



As reported in the [New York Times](#) and the [Washington Post](#), the Department of Homeland Security (DHS) is imminently considering formalizing a policy of separating parents from their children who arrive as families often seeking protection at the southern U.S. border. Women's Refugee Commission and others have extensively [documented](#) the impact of such separations when they occur without any justification for child welfare reasons and which have [already increased](#) in recent months at an alarming rate. Although former DHS Secretary Kelly threatened such a policy earlier this year, he had since [committed on the record](#) that such separations would not occur except in rare circumstances where there was a danger to the child.

DHS is now considering formalizing what is already a cruel practice into government policy intended – as we have seen before – to deter and punish those largely lawfully seeking asylum at our borders. Such a policy flies in the face of domestic and international child welfare and refugee principles and laws. Separating families at the border would neither make America safer and would even further undermine U.S. obligations to ensure protection and policies protecting family unity.

- **Separating families at the border will drive women and children who are fleeing horrific violence – and are already vulnerable to exploitation during their journey in seeking protection – only further into the hands of unscrupulous smugglers and traffickers.** Families will continue to flee because they have no other choice for survival. But rather than turning themselves in or presenting at a port of entry to seek asylum, they may try any alternative available to the possibility of separation. They will likely fall victim even further to the very “terribly dangerous network” from which Sec. Kelly suggested in March he wanted to shield migrants.
- **Separating children from parents is cruel. It traumatizes everyone involved.** A recently filed [complaint](#) detailed cases of babies as young as one and two years old separated from their parents and rendered “unaccompanied.” WRC has also encountered detained adults in our visits who were separated from their small children and desperate to understand what happened to them and how to contact them. As the American Academy of Pediatrics already noted in a [statement](#), authorities should “exercise caution to ensure that the emotional and physical stress children experience as they seek refuge in the United States is not exacerbated by the additional trauma of being separated from their siblings, parents or other relatives and caregivers.” Family separation also goes against numerous principles in international law that family units should be respected.
- **Separating family members who are seeking asylum or other legal protection, including to refer them for criminal prosecution, creates immense obstacles to pursuing that legal protection.** Children who would otherwise be linked to their parents’ asylum application may not be able to articulate details of an asylum claim and especially young children may not fully understand or even be able to communicate an asylum claim in the first place. Similarly, a parent’s claim may be linked to persecution against the very child from whom they have been separated. One parent or family member may have all of the relevant documents to establish identity or provide evidence to support an asylum claim that another family member cannot access if they are detained or being processed separately. The complaint recently filed with DHS CRCL and OIG illustrates clearly that because DHS and ORR have essentially no meaningful mechanisms to coordinate communication between separated family members, separation is not only be traumatic but can also have profound consequences for their legal case. These circumstances are only further exacerbated when the separated parent is referred to the Department of Justice to be criminally prosecuted for illegal entry or re-entry, which happens even in cases where an individual is applying for asylum.
- **It has long been shown that attempts to [deter asylum seekers](#) with detention are not only inconsistent with U.S. obligations under U.S. and international laws, they are also ineffective.** [Courts have already ruled](#) that

families seeking asylum may not be detained for purposes of deterrence. Punishing families with arbitrary detention or separation, or referring them for prosecution, severely inhibits the ability to make an asylum claim despite an individual's right to do so. WRC has spoken with countless detained asylum-seeking women who said that if faced with the same choice to flee or remain in their country they would make flee again, despite the traumatic treatment upon seeking protection. Individuals and families fleeing violence don't make the decision to flee lightly; they do so only when they feel they have no other choice. The response should not be to try to deter them with detention or separation. Where needed, the government should turn to cost-effective and humane [alternatives to detention programs, such as the recently terminated Family Case Management Program](#), to release families to sponsors and communities from which they can present their case.

- **Unaccompanied children as young as babies will now be in Office of Refugee Resettlement (ORR) custody alone and possibly without a parent available for reunification.** Separating family members will create additional substantial burdens for ORR, which has custody over unaccompanied children. While ORR does have extensive experience caring for unaccompanied children, the agency will need added space and providing care for toddlers and babies will require significant additional resources. In addition, as parents will be in adult detention, the release and reunification process of children from ORR will be much more difficult. Ultimately, this may leave children needlessly lingering in detention while ORR works to find alternative and safe sponsors.