

July 24, 2019

The Honorable Charles Schumer
Democratic Leader
U.S. Senate
Washington, DC 20510

The Honorable Richard Durbin
Democratic Whip
U.S. Senate
Washington, DC 20510

The Honorable Patty Murray
Assistant Democratic Leader
U.S. Senate
Washington, DC 20510

The Honorable Debbie Stabenow
Chair of Policy and Communications Committee
U.S. Senate
Washington, DC 20510

The Honorable Elizabeth Warren
Vice Chair of Conference
U.S. Senate
Washington, DC 20510

The Honorable Mark Warner
Vice Chair of Conference
U.S. Senate
Washington, DC 20510

The Honorable Diane Feinstein
Ranking Member Judiciary Committee
U.S. Senate
Washington, DC 20510

The Honorable Jeff Merkley
U.S. Senate
Washington, DC 20510

The Honorable Mazie Hirono
U.S. Senate
Washington, DC 20510

The Honorable Robert Menendez
U.S. Senate
Washington, DC 20510

Dear Senate Democratic Leadership:

When it comes to issues impacting the lives of children, policy solutions should always be governed by a “best interest of the child” standard. On a bipartisan basis, the American people agree that a “best interest of the child standard” that “makes the protection and safety of children the first priority” is supported by an overwhelming 87-8 percent margin (94-2 percent among Democrats and 77-14 percent among Republicans).¹

As it relates to migrant children fleeing violence and death threats and coming to our nation in search of protection and a better life, it should be crystal clear that there is no scenario whereby the best interest of any of these children includes the array of actions that this Administration has taken, which has in and of itself created this humanitarian crisis.²

Our nation’s failure to adequately protect migrant children and, even worse, our policies that compound the harm and trauma to kids fleeing violence and hunger in their home country was condemned by the UN High Commission for Human Rights last week.³

¹ Lake Research Partners and The Tarrance Partners, Election Eve/Night Omnibus Survey, Nov. 4-6, 2018.

² Nagda, Jennifer, Young Center for Immigrant Children’s Rights, Testimony to House Committee on Oversight and Reform, July 12, 2019.

³ United National Human Rights Office of the High Commissioner, “Bachelet Appalled by Conditions of Migrants and Children in Detention in the US, July 8, 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24800&LangID=E>.

“Detaining a child even for short periods under good conditions can have a serious impact on their health and development – consider the damage being done every day by allowing this alarming situation to continue,” said Commissioner Michelle Bachelet. “In most of these cases, the migrants and refugees have embarked on perilous journeys with their children in search of protection and dignity and away from violence and hunger. When they finally believed they have arrived in safety, they may find themselves separated from their loved ones and locked in undignified conditions. This should never happen anywhere.” The statement also rightfully points out that “immigration detention is never in the best interests of a child.”

Instead of taking actions that protect the best interests of children, this Administration has done the opposite with its xenophobic “Zero Tolerance” policies that intentionally impose harm and trauma upon children. These policies include tragic and heart-wrenching family separations, lying to families and children throughout the separation process, the incompetent failure to document and keep track of children and their caregivers within and between agencies that are entrusted with their protection, the unnecessary caging and warehousing of children in detention centers, the ignoring of basic health and well-being standards associated with the Flores Settlement, the failure to comply with court orders to end family separations and to improve the protection of children, the tear gassing and metering of children attempting to cross the border to apply for asylum, the failure to fully address reports of sexual and physical abuse of children, the use of psychotropic medications without consent, the forced placement of families under bridges to sleep and await processing for weeks on end, the use of information provided by children to take immigration enforcement actions against family members, the failure to provide children (including toddlers and infants) with basic legal assistance with respect to their asylum applications, and the imposition of barriers to humanitarian workers and lawyers that are all – individually and collectively – resulting in significant trauma and life-long harm to thousands of innocent children.

While some in our government continue to insist the treatment of migrant children is akin to that of “summer camps,” federal agencies have denied numerous requests to allow for full congressional access and oversight of the facilities. Tragically, six children have died in the custody and responsibility of our government after years in which no other children seeking asylum died while in U.S. custody. The names and ages of those children are: Darlyn Cristabel Cordova-Valle (10), Jakelin Caal Maquín (7), Felipe Gomez Alonzo (8), Juan de León Gutiérrez (16), Wilmer Josué Ramírez Vásquez (2), and Carlos Hernandez Vásquez (16).⁴

In addition to children dying in U.S. custody, children are dying as a result of the neglect they experienced in detention. Mariee Juárez died from a respiratory infection shortly after being released from detention and before her third birthday because she never received the proper medical treatment while in U.S. custody.⁵ Unfortunately, we don’t know how many others have suffered this same fate.

Although a great deal of attention has been paid to questions related to safety and sanitation, we must not lose sight of the fact that this is not simply an issue related to the availability of and funding for items like toothbrushes, soap, or blankets. It is not even just about broader immigration or asylum policy. This is an issue of basic human compassion that speaks to the soul and morality of our country and how we treat and care for children.

Therefore, we urge all Members of Congress to remain focused on how the Administration’s policies are intentionally cruel and harmful to children and families and that their actions are government-imposed child abuse. Moreover, while we should all be deeply concerned about how children are treated in U.S. custody, we cannot lose sight of the fact that the vast majority of kids should not be in detention centers in the first place.

⁴ Hennessey-Fiske, Molly, *Los Angeles Times*, “Six Migrant Children Have Died in U.S. Custody. Here’s What We Know About Them,” May 24, 2019.

⁵ Webster, Julia, *Time*, “Her 19-Month-Old Daughter Died After Being Held at an ICE Facility. Here’s What Yazmin Juárez Told Congress,” July 11, 2019.

As Elora Mukherjee, Professor of Law and Director of the Immigrants' Rights Clinic at Columbia Law School, told the House Oversight and Reform Committee, children should never be separated from their families unless it is in "the best interest of the child." Mukherjee adds, "Separations should take place only when state licensed-child welfare professionals have identified a risk of trafficking by the adult family member, imminent harm to the child unrelated to the family's migration journey, or a reasonable basis to believe the accompanying adult is not a family member and requires additional investigation."⁶

Through oversight, legal action, and legislative action, we urge you to put aside differences of opinion over past actions and tactics and move forward to end the continued harm and abuse being imposed upon migrants and refugees. The fact is that the supplemental appropriations bill did little or nothing to address some critically important policy issues regarding the basic health and well-being of children.

Therefore, we urge Senate Democrats to cosponsor, consider, and pass the package introduced by Sen. Jeff Merkley (D-OR) and some of your colleagues entitled "Stop Cruelty to Migrant Children Act" that seeks to end the "cruel and neglectful treatment of children at the U.S.-Mexico border and reform how children fleeing persecution are treated between the moment at which they arrive at our borders to claim asylum and the ultimate resolution of their asylum case." We would also urge the Senate to pass legislation to codify the Flores Settlement Agreement, which provides for basic health and safety standards for all children in federal immigration custody, and a "best interest of the child" standard for all policies that govern how our government interacts with children.

Protecting children also involves defending current provisions, and we urge the Senate to oppose all efforts to undermine protections for children, including but not limited to legislation by Sens. Lindsey Graham and Ted Cruz that seek to gut the Trafficking Victims Protection Reauthorization Act (TVPRA) and the Flores Settlement. Children desperately need our protection, and Congress must ensure these vital safeguards are maintained as part of policies moving forward.

As Rep. Gerry Connolly said at the House Oversight and Reform Committee hearing last week, "If there is one basic value that should unite us as Democrats and Republicans, as Americans, it is how we treat children. Their children, our children – it doesn't matter. That's a fundamental value."

We must do better by children – no matter their race, gender, sexual orientation, disability, religion, or immigration status. Thank you for your consideration.

Sincerely,



Bruce Lesley
President

⁶ Mukherjee, Elora, Immigrants' Rights Clinic at Columbia Law School, Testimony to House Oversight and Reform Committee, July 12, 2019.