



January 24, 2022

Michelle Brané,
Executive Director
Interagency Task Force on the Reunification of Families
U.S. Department of Homeland Security

Re: DHS Docket No. 2021-0051-0001

Dear Director Brané:

Thank you for the opportunity to provide public comment to the Interagency Task Force on the Reunification of Families regarding recommendations to minimize the separation of migrant children and families in U.S. custody. We are grateful for the Task Force’s work in collecting these recommendations, and we hope that the resulting report will provide an opportunity to make a significant course correction to the Biden administration’s current policy trajectory.

President Biden and Vice President Harris took office one year ago on the promise to decisively repudiate the previous administration’s policy of separating asylum-seeking families in U.S. custody. Despite these encouraging words, however, we have repeatedly seen the administration perpetuate the legacy of the so-called “zero tolerance” policy, fail to provide justice to impacted families, and continue other practices at the border that lead—directly and indirectly—to the separation of migrant children from adult caregivers.

The following policy decisions on the part of the Biden administration have been particularly concerning. So long as the administration fails to rectify these grave policy errors, family separation will continue, and our nation will be unable to heal from the legacy of zero tolerance:

- The administration has continued to rely on Title 42 authority to block and expel asylum-seekers at the border, while also expanding the use of the so-called “Migrant Protection Protocols” (MPP) to return people to dangerous conditions in Mexico, exceeding mere compliance with court orders regarding the restoration of MPP. Blocking migrants from accessing asylum procedures on U.S. soil not only violates international law; it also contributes to family separation.
- When families are prevented from seeking asylum together on U.S. soil, many children are forced to make the heart-rending decision to travel alone across the border in order to protect their lives and safety, resulting in de facto family separation.ⁱ
- Moreover, the long-standing practice of separating children in U.S. custody from non-parent adult relatives—including older siblings, grandparents, and aunts and uncles—has especially traumatic effects when combined with Title 42, as the adult relatives in many cases are subsequently expelled across borders, resulting in long-term or permanent separations of children from adult caregivers.ⁱⁱ

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- The Biden administration has also broken with their pre-election commitments by expanding the use of administrative detention—in the midst of a pandemic that has made any form of confinement in congregate settings particularly dangerous. Since taking office last year, the Biden administration has increased the number of people confined in Immigration and Customs Enforcement (ICE) facilities by 56%.ⁱⁱⁱ All forms of detention result necessarily in family separation, as they isolate noncitizens in prison-like settings far from their loved ones and communities.
- The Biden administration’s recent decision to walk away from settlement negotiations with families impacted by “zero tolerance” means that the administration will now be arguing against these families in court and defending the legacy of the previous president’s cruel decisions. This is a far cry from what Biden and Harris promised the public when they took office.

Immediate solutions to these abuses lie within the President’s executive authority. We urge the administration to:

- Revoke the Centers for Disease Control and Prevention order authorizing the expulsion of asylum-seekers under Title 42;
- Put in place mitigation procedures to allow for safe asylum processing, without recourse to family detention or any other form of confinement, and comply fully with U.S. international obligations to people seeking refuge while protecting the health and safety of migrants and other members of the public;
- Release migrants from administrative detention on humanitarian parole, in light of the ongoing pandemic;
- End the prosecution of harmless border-related offenses, including unlawful entry and re-entry—particularly in light of the fact that these mass prosecutions served as the engine of Trump’s “zero tolerance” program; and
- Return to settlement negotiations with families impacted by “zero tolerance,” in order to ensure that individuals receive just compensation for the harms our government has inflicted.

Since being established at the outset of the Biden presidency, the Interagency Task Force on the Reunification of Families has represented the best hopes of advocates and impacted families that the new administration would break with the cruel legacy of their predecessors. If that promise is to be realized, however, the administration must go beyond rhetorical denunciations of “zero tolerance,” and make real changes to how our government treats asylum-seeking children, families, and other migrants in U.S. custody.

The Task Force does not need to be reminded of the importance and urgency of this task. The “zero tolerance” policy of the Trump administration has rightly been characterized as a form of torture. The Biden administration must cease perpetuating the legacy of this heinous deprivation of rights and work to bring justice and humanity to the U.S. immigration system, as they have long promised they would do.

Respectfully,

Joshua Leach
Public Policy and Communications Strategist
Unitarian Universalist Service Committee

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References:

- ⁱ Joshua Leach, “Biden’s policies are causing a ‘crisis’ at the border — just not the way conservatives think,” *Roll Call*, March 30, 2021. <https://www.rollcall.com/2021/03/30/bidens-policies-are-causing-a-crisis-at-the-border-just-not-the-way-conservatives-think/>
- ⁱⁱ Kristina Cooke & Mica Rosenberg, “Where is my aunt? Kids separated from relatives at the border strain U.S. shelters,” *Reuters*, March 30, 2021. <https://www.reuters.com/article/us-usa-immigration-separations/where-is-my-aunt-kids-separated-from-relatives-at-the-border-strain-u-s-shelters-idUSKBN2BM149>
- ⁱⁱⁱ Layla M. Razavi, “Omicron is tearing through ICE facilities. It’s time to release people,” *The San Diego Union-Tribune*, January 19, 2022. <https://www.sandiegouniontribune.com/opinion/commentary/story/2022-01-19/ice-detainees-covid-19-mass-release>

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