

Congress of the United States
House of Representatives
Washington, D.C. 20515

December 22, 2020

President-elect Joseph R. Biden Jr.
Biden-Harris Transition
1401 Constitution Avenue, NW
Washington, DC 20230

Dear President-elect Biden:

We write to urge you to assist the children harmed by the Trump Administration’s inhumane family separation policy. We wholeheartedly agree with you that this policy “violates every notion of who we are as a nation,”¹ and believe that the United States has a duty to help the victims of this horrific policy. To that end, we urge you to use your legal authority to assist the children in the United States, particularly those whose parents have not yet been located, ensuring their safe refuge while the search continues and allowing them to safely reunite with their parents.

As you know, since 2017 the Trump Administration has separated thousands of children from their parents and legal guardians at our border without clear evidence that keeping them together presented a danger to the children.² When the Trump Administration implemented its nationwide family separation policy, it knew that hundreds of children would likely never be reunited with their parents.³ Nevertheless, it cruelly deported parents without their children and compounded its culpability by failing to record meaningful contact information for many of these parents.⁴ More than 300 children separated by the Department of Homeland Security were under the age of five at the time of the separation.⁵

As of today, tragically, the parents of almost 630 separated children still have not been located.⁶ We commend you for committing to stand up a federal task force to find the parents of these children on Day One of your presidency. We applaud this initiative and are eager to work with you to find these missing parents and reunite families. At the same time, we strongly recommend that your Administration use its legal authority to establish a means by which the children victimized by this

¹ Bailey Aldridge, Biden pledges task force to reunite 545 children separated from families at border, Centre Daily Times, (Oct. 29, 2020 11:01 AM), <https://www.centredaily.com/news/nation-world/national/article246802202.html/>.

² Leila Rafei, *Family Separation, Two Years After Ms. L*, ACLU, (Feb. 26, 2020), <https://www.aclu.org/news/immigrants-rights/family-separation-two-years-after-ms-l/>.

³ Majority Staff of H. Comm. On the Judiciary, 116th Congress, Rep. on The Trump Administration’s Family Separation Policy: Trauma, Destruction, and Chaos, (October 2020).

⁴ Leila Rafei, *Family Separation, Two Years After Ms. L*, ACLU, (Feb. 26, 2020), <https://www.aclu.org/news/immigrants-rights/family-separation-two-years-after-ms-l/>.

⁵ Camilo Montoya-Galvez, *More migrant children under 5, including infants, were separated than previously known*, CBS News, (Oct. 25, 2019 12:37 PM), <https://www.cbsnews.com/news/family-separation-207-more-migrant-children-under-5-including-infants-were-separated-than-previously-known-aclu-says/>.

⁶ Priscilla Alvarez, *Parents of 628 migrant children separated at border still have not been found, court filing says*, CNN, (Dec. 2, 2020, 8:17 PM), <https://www.cnn.com/2020/12/02/politics/family-separation-us-border-children/index.html>.

policy can come out of the shadows as the search for their parents remains on-going, and ultimately be reunited with their parents.

While long term solutions are available to many children hurt by family separation in the United States, Deferred Enforced Departure (DED) or parole-in-place are two examples of programs that your Administration could utilize to immediately allow such children to live in the United States formally.

On Day One, you could provide immediate protection through an executive order or memorandum granting DED to these children. Unlike other options, these children would not be required to apply for protection under DED. Over time, both Democratic and Republican presidents have used their constitutional power to conduct foreign relations to extend DED to vulnerable groups already residing in the United States. This includes Liberian nationals who fled civil war, Chinese nationals after the Tiananmen Square massacre, and Persian Gulf evacuees airlifted to the United States following the invasion of Kuwait. DED would also allow eligible applicants to seek employment authorization.

Alternatively, your Secretary of Homeland Security will have the authority to grant parole-in-place for urgent humanitarian reasons – the urgent humanitarian need to help separated children, particularly children whose parents have not been located, is undeniable. Furthermore, both Democratic and Republican Administrations have used their authority to create parole programs for specific groups, including Cuban nationals, Central American minors, family members of Filipino World War II veterans, and military spouses. If your Administration pursues a parole-in-place program for these children, we would urge you to waive all relevant application fees.

As you argued in your essay on *Why American Must Lead Again*, “As a nation, we have to prove to the world that the United States is prepared to lead again – not just with the example of our power, but with the power of our example.”⁷ We cannot effectively promote human rights and decency abroad if we do not assist the children the Trump Administration has effectively orphaned in the United States. We believe this is an urgent, Day One initiative that can help provide some stability for the children who suffered the trauma of family separation. We urge you to use your authority to do so, and look forward to working with you to reunite and help the thousands of separated families.

Thank you for your attention to this request. We look forward to working with you throughout your Administration.

Sincerely,



Bennie G. Thompson
Chairman
House Committee on Homeland Security



Jerrold Nadler
Chairman
House Committee on the Judiciary

⁷ Joseph R. Biden, Jr., “Why America Must Lead Again: Rescuing U.S. Foreign Policy After Trump,” Foreign Affairs, (March/April 2020), <https://www.foreignaffairs.com/articles/united-states/2020-01-23/why-america-must-lead-again>.



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