

United States Senate

WASHINGTON, DC 20510

March 26, 2023

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

We are concerned by reports that your Administration is considering a return to the ineffective and inhumane practice of detaining migrant families.¹ Your Administration was right to put an end to family detention in December 2021.² Under both the Obama and Trump Administrations, family detention had disastrous effects on migrant families and children, without any corresponding improvement in border security or deterrence. We urge you to learn from the mistakes of your predecessors and abandon any plans to implement this failed policy.

The Obama Administration restarted the practice of detaining families in 2014, and the Trump Administration continued this policy. We have therefore had ample opportunity to observe the devastating impacts of family detention on the well-being of children. The American Academy of Pediatrics found that Department of Homeland Security (DHS) facilities for detaining families did “not meet the basic standards for the care of children in residential settings.”³ The American Medical Association has long opposed “family immigration detention, separation of children from their parents in detention, and any plans to expand these detention centers” because of “the negative health consequences that detention has on both children and their parents.”⁴ Additionally, two of DHS’s own medical consultants concluded—after a series of ten investigations during both the Obama and Trump Administrations—that DHS family detention centers posed “a high risk of harm to children and their families.”⁵

We have also learned that detaining families is ineffective and impractical as an immigration management tool. Family detention does not appear to have deterred desperate families from attempting to come to the United States—instead, the implementation of this policy corresponded with an increase in unique encounters of children and individuals in families “by an average of 57

¹ Eileen Sullivan and Zolan Kanno-Youngs, *U.S. Is Said to Consider Restating Detention of Migrant Families*, The New York Times (Mar. 6, 2023) <https://www.nytimes.com/2023/03/06/us/politics/biden-immigration-family-detention.html>

² Stef W. Kight, *Scoop: Biden to stop holding undocumented families in detention centers*, Axios (Dec. 21, 2021) <https://www.axios.com/2021/12/16/biden-ends-migrant-family-detention-border-immigration>

³ *American Academy of Pediatrics Policy Statement* (Mar. 2017) <http://pediatrics.aappublications.org/content/early/2017/03/09/peds.2017-0483>.

⁴ *AMA Adopts New Policies to Improve Health of Immigrants and Refugees* (June 12, 2017), <https://www.ama-assn.org/ama-adopts-new-policies-improve-health-immigrants-and-refugees>.

⁵ Miriam Jordan, *Whistle-Blowers Say Detaining Migrant Families ‘Poses High Risk of Harm,’* The New York Times (July 18, 2018) <https://www.nytimes.com/2018/07/18/us/migrant-children-family-detention-doctors.html>.

percent per year between 2015 and 2019.”⁶ DHS spent more than \$866 million over a three-year period to maintain space to detain just over 3,000 family units per year.⁷

For those who do not pose a threat to our communities or flight risk, alternatives to detention have proven far more humane and cost-effective than detention. For example, U.S. Immigration and Customs Enforcement’s (ICE) Family Case Management Program had 100 percent attendance at court proceedings for enrollees,⁸ and an estimated cost of approximately \$36 per person per day, versus approximately \$319 per day for an ICE family detention bed.⁹ Congress recently appropriated \$20 million dollars to DHS to implement such case management programs.¹⁰ These programs ensure that families, children, and other individuals seeking asylum comply with the law, without harming children and families.

We understand that your Administration faces significant challenges—particularly in light of Congressional failure to pass immigration reform—to manage an influx of asylum seekers arriving at our southern border. However, the recent past has taught us that family detention is both morally reprehensible and ineffective as an immigration management tool. We look forward to working closely with your Administration on more thoughtful and humane responses to such challenges.

Thank you for your time and consideration.

Sincerely,



Richard J. Durbin
United States Senator



Charles E. Schumer
United States Senator



Jeffrey A. Merkley
United States Senator



Alex Padilla
United States Senator

⁶ Marc R. Rosenblum, Irene Gibson, and Sean Leong, *Fiscal Year 2021 Southwest Border Enforcement Report*, Department of Homeland Security (Aug. 2022) https://www.dhs.gov/sites/default/files/2022-09/2022_0818_ply_southwest_border_enforcement_report_fy_2021.pdf

⁷ See 83 Fed. Reg. 45486, 45513 (Sept. 7, 2018).

⁸ See U.S. Immigration and Customs Enforcement’s Award of the Family Case Management Program Contract at 5, DHS Office of the Inspector General (Nov. 30, 2017) <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-22-Nov17.pdf>.

⁹ Ruthie Epstein, *The Tried-And-True Alternatives to Detaining Immigrant Families*, American Civil Liberties Union (June 22, 2018), <https://www.aclu.org/news/immigrants-rights/tried-and-true-alternatives-detaining>.

¹⁰ See *Murphy Announces Subcommittee On Homeland Security Fiscal Year 2023 Appropriations Bill* (Dec. 20, 2022), <https://www.murphy.senate.gov/newsroom/press-releases/murphy-announces-subcommittee-on-homeland-security-fiscal-year-2023-appropriations-bill>.



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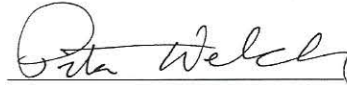
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