Disappearing Parents: 
A Report on Immigration Enforcement and the Child Welfare System

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Quiet, slow motion tragedies unfold every day in immigration detention centers throughout the country, as parents caught up in immigration enforcement are separated from their young children and disappear into the detention system. If no relative is identified who can take the children at the time of an immigrant parent's apprehension, the children may be placed in state custody and find themselves in foster homes, abruptly unable to communicate with their parents or even know where their parents are. If parents choose to accept their deportation, they risk being forever separated from their children, since their children will likely be unable to accompany them so long as they remain in state custody. If parents choose instead to fight their deportation, they often remain detained for months or even years, greatly complicating efforts to reunify as a family even if they are eventually successful in their case against deportation.

The story of Laura (a pseudonym), a mother recently detained in an immigration detention center in Arizona illustrates the problem:

Laura is a single mother of three children, ages 16, 11, and 5 years old, the youngest of whom is a U.S. citizen. Laura spent over ten years in a severely violent relationship with her husband, who was eventually deported last year. As the family worked towards recovery from this trauma, Laura's teenage son threw a rowdy party without her permission. The police were called, and when they arrived on the scene, they arrested Laura for serving alcohol to minors. They contacted CPS and her children were taken into state custody.

Laura was taken into ICE custody, where she had no contact with her children, her juvenile court attorney, or the CPS case worker for over two months. Her repeated requests to ICE for release were denied and she could not afford to pay the $4,000 bond ordered by the Immigration Judge to secure her release. ICE finally released her after three months, when another immigration agency, Citizenship and Immigration Services, found her eligible for a visa based on her experience of severe domestic violence. During this time, her children were moved three times within the foster care system.

Laura now must make immediate progress on her CPS case plan for family reunification, as the clock is ticking before the state could move to terminate her parental rights based on her children's lengthy stays in out-of-home placements. She waits anxiously for a final determination on her application for a visa, since without it, her prospects of complying with the reunification case plan are dim.

This report provides data obtained from surveys and interviews with over 50 personnel in the child welfare system that reveal that Laura's story is far from unique or idiosyncratic. On the contrary, the child welfare system encounters families caught up in immigration
enforcement with some frequency. Yet the data also reveal a striking absence of systemic mechanisms for addressing the challenges posed by these cases. With no policies or practices in place in either the immigration or the child welfare system to address the unique situation of immigrant parents in detention or deportation proceedings, stories like Laura’s are unfolding with alarming frequency.

The key findings of this research are listed below and discussed in more depth in the body of the report.

**Key Findings**

**FREQUENCY OF THE PROBLEM:** Across the board, attorneys, judges, and case workers working in the child welfare system all had experience with cases involving parents in detention or deportation proceedings. While such cases do not dominate their caseloads, they arose frequently enough so that all the personnel interviewed were aware of the challenges posed by such cases. *Yet no formal policies or mechanisms exist to address these cases.*

**PROBLEMS CREATED BY IMMIGRATION ENFORCEMENT**

- **Disappearing Parents:** child welfare personnel all used strikingly similar language to describe their observation that parents “disappear” into the immigration enforcement system and are exceedingly difficult to track down once they are apprehended by ICE.

- **Better Off in Jail:** parents struggle in detention facilities to participate in the “case plan” for reunification with their children. Many personnel in the child welfare system noted that, because immigration detention facilities lack the programming or services available in some jails or prisons, these detained parents are actually worse off than incarcerated parents.

- **The Climate of Fear:** the pervasive fear under which undocumented immigrants live has specific effects on families involved in the child welfare system. Parents are reluctant to provide information for kinship placements, so their children are more likely to wind up in the foster care system instead of with family members. In some cases, parents and children abscond from the child welfare system altogether due to fear.

- **Prolonged Detention and ICE’s Failure to Exercise Prosecutorial Discretion:** if an immigrant parent chooses to fight her deportation, she will likely face many months and potentially years in detention. Although in many cases ICE has the discretion to decide whether or not to initiate deportation proceedings and/or detain immigrants, it often fails to exercise its discretion in favor of immigrants, even those with young U.S. citizen children in state custody.
• **The Criminalization of Immigrants**: the current immigration enforcement regime criminalizes immigrants, even those who are not criminal offenders. One impact of the criminalization of immigrants is that it encourages personnel in the child welfare system to “write off” parents in detention and/or deportation proceedings and assume that they will be unable to regain custody of their children.

**PROBLEMS CREATED BY THE CHILD WELFARE SYSTEM**

• **Ad Hoc Approach to Immigration Issues**: Not a single one of the participants in the interviews and focus groups mentioned a policy or written guidance regarding work with families with undocumented family members. Instead, participants repeatedly described a process in which outcomes are highly dependent on the personnel involved, most significantly the CPS case worker and, to a lesser extent, attorneys and judges.

• **Timelines for Dependency/Permanency**: the state has detailed statutory timelines that must be met once a child is in state custody. These timelines are difficult to reconcile with the timeline of immigration cases, which tend to be long and unpredictable.

• **Under-Utilization of Consular Offices**: the consulate can play a critical role when parents are detained and/or deported and their children are in state custody. In particular, the consulate can assist in identifying, evaluating, and communicating with family placements in the parent’s home country. Yet they are only incorporated into a small number of such cases.

**Summary of Recommendations**

The findings summarized above, and discussed in more detail in the body of this report, demonstrate that any attempt to address these complex tragedies will require reforms of both the federal immigration enforcement system and the state child welfare system. A list of suggested reforms follows. A more expansive discussion of these recommendations is in the full report.

**FOR THE DEPARTMENT OF HOMELAND SECURITY**

• Establish a mechanism for early identification of cases in which immigrant parents in detention and/or deportation proceedings have children in the child welfare system.

• Increase the use of parole, prosecutorial discretion, and alternatives to detention for these cases.
• Improve detention facilities’ compliance with telephonic appearances and establish procedures for parents to appear in person in child welfare hearings.

• Increase the availability of services in detention facilities, such as parenting classes, substance abuse rehabilitation programs, and access to psychiatric evaluations.

• Establish a key liaison position in each detention facility that can be a point of contact for all child welfare personnel.

• Train deportation officers and detention facility personnel to be familiar with the challenges facing detained parents with children in state custody.

• Reform immigration enforcement measures that rely on local law enforcement agencies and create a climate of fear for immigrant families that chills their ability to interact with the child welfare system.

FOR THE CHILD WELFARE SYSTEM

• Establish mandatory and regular trainings for judges, attorneys, and CPS case workers regarding immigration detention and deportation proceedings.

• Create a key liaison position in each CPS region for case workers to contact when immigration issues arise.

• Increase utilization of the consulate in cases involving foreign nationals.

• Establish statewide policies or practices to improve the provision of reunification services to immigrants in detention facilities.

FOR THE DEPARTMENT OF JUSTICE

• Establish a portion of the Legal Orientation Program devoted to educating immigrant detainees about defending their parental rights.

FOR CONGRESS

• Provide funding for attorneys specializing in representation of immigrant parents with U.S. citizen children, in part by waiving the restriction on Legal Services Corporation (“LSC”) funds for these purposes.

• Increase funding for the Legal Orientation Program, which informs immigrant detainees of their legal rights, to allow for education on the dependency process for immigrant parents with children in state custody.
• End mandatory detention. Establish judicial discretion to consider urgent circumstances including children in state custody in determining whether detention is warranted.

• Increase judicial discretion in cases for relief from deportation involving parents with children in state custody.
Acknowledgements

The drawing on the cover was drawn by a detained immigrant parent with children in state custody. She has subsequently been deported and separated from her four children who remain in the foster care system. This report is dedicated to her.

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