

The new federal administration has made deporting unauthorized immigrants a centerpiece of its policy agenda. In February, the President issued an Executive Order and the Department of Homeland Security issued new enforcement memos that expanded enforcement priorities such that almost all unauthorized immigrants are targets.<sup>1</sup> Already, there are reports of a surge in immigration detentions in some communities.<sup>2</sup>

More than 3.3 million of the estimated 11 million unauthorized immigrants living in the United States reside with U.S.-citizen children.<sup>3</sup> In NYS, an estimated 292,000 U.S.-citizen children have at least one undocumented parent.<sup>4</sup> And, an estimated 48,000 undocumented parents reside with non-citizen child(ren).<sup>5</sup> All of these families are at risk of being torn apart by immigration detention and deportation.

## How are Children Impacted by Parental Detention and Deportation?

Just the fear of parental deportation causes children hardship, including trauma and anxiety.<sup>6</sup> The fear of deportation also has immediate and concrete impacts on children's lives, causing many families to keep children from school, doctor's appointments and other activities, and can lead children to experience poorer long-term educational outcomes.<sup>7</sup>

Children separated from parents by detention or deportation—even for a short period of time—often suffer lasting mental and physical health consequences.<sup>8</sup> They also experience high rates of poverty, food and housing insecurity, and homelessness when a breadwinner is detained or deported.<sup>9</sup>

In some cases of parental deportation, children enter the child welfare system. In recent years, approximately 5,100 U.S.-citizen children entered foster care annually because of parental deportation, nationwide.<sup>10</sup> And, these numbers do not reflect the surge underway in some communities, and expected to occur in the coming months across the nation. Other factors that may cause more children to enter foster care due to parental immigration detention and deportation include provisions in the new executive orders making unauthorized immigrants with no record of non-immigration-related criminal activities targets for deportation, and a provision directing that fewer immigrants be granted parole while their deportation case is pending. These will likely lead to more parents being subject to immigration detention, and more held for the long duration of the proceedings in far-flung detention facilities from which it can be difficult for parents to communicate with their children or with child welfare case workers. As a result, families can be permanently separated, and parental rights terminated while a parent's deportation case is pending, even if the parent is fit and willing to regain custody upon release from detention, or upon deportation.<sup>11</sup>

## Policy Recommendations to Mitigate the Impacts of Parental Detention and Deportation on New York Children

- **Preventing Children from Being Swept Up Into the Child Welfare System by Strengthening the Person in Parental Relation Provision of the General Obligations Law (GOL)**

Across New York State and the country, immigrant and children's advocates are urging immigrant parents to make plans for the safe care of their children should they be taken into immigration custody, or deported. Critical to the planning is designating a trusted adult to assume care of children in the event of parental detention or deportation. This saves children from the trauma of being swept up in the child welfare system, and lessens the chances of permanent family dissolution. Among the instruments that parents can utilize to designate a temporary caregiver, naming a Person in Parental Relation under New York State General Obligation Law (GOL) is perhaps the most simple to prepare.

Specifically, under the GOL, parents need only sign a widely available form to name a caregiver in parental relation for 30 days. If the form is notarized, the designation extends to six months. This designation, while limited, gives the caregiver basic rights, like the ability to enroll the child in school, pick the child up at school and day care, and obtain necessary health care for the child. **Because deportation proceedings commonly last for more than a year, and because a detained or deported parent may have difficulties renewing a designation, we urge the State to amend the GOL such that the designation by signature alone is effective for 60 days, and when notarized, for 12 months.**

- **Preventing Premature Termination of Parental Rights of Detained or Deported Parents by Passing the New York State Reuniting Families Act**

When a parent has a child in the child welfare system either prior to, or because of immigration detention, it may be very difficult for the parent to fulfill court requirements to reunify with his or her child within required time frames. Under existing law, when a child has been in foster care for 15 of the last 22 months, the local social services district must file a petition to terminate parental rights, unless certain exceptions apply. The New York State Reuniting Families Act (A339/S2201) would amend Social Services Law 384-b to provide social services districts the discretion to delay in terminating parental rights if a parent has difficulties or is delayed in participating in reunification efforts because of immigration detention or deportation. **We urge passage of the Reuniting Families Act to help prevent situations in which parental rights are terminated, and a child subjected to the trauma of permanent separation from a parent, when the parent may be fully able and willing to care for his or her child upon the conclusion of the immigration proceeding.**

- **Ensuring children left without a caregiver due to parental detention or deportation are placed with kin whenever possible, and are provided the supports they need.**

In most instances, the preferred caregiver for children who cannot remain in the care of their parents is other family members. However, in the case of immigrant families, kin might be reluctant to come forward after an immigrant raid, particularly if they also have tenuous immigration status.<sup>12</sup> It is imperative that child welfare agencies, perhaps in collaboration with kin and immigrant serving community-based organization, actively search for suitable kin before placing children in foster care.

Kin who take in immigrant children must be connected with kin supports and services to improve the chances that the children can remain safely with kin either permanently, or until the children can be reunited with their parent(s). In addition, these caregivers need access to information about their rights, and the rights of the children in their care, including the children's right to have contact with their parents while their parents are in detention. **Robust investments in kinship services and the Kinship Navigator are critical to ensure children impacted by parental deportation are placed with kin whenever possible, and are provided the supports they need.**

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<sup>1</sup>Executive Order: "Border Security and Immigration Enforcement Improvements." (Jan. 20, 2017). <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>. Memo from John Kelly, Secretary, Department of Homeland Security: "Implementing the President's Border Security and Immigration Enforcement Improvements Policies." (Jan. 25, 2017). <https://www.dhs.gov/publication/enforcement-immigration-laws-serve-national-interest>

<sup>2</sup>Doug Stanglin. Immigrant communities fearful after hundreds arrested in what feds call routine surge. *USA Today*. (Feb. 11 2017). <http://www.usatoday.com/story/news/2017/02/11/immigrant-communities-fearful-after-hundreds-arrested-what-feds-call-routine-surge/97786276/>

<sup>3</sup>Migration Policy Institute. Profile of the Unauthorized Population: United States. <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>

<sup>4</sup>Center for Migration Studies. <http://data.cmsny.org>

<sup>5</sup>Migration Policy Institute. Profile of the Unauthorized Population: United States. <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>

<sup>6</sup>Alan Shapiro. Immigration: Deporting parents negatively affects kids' health. *The Hill*. (May 13, 2016). <http://thehill.com/blogs/congress-blog/healthcare/279544-immigration-deporting-parents-negatively-affects-kids-health>

<sup>7</sup>Melinda D. Anderson. The educational and emotional toll of deportation. *The Atlantic*. (Jan. 26, 2016). <https://www.theatlantic.com/education/archive/2016/01/the-educational-and-emotional-toll-of-deportation/426987/>

<sup>8</sup>Adrian Florido. When parents face deportation, their children's mental health suffers. *NPR* (June 22, 2016). <http://www.npr.org/2016/06/22/483129579/when-parents-face-deportation-their-childrens-mental-health-suffers>

<sup>9</sup>Center for the Study of Social Policy. Healthy Thriving Communities: Safe Spaces for Immigrant Children and Families. (Feb. 2017). <http://www.cssp.org/policy/2017/Safe-Spaces-Immigrant-Children-Families.pdf>

<sup>10</sup>Ibid.

<sup>11</sup>Women's Refugee Commission. Torn Apart by Immigration Enforcement: Parental Rights and Immigration Detention. (Nov. 4, 2015). <https://www.womensrefugeecommission.org/resources/document/667-torn-apart-by-immigration-enforcement-parental-rights-and-immigration-detention>

<sup>12</sup>Koball, Heather. et al. Health and Social Service Needs of U.S.-Citizen Children with Detained or Deported Immigrant Parents. (September 2015). Migration Policy Institute and Urban Institute. <http://www.migrationpolicy.org/research/health-and-social-service-needs-us-citizen-children-detained-or-deported-immigrant-parents>