

July 18, 2019

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable James Clyburn  
Majority Whip  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Hakeem Jeffries  
Democratic Caucus Chair  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jerrold Nadler  
Chairman, House Judiciary Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Elijah Cummings  
Chairman, Oversight and Reform Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Joaquin Castro  
Chair, Congressional Hispanic Caucus  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Judy Chu  
Chair, Asian Pacific American Caucus  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Steny Hoyer  
Majority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Ben Ray Lujan  
Assistant Democratic Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Katherine Clark  
Democratic Caucus Vice-Chair  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Bennie Thompson  
Chairman, Homeland Security Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable David Cicilline  
Chair, Democratic Policy Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Karen Bass  
Chair, Congressional Black Caucus  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Veronica Escobar  
U.S. House of Representatives  
Washington, DC 20515

Dear House Democratic Leadership:

When it comes to issues impacting the lives of children, policy solutions should be governed by a “best interest of the child” standard.<sup>1</sup> 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).<sup>2</sup>

<sup>1</sup> Nagda, Jennifer and Maria Woltjen, “Best Interests of the Child Standard: Bringing Common Sense to Immigration Decisions,” *Big Ideas 2015 – Pioneering Change: Innovative Ideas for Children and Families*, First Focus, 2015.

<sup>2</sup> Lake Research Partners and The Tarrance Partners, Election Eve/Night Omnibus Survey, Nov. 4-6, 2018.

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.<sup>3</sup>

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.<sup>4</sup>

“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).<sup>5</sup>

In addition to children dying in U.S. custody, children are dying as a result of the neglect they experienced in detention. Mariee Juarez died from a respiratory infection shortly after being released from detention and

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<sup>3</sup> Nagda, Jennifer, Young Center for Immigrant Children’s Rights, Testimony to House Committee on Oversight and Reform, July 12, 2019.

<sup>4</sup> 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>.

<sup>5</sup> 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.

before her third birthday because she never received the proper medical treatment while in U.S. custody.<sup>6</sup> 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.

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."<sup>7</sup>

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 to address some critically important policy issues regarding the basic health and well-being of children.

Therefore, we urge House Democrats to cosponsor, consider, and pass the following important pieces of legislation:

- H.R. 3729, the Child Trafficking Victims Protection and Welfare Act, by Rep. Lucille Roybal-Allard
- H.R. 3239, the Humanitarian Standards for Individuals in CBP Custody Act by Rep. Raul Ruiz
- H.R. 2043, the Fair Day in Court for Kids Act by Rep. Lucille Roybal-Allard
- H.R. 1012, the Reunite Every Unaccompanied Newborn Infant, Toddler, and Other Children Expeditiously (REUNITE) Act by Rep. Adriano Espaillat
- H.R. 541, the Keep Families Together Act by Rep. Jerrold Nadler
- H.R. 2572, the Protect Family Values at the Border Act by Rep. Lucille Roybal-Allard
- H.R. 2217, the Families Not Facilities Act of 2019 by Rep. Debbie Wasserman Schultz
- H.R. 3451, the Humane Enforcement and Legal Protections for Separated Children Act of 2019 by Rep. Lucille Roybal-Allard
- H.R. 3452, the Help Separated Families Act of 2019 by Rep. Lucille Roybal-Allard

These House bills have various provisions similar to the package introduced by Sen. Jeff Merkley (D-OR) and most of his Senate Democratic 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 House to pass legislation to codify the

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<sup>6</sup> 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.

<sup>7</sup> Mukherjee, Elora, Immigrants' Rights Clinic at Columbia Law School, Testimony to House Oversight and Reform Committee, July 12, 2019.

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.

As Rep. Veronica Escobar, “This is about cherishing and protecting our most precious resource, our future generation, our children.”

Protecting children also involves defending current provisions, and we urge the House 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.

Finally, as Congress has considered ways to improve the care and safety of migrant children, there has arisen a disturbing campaign to oppose such efforts with the message that supporters care more about migrant children than “America’s children.” Obviously, that is untrue, as every single author of legislation mentioned above is a “Champion for Children” on all issues of importance to kids.

To dispel and silence such attacks, we would urge the House to consider parallel legislation for domestic children. This would be a win-win and there are a number of popular bills that would improve the lives of children in this country and inoculate House members from such criticism. For example, H.R. 1560, the American Family Act of 2019 by Rep. Rosa DeLauro has 184 cosponsors and would have an enormous impact on cutting child poverty in this country.

The House could also consider a package of popular “government reform” bills for children, such as:

- H.R. 3381 (from the 115<sup>th</sup> Congress), the “Child Poverty Reduction Act” by Rep. Danny Davis (D-IL): the child poverty rate is 62 percent higher than the poverty rate for adults in this country, and this legislation would simply set a national goal of cutting child poverty in half within a decade and eliminating it within twenty years.<sup>8</sup>
- Establish an Independent Children’s Commissioner: the creation of an independent Children’s Commissioner has a proven track record in nations all across the world, as the role has been established in more than 40 countries. When a child cries out for help, whether it is a sick child, an abused child, a homeless child, or a victim of gun violence, adults should listen and protect children, but institutions and their leaders often fail to do that and then try to cover up the damage. An independent Children’s Commissioner would listen to, investigate, and make recommendations to stop future tragedies like the recent child sexual abuse scandals with respect to Jeffrey Epstein, the Catholic Church clergy, Jerry Sandusky at Penn State, Dr. Larry Nassar at Michigan State and the USA Gymnastics team. Additionally, an independent Children’s Commissioner should also have the authority to inspect all types of child detention centers, including the migrant detention centers.<sup>9</sup>
- S. 1776, the “Children’s Budget Act” by Sen. Robert Menendez (D-NJ) and S. 1780, the “Focus on Children Act” by Sen. Kamala Harris (D-CA): these bills provide for a full accounting of all federal funding that is spent on behalf of children and notify Congress as to whether budget proposals by the President and before the Congress improve or reduce spending on children.<sup>10</sup>

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<sup>8</sup> In the Nov. 2018 election eve/night poll by Lake Research cited earlier, likely voters support the creation of a Child Poverty Target by a 71-17 percent margin (84-8 percent among Democrats).

<sup>9</sup> In the Nov. 2018 election eve/night poll by Lake Research, likely voters support the creation of an independent Commissioner for Children by a 63-25 percent margin (79-11 percent among Democrats).

<sup>10</sup> Lake Research Partners, Election Eve/Night Omnibus Survey, Nov. 4-6, 2012. By a 71-19 percent margin (80-11 percent among Democrats), likely voters supported the creation of an official children’s budget.

- Develop a National Bipartisan Commission on Children: the last major National Bipartisan Commission on Children issued its final report in 1991 and included a number of important recommendations that helped lead to the adoption of the Child Tax Credit and the Children’s Health Insurance Program (CHIP) in the 1990’s.<sup>11</sup>
- Make CHIP Permanent and Eliminate the CHIP Funding Cliff: CHIP is the only federal health care insurance program that is temporary and includes a “funding cliff”. A simple change would put CHIP on equal footing with all other federal coverage programs and protect CHIP from expiring, as it did for four months in 2017 and 2018, or being held hostage for other political issues. Making CHIP permanent would protect the health coverage for millions of children for the long-term and might also be scored by CBO as a savings in the short-term (which is all the more important in light of the threats to the Affordable Care Act in the courts).<sup>12</sup>

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

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<sup>11</sup> In the Nov. 2012 election eve/night poll by Lake Research, likely voters supported the recreation of a National Bipartisan Commission on Children by a 78-15 percent margin (89-5 percent among Democrats).

<sup>12</sup> In the Nov. 2018, election eve/night poll by Lake Research, likely voters support making CHIP permanent like other federal health programs including Medicare and Medicaid by a 69-16 percent margin (90-3 percent among Democrats).