

IMMIGRATION ENFORCEMENT AND FAMILY SEPARATION



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Encarnacion is a Guatemalan national and the mother of a young son. She was apprehended during a worksite raid in 2007. Through a series of events out of Encarnacion's control, her 6-month-old son was placed in the care of an American couple. The couple later filed a motion to terminate Encarnacion's parental rights and adopt the boy. Encarnacion was never aware that family court proceedings were underway and was therefore not able to fully participate in decisions regarding her son's care. The notice to terminate her parental rights and the right to appeal were only provided in English, although her native language is Spanish. Furthermore, Encarnacion did not receive counsel until after the custody hearing and judgment was entered. Custody was terminated, and she is still fighting to get her son back.

UNINTENDED CONSEQUENCES FOR CHILDREN AND FAMILIES

Children of immigrants currently comprise nearly 1 in 4 of all U.S. children. It is estimated that more than 5 million of these children, the majority of whom are native-born U.S. citizens, live in mixed-status families with one or more undocumented parent. While the debate over comprehensive immigration reform has often overlooked these citizen children, inaction on immigration reform and ongoing enforcement measures are having a significant impact on thousands of America's most vulnerable children.

Immigration enforcement activities by U.S. Immigration and Customs Enforcement (ICE) and local law enforcement agencies operating under ICE have significantly increased over the past decade. According to a report by the DHS Inspector General's Office, over 108,000 parents of U.S. citizen children were removed from the U.S. between 1998 and 2007. Furthermore, a 2007 report by the Urban Institute reveals that on average, one child is affected for every two adults arrested in a worksite raid. Findings such as these resulted in ICE's adoption of humanitarian guidelines to minimize the instances of family separation for enforcement activities involving more than 25 arrests. However, these humanitarian guidelines do not apply to targeted home raids and individual arrests, which are the types of immigration enforcement currently experiencing rapid growth.

The impacts on child well-being and family unity resulting from such enforcement activities are immeasurable. They include separation (sometimes permanent) from one or both parents due to detention and/or deportation, interruptions in schooling, short and long-term emotional trauma, and economic hardship due to the loss of the family breadwinner. In many cases, schools, early learning and child care centers, social service agencies, and communities are unprepared to respond adequately to protect the best interests of children left behind. Often, detained parents are not able to make child care arrangements, resulting in the unnecessary placement of their children in the child welfare system. Once a child is placed into foster care, it is extremely difficult for a detained parent to reunify with his or her child, especially if that parent is transferred to an out-of-state detention facility or deported before regaining custody of his or her child.

PROTECTING CHILDREN AND KEEPING FAMILIES TOGETHER

Ultimately, the enforcement of our immigration laws should not conflict with our obligation to protect the rights of children. ICE should ensure that parents and primary caregivers of minor children are identified and, when appropriate, released into the community on bond or parole, or into non-custodial alternatives to detention programs. Every effort should be made to ensure that children are not present or engaged in enforcement activities, and families, social workers, and lawyers should be able to locate those who are detained. Additionally, children consequently placed in the foster care system should receive appropriate care, and parents should be able to participate in all court proceedings and case plans involving the care and custody of their children.



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