



## FAMILY SEPARATION AND DETENTION: RECOMMENDATIONS FOR PHILANTHROPIC RESPONSE

June 27, 2018

### **Overview**

The current administration has adopted new policies aimed at deterring legal migration to the United States, including barring entry to those seeking protection from violence and persecution. Tactics being used against these vulnerable populations have included forcibly separating parents from their children and eliminating long-established grounds for asylum such as protection for individuals fleeing domestic violence. This urgent humanitarian crisis merits an equally urgent response by philanthropy.

In response to widespread public outcry, the administration recently issued an executive order that would allow it to detain family members together indefinitely. Jailing children indefinitely—either with or without their parents—not only violates current law but also runs counter to long-established best practices and norms in the child welfare arena. The newly issued executive order on family detention does nothing to reunite these separated children with their parents.

This document, which will be updated periodically, identifies grantmaking opportunities that foundations and individual donors can consider in shaping both short- and longer-term funding strategies to address this evolving situation. Immediate and ongoing priorities include legal representation and complementary resources, communications, organizing and policy advocacy, and mental health supports. Given the unpredictable policy landscape and the significant demands on the field, **general support grants provide maximum flexibility** that allows grantees to pivot quickly and address emerging needs. To the extent possible, funders should also adopt streamlined application and reporting processes.

For funders who must contend with geographic restrictions, GCIR can provide additional information and guidance on local funding opportunities as well as make connections to trusted service providers and vetted organizations upon request. Funders can help expand available resources by coordinating with their foundation peers and bringing together various stakeholder groups to craft a comprehensive strategy to respond to the needs of asylum seekers and separated family members, among other vulnerable immigration populations.

### **Funding Opportunities**

#### **I. Legal Services and Resources to Support Separated Families**

##### **A. Support strategic efforts between immigration legal service providers and civil rights organizations**

- Civil rights organizations in some border areas have access to immigrants appearing in federal courts. They have been able to obtain crucial information

GCIR is tracking funding related to family separation and detention to avoid duplication, monitor gaps, and assess impact. As you make investment decisions, please share grantee(s), amounts, and purpose with us at [aryah@gcir.org](mailto:aryah@gcir.org). We will use this information to provide periodic updates to philanthropy and the field.

used to help locate individuals in need of pro bono legal support once in immigration custody and also to reunite separated parents and children. These efforts can be expanded with additional staffing, and there is also a need to provide training and technical assistance to other groups that wish to gain similar access to federal courts.

- Support is needed to bolster coordination between immigration legal service providers and civil rights organizations to track parents as they are moved into immigration custody, jails, or Bureau of Prisons facilities, which are being used temporarily to house immigrants when immigration detention centers are at capacity. The majority of detained parents are remaining in detention facilities in Texas and other border states, but some have been transferred as far away as Washington State and New Jersey.

**B. Bolster legal representation and complementary resources for parents and families in immigration custody**

- Nonprofit organizations that provide legal services in immigration detention centers have exceeded their capacity to support detained parents and families. These organizations urgently need to add experienced attorneys and paralegals to their staffs, including those who can mentor or supervise pro bono and volunteer lawyers. National pro bono attorney efforts could also be bolstered to coordinate support for parents transferred to immigration detention facilities across the country.
- Immigration legal service providers are also in need of expanded staff capacity to challenge prolonged detention and appeals to both immigration and federal courts.
- Bond funds are a critical way to support parents seeking asylum but who may be subject to prolonged detention due to a lack of resources to pay high fees. Support is needed to establish new bond funds and expand existing ones.
- Resources are needed to embed skilled social workers in legal service organizations in order to help locate parents separated from their children, assist parents in communicating with their children, and coordinate legal strategies to minimize prolonged family separation.
- Support is needed to facilitate the provision of in-person interpretation for indigenous language speakers in high-need areas, specialized training for interpreters in trauma-informed practices (in the immigration law context), as well as general support to indigenous community leaders to collaborate with organizations on the frontlines.

**C. Bolster legal representation and complementary resources for children in immigration or Office of Refugee Resettlement (ORR) custody**

- Many nonprofit immigration legal services providers have surpassed current capacity to provide pro bono representation for children separated from their parents. These organizations urgently need to add experienced attorneys and paralegals to their staffs in order to support children who need legal representation in order to navigate the asylum process (or apply for other forms of relief), locate their parents, and pursue release options.
- Immigrant children face significant mental health challenges stemming from

home country experiences, the forcible separation from their parents, and other trauma. Immigration legal service providers are in need of training and technical assistance in trauma-informed services for younger children, ranging in age from infants to twelve years old, as well as ethical obligations and considerations in representing younger children.

- Programs that train specialized personnel to work with young children and children who have been separated from their parents could be scaled up to deploy Child Advocates across the country.

#### **D. Invest in impact litigation in federal proceedings**

- Support is needed for organizations advancing federal litigation to address: the practice of turning back asylum seekers at the border before they have been able to present their claims, as well as other administrative barriers raised against those seeking protection; conditions of detention and custody at Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE) facilities; and efforts seeking to limit asylum protections for those fleeing gender-based violence, among others.
- A recent convening of federal public defenders, organizers, and immigration legal service providers yielded very positive results and there is strong interest in supporting another strategic convening. Resources are needed to bring these stakeholders together again as soon as possible.
- Resources are needed to support federal litigation focused on addressing policies impacting children, such as conditions of detention and custody at CBP and ICE facilities, and protecting existing settlement agreements, such as the [Flores Settlement Agreement](#), which have helped protect children in immigration custody for two decades.

#### **E. Strengthen post-deportation support**

- Parents are being deported without an opportunity to speak to their children or make plans for their care and custody. Organizations in parents' countries of origin (mostly in Central America) need resources to help locate children who are in federal or state custody in the United States and to help exercise deportees' parental rights.
- U.S.-based organizations have existing programs to support children who are repatriated to their countries of origin. These programs could be supported to expand work with children who are at risk of permanent separation from their parents (i.e., children placed in child welfare proceedings that could terminate parental rights) or are too young to be repatriated on their own.

## **II. Communications, Organizing, and Policy Advocacy**

### **A. Shore up communications and organizing capacity**

- Local organizations that have direct contact with impacted parents and children, as well as longstanding experience with the daily realities of family separation in border states, lack dedicated resources and capacity for communications-related work (e.g., training for media spokespersons, dedicated communications

staff persons) and expansion of organizing networks. Any support for national communications and organizing campaigns should seek to facilitate the input and participation of frontline groups.

- National groups with existing organizing capacity, expertise, and reach could be deployed to focus on family separation and detention across the country.

**B. Support advocacy to hold the line on existing federal protections for children**

- With the administration's ongoing efforts to end humanitarian protections created through federal legislation, there is a need to reinforce support for national advocacy organizations working to protect the remaining vestiges of legislative protections for children, including the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008.

**C. Bolster regional advocacy to protect the rights of migrants and asylum seekers**

- Support is needed for U.S. organizations and migrant rights civil society groups in Mexico to jointly: advocate against Mexico becoming a safe third country for asylum and/or limiting access to asylum; file petitions with the Inter-American Court of Human Rights to end family separation and reunite families; and protect and provide humanitarian aid to asylum seekers who are being turned away at the U.S. border but remain in a precarious situation in Mexico.

For more information, guidance on trusted organizations, and/or recommendations on funding strategies, please contact Aryah Somers Landsberger at [aryah@gcir.org](mailto:aryah@gcir.org).

If you are not already a member of GCIR, [please consider joining us](#). Your dues will help to support coordination support for philanthropy and technical assistance for funders during times like these.