

The federal administration has made deporting unauthorized immigrants a centerpiece of its policy agenda. In February 2017, 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.¹ Already, there are reports of a surge in immigration detentions in some communities.²

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

Several distinct groups are at specific and imminent risk of losing their status. Groups of immigrants from El Salvador, Haiti and Honduras who have been in New York State for an average of 19 years⁶ under Temporary Protected Status (TPS) are at risk of losing that status if the Administration allows these designations to expire in early 2018. TPS is a temporary legal status for individuals from countries facing ongoing armed conflict, disaster, or other exigent circumstances. In New York State alone, there are 26,000 TPS holders from El Salvador, Honduras, Haiti, with 21,800 U.S. citizen children.⁷

In September 2017, the federal Administration announced it would end the Deferred Action for Childhood Arrivals (DACA), a program that protects from deportation undocumented immigrants who were brought to the U.S. as children, and allows them to work legally in the country. Ending this program puts hundreds of thousands of young people at risk of deportation; in New York State there were 49,710 DACA recipients as of March 2017, while an estimated 107,000 New Yorkers are DACA-eligible.⁸ And, many of these individuals have children of their own; an estimated 25.7% of DACA recipients have a U.S. citizen child, most of whom are very young children.⁹

How are Children Impacted by Parental Detention and Deportation?

Just the fear of parental deportation causes children hardship, including trauma and anxiety.¹⁰ 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.¹¹

Children separated from parents by detention or deportation – even for a short period of time – often suffer lasting mental and physical health consequences.¹² They also experience high rates of poverty, food and housing insecurity, and homelessness when a breadwinner is detained or deported.¹³

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.¹⁴ 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.¹⁵

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

- **Expand kinship care programs and strengthen the Kinship Navigator**

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. 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.

- **Ensure that families understand and access the services for which they are eligible**

Often when an immigrant parent or caregiver is detained, the household struggles to make ends meet. More often than not, the detained parent was the primary breadwinner and therefore the family finds themselves struggling to cover basic living expenses. And, because these families often have mixed immigration status and are wary of government agencies, they may not seek out the services for which they, or their U.S. citizen children, are eligible. In order to better support these families and ensure that families stay strong and children do not enter the child welfare system, New York should work to ensure that families understand and have access to the services for which they or their children are eligible.

- **Prevent 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.**

- **Ensure 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.¹⁶ It is imperative that child welfare agencies, perhaps in collaboration with kin and immigrant serving community-based organizations, 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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- ¹ 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>
 - ² 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/>
 - ³ *Migration Policy Institute*. Profile of the Unauthorized Population: United States. <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>
 - ⁴ Center for Migration Studies. <http://data.cmsny.org>
 - ⁵ *Migration Policy Institute*. Profile of the Unauthorized Population: United States. <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>
 - ⁶ Source: TPS holders, U.S.-born children, length of time in United States, and number of households with mortgages derived from Center for Migration Studies of New York (CMS) estimates of 2015 1-year American Community Survey microdata.
 - ⁷ Source: TPS holders, U.S.-born children, length of time in United States, and number of households with mortgages derived from Center for Migration Studies of New York (CMS) estimates of 2015 1-year American Community Survey microdata.
 - ⁸ <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>
 - ⁹ <https://cdn.americanprogress.org/content/uploads/2017/08/27164928/Wong-Et-Al-New-DACA-Survey-2017-Codebook.pdf>
<https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>
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 - ¹¹ 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/>
 - ¹² 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>
 - ¹³ *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>
 - ¹⁴ *Ibid.*
 - ¹⁵ *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>
 - ¹⁶ 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>.