengthened to ensure that families who are already separated are able to reunify promptly, including addressing lengthy backlogs, repealing punitive bars to entry, and providing deported parents with an opportunity to return to the US to reunify with their families.

In this effort and aligned with our partners at the Center for Law and Social Policy, we urge the Task Force to consider the following evidence-based recommendations:

- **All enforcement policies at the border and interior should include specific protections for children.** Policies and decisions regarding admissibility, enforcement, detention, and deportation of children and their parents must duly consider the best interests of children and promote family unity. Trauma-informed training and accountability protocols must be instituted for all immigration enforcement officials and experts in child well-being should be employed to conduct screening and other enforcement activities involving children.
- **Actively communicate and clarify the public charge rule so as to minimize confusion and uncertainty that could lead eligible individuals to forgo the receipt of public benefits out of fear of family separation.** Even though changes to public charge under the 2019 DHS rule directly affected only a small proportion of immigrants,<sup>13</sup> immigrants not subject to public charge and their US citizen family members consistently reported forgoing benefits for which they were eligible out of fear and anxiety – a phenomenon known as the “chilling effect.” In a national survey conducted in June 2021, nearly one in three immigrants with low incomes and their U.S. citizen family members shared that they did not have access to health care and economic supports because of fear of being designated a public charge.<sup>14</sup> One in three immigrant families with low incomes reported forgoing public benefits -- such as Supplemental Nutrition Assistance Program (SNAP), Medicaid, CHIP or housing subsidies -- and one in five of all immigrant families – regardless of income – reported forgoing public benefits out of fear.<sup>8</sup> This fear and uncertainty often reflects concerns around deportation and thus family separation. Children’s HealthWatch research demonstrated that from 2017 to 2018, after increasingly negative public rhetoric about immigrants and a leaked draft of changes to public charge, there was a significant reduction in eligible immigrant families participating in SNAP and a simultaneous increase in child food insecurity despite steady rates of employment among immigrant families over the time period.<sup>15</sup> Other research has also shown decreases in immigrant family participation among those eligible – most of whom not subject to public charge determination – across multiple public assistance programs, concurrent with harsh

rhetoric and enhanced immigration enforcement policies.<sup>8,16,17</sup> Fear is also a barrier reported by immigrant families to accessing critically important pediatric care. For example, after the draft of the public charge rule was leaked in early 2017, immigrants reported fear of accessing well-child care – care that is critically important for screening for health and developmental problems and also for immunizations. As a result, in the year following, adherence to well-child care visits dropped significantly among children of immigrant compared to US-born families.<sup>18</sup> In a study of immigrant mothers, including those with no legal barriers to accessing healthcare or benefits, women reported worry that their families would be separated and concern about the consequences of accessing healthcare and other services. Consistent with others’ research, family separations at the Southern border and/or witnessing or knowing about others in their circle who had been deported were sources of anxiety and provided reasons to forgo needed healthcare or other supports.

- **Oppose any policies or regulations that may cause or invoke fear of family separation.** We are deeply appreciative of early executive action taken by the Administration to address harmful immigration policies and regulations that threaten the health of children and families, notably directing agencies to review the changes made to the public charge rule and reduce the chilling effect this discriminatory and racially motivated policy has had on children and families. In addition, the Department of Housing and Urban Development swiftly rescinded a regulatory proposal that would threaten the ability of thousands of mixed-immigration status families to afford a stable home by restricting who is permitted to live in subsidized housing and access housing benefits. The regulatory proposal included evicting family members not receiving public assistance, and no longer permitting eligible children in otherwise ineligible households to receive housing assistance. If implemented, this policy would have forced mixed status families to make the excruciating decision to either be evicted as a family and face the possibility of homelessness or unstable housing or separate in order for some family members to maintain access to affordable housing. The Task Force must continuously identify and oppose policies that target mixed-status families or ultimately split families apart and exacerbate hardships and harm health.
- **Halt Title 42 policy.** Despite opposing the Zero-Tolerance Policy and other immigration enforcement policies that inhumanely separate families, the Administration has continued to embrace and implement the xenophobic Title 42 policy established by the previous Administration. This policy misuses public health authority to expel and separate families seeking protection, and directly puts children and families, particularly Black immigrant families, in danger. Although DHS has itself assessed and acknowledged dangerous conditions in Haiti, they have continued to deport thousands of families this year. Just since September 19, 2021, DHS has deported over 10,500 Haitians, of which nearly 20 percent were children, including newborn infants only a few days old. The continued deportation of immigrants to Haiti is counter to messaging from DHS and this Task Force, threatens the short and long-term health of children, and must be stopped immediately.
- **Put an end to the Migrant Protection Protocols (MPP).** Often referred to as the “Remain in Mexico” program, MPP prevents people from seeking or receiving asylum and can often result in family separation. While we understand that the Administration is under court orders to

reinstate MPP, we are deeply disappointed by the decision to expand the reach of this xenophobic policy. A study from Human Rights First found that between January 2019 and January 2021 over 16,000 children have been forced to wait in Mexico, where they face dangerous conditions.<sup>19</sup> We urge the administration to roll back its expansion of this policy and continue to work to halt the policy in its entirety.

- **Equitably enforce the protected areas policy.** DHS guidance release in October 2021, *Guidelines for Enforcement Actions in or Near Protected Areas*, builds on longstanding policy within the immigration enforcement offices at DHS to establish “protected areas” or “sensitive locations” where undocumented immigrants can receive essential services or partake in other important activities. This expanded protected areas policy is an important step to address the chilling effect caused by immigration enforcement. As an example, it is essential that COVID vaccinations sites be immigration enforcement-free zones. If immigrant parents are too scared to bring children to well-child visits with their pediatrician for regular childhood vaccinations – likely much the more so at a public vaccination site – putting not just specific children and families at risk of infection, but all communities at large. Thus, it is critical that the policy be uniformly enforced and that there is a clear process for reporting and investigating violations so as to ensure transparency and accountability. Aligned with our partners at the Center for Law and Social Policy, we recommend mandatory and regular training for all immigration officials on this policy, including training on how to handle situations where children are present in order to minimize their trauma. Additionally, DHS should communicate this policy with other relevant federal and state agencies, as well as community-based organizations.
- **Utilize alternatives to detention.** While we recognize that the Administration has temporarily halted the practice of family detention as of December 17, 2021, there has been no official policy change regarding family detention, meaning DHS can bring families back into detention at any point. We urge the Administration to permanently shut down family detention centers, and more broadly, we recommend the use of community-based case management programs, which better support mental and physical health, as an alternative to immigration detention.<sup>20</sup> Prosecutorial discretion can and should be used to ensure immigrants, including parents, legal guardians, primary caregivers are not subject to the dangerous conditions in immigration detention facilities which are heightened during the ongoing pandemic. DHS should work to ensure immigrants can remain with their families and in their communities during their ongoing immigration cases. This is an economical and, more important, humane approach during such proceedings.

On behalf of Children’s HealthWatch, I am deeply appreciative of the current Administration’s reversal of several harmful policies and its commitment to prevent family separation and promote unity. My team and I encourage DHS and the Interagency Task Force on the Reunification of Families to consider the above recommendations, aligned with several of our partners and supported by a robust evidence base, and adopt holistic policies that consider children’s best interests and ensure all separated families have the chance to reunify and access services essential for the health and well-being of both children and their parents.

Sincerely,



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- <sup>4</sup> Cruz Nichols V, LeBrón AM, Pedraza FI. Spillover effects: Immigrant policing and government skepticism in matters of health for Latinos. *Public Administration Review*. 2018;78(3):432-43.
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- <sup>6</sup> Children's HealthWatch testimony to the House Committee on Education and Labor Re: "Growing up in fear: How the Trump Administration immigration policies are harming children." December 4, 2019. Available at [https://childrenshealthwatch.org/wp-content/uploads/Testimony-to-House-Education-and-Labor-Committee\\_Childrens-HealthWatch.pdf](https://childrenshealthwatch.org/wp-content/uploads/Testimony-to-House-Education-and-Labor-Committee_Childrens-HealthWatch.pdf)
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- <sup>13</sup> Capps R, Gelatt J, Greenberg M. The public charge rule: Broad impacts, but few will be denied green cards based on actual benefit use. Migration Policy Institute. 2020. Available at <https://www.migrationpolicy.org/news/mpi-estimates-non-citizens-ineligible-green-cards-based-current-benefit-use>
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<sup>18</sup> Ettinger de Cuba S. A mixed methods analysis of healthcare and competing needs in family life for young children of immigrant and US-born mothers. Boston University. ProQuest Dissertations Publishing, 2021. 28647268.

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<sup>20</sup> Yoshikawa H, Kholoptseva J, Suárez-Orozco. The role of public policies and community-based organizations in the developmental consequences of parent undocumented status. *Society for Research in Child Development: Social Policy Report*. 2013;27(3).