

New Mexico Children, Youth and Families Department (CYFD)  
Testimony on Immigration Enforcement

Immigration in New Mexico

From 2000-2005, the foreign-born population grew in New Mexico by 28.2% (the national average for the same period was 17.9%). In New Mexico in 2005, the total population was 1,887,200. Foreign born residents numbered 168,640, or 8.9%, of whom 115,119, or 6.1%, were non-citizens. In 2005, only 10.6% of the foreign born population in New Mexico was under 18<sup>1</sup>, while more than half at that time (53.7%) was of child-bearing age, between ages 18-44, and the great majority (79.1%) was of working age (18-64).

Today, of the foreign born in New Mexico, an estimated 40,000 - 55,000 are undocumented immigrants. The majority of children in New Mexico who have non-citizen parents were themselves born in the U.S. It is likely, therefore, that the majority of children affected by immigration enforcement operations are U.S. citizens.<sup>1</sup>

Children of Immigrants

Children of immigrants are at high risk for entering into the child welfare system. They are more likely to live in linguistic isolation, live in a single-parent family, have a mother with less than a high school education, and be economically deprived <sup>1</sup>. CYFD currently has 18 non-citizen children in protective custody, a figure that has remained consistent over the past several years. <sup>2</sup>CYFD has not been able to reliably track citizenship status of parents in our data system, but of the 2,300 children in care, it is estimated that a significant number have at least one parent who is not a US citizen, given the high percentage of foreign nationals of child-bearing age living in New Mexico.<sup>1</sup> It is unknown how many of these children came into care as a result of their parent being deported.

Lack of CYFD Involvement in Immigration Enforcement Operations in New Mexico

Immigration raids and enforcement activities in New Mexico have been documented, though CYFD has not been notified to respond nor have any children come into custody as a direct result of these activities. <sup>3</sup>CYFD is not informed of enforcement operations before they happen, and so is not able to respond to children and assess for their safety in a timely manner. Instead, relatives, neighbors, friends, and community agencies have been absorbing the responsibility of caring for children left without parents<sup>4</sup>. This lack of initial involvement of the state agency responsible for assuring the safety, permanency and well-being of children places those who are separated from their parents at an additional risk of entering into the system later, as they are often shuffled around unstable situations with minimal supports/resources. <sup>5</sup>

On November 16, 2007, the Office of Immigration and Customs Enforcement (ICE) in the Department of Homeland Security released Guidelines for Identifying Humanitarian Concerns among Administrative Arrestees When Conducting Worksite Enforcement Operations <sup>6</sup> The new humanitarian guidelines put into ICE's policies regarding notifying appropriate social service agencies of worksite raids targeting more than 150 employees has a minimal effect on enforcement activities, and may not be implemented effectively in New Mexico. CYFD has not

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been contacted before or after any worksite operations in New Mexico to identify individuals requiring assistance as spelled out in the guidelines.

#### Critique of Ice Strategies and Guidelines: Trauma to Children

CYFD questions the limitation of the humanitarian guidelines to the identification of individuals who have dependent children to worksite operations targeting the arrest of more than 150 people. The current provisions for notice of enforcement activities are largely irrelevant to the situation in New Mexico, a rural state whose economy does not support large worksites as described in the ICE guidelines. While New Mexico has had a few raids that have detained 20-30 immigrants at a time, the most common practices by ICE here are seen on a smaller scale in their increased presence in homes and on the streets of certain communities, such as border towns and high population centers, in which Latino families have been targeted.

The times when children are most vulnerable to experiencing trauma as a result of immigration enforcement operations are those when a parent goes to the store and never comes back, or when parents are taken away from their homes. The disruption of a safe holding environment and the separation of children from their caregivers can severely and permanently damage a child. Traumatic experiences such as these frequently lead to further negative relational, behavioral, and educational outcomes. CYFD does not generally find out about enforcement activities until after the fact, and is therefore not able to respond to mitigate the negative effects on children.

Child welfare agencies do not limit the reports we respond to based on the number of children allegedly involved in a case. Whether the number of children involved is one or one hundred fifty, every single child and every single case are important. The notice of immigrant enforcement operations to child welfare agencies should be required in all instances regardless of where they take place and regardless of the size of the employer workforce to avoid causing trauma to every child.

#### State Child Welfare Agency Needs to Respond to Immigration Enforcement Activities

CYFD is the agency responsible for the safety and well-being of children in our state. In only one documented case has ICE notified CYFD when detaining a parent.<sup>8</sup> When children come into custody because their parents are detained/deported, the attempt to reunify families places a great strain on the system. These circumstances frequently involve emergency interventions, emergency relative searches, collaboration with foreign government agencies, and the use of other placement resources.

CYFD has also struggled with cases of parents whose children are in CYFD custody and are involved in a reunification plan when they are deported.<sup>9</sup> These circumstances significantly delay permanency, demand extra staff time and resources to alter the plan, locate the parent and transfer services, and makes the transition extremely difficult for children and parents.

#### CYFD Recommendations

CYFD supports keeping immigrant families together if at all possible where there are no signs of active abuse/neglect. Immigration enforcement operations are inherently traumatic for children,

and they need support. Immigration enforcement activities are especially problematic in the child welfare system when the children of an undocumented worker who is deported are U.S. Citizens.

Existing ICE guidelines that emphasize keeping families together if the parent in question is the sole caretaker, or if a child has special needs, are not being uniformly implemented in New Mexico. CYFD believes that notice of enforcement operations should be required in all instances regardless of the size of the employer workforce to avoid causing trauma to even one child.

Additional federal monies should be allocated to ensure that state welfare agencies have the necessary resources to address the additional challenges involved in working with children whose parents may be in the U.S. without appropriate documentation.

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<sup>1</sup> Immigration in New Mexico. A KID'S COUNT Special Report. October 2007.

<sup>2</sup> CYFD PS 301 Report, May 2008

<sup>3</sup> There have been several raids documented.

Operation "Return to Sender", conducted from Feb.26-28, 2007, arrested thirty undocumented individuals throughout Santa Fe, in workplaces, apartment complexes and trailer homes. Only 2 of the detained had criminal charges, one for DUI and the other for drug possession (La Voz, 3/2/2007).

On September 10, 2007, ICE raids at the Chaparral schools resulted in 28 people deported. Eleven were children taken by Sheriff's deputies and Border Patrol (El Paso Times, 9/15/07; Over Raided, Under Sieged. National Network for Immigrant and Refugee Rights. January 2008).

On December 10, 2007, ICE raided Proper Foods Inc., in Deming, and arrested 22 undocumented workers (Las Cruces Sun, 12/12/2007; Over Raided, Under Sieged. National Network for Immigrant and Refugee Rights. January 2008).

<sup>4</sup>According to the Religious Order of the Assumption, based in Chaparral, on September 10,2007, Francisco Rodriguez and his wife were detained and deported by local county law enforcement, and handed over to immigration enforcement., forcing them to leave their 5 children with a neighbor. ([http://www.aclu-nm.org/PDF/COMPLAINT\\_FILED\\_10\\_17\\_07.pdf](http://www.aclu-nm.org/PDF/COMPLAINT_FILED_10_17_07.pdf))

The neighbor contacted their church, and a member of their congregation took in all five children, who had lived in the U.S. their whole lives. The parents signed over guardianship to this congregation member so that the children, who were excelling in school, could remain together in their community. The guardian started taking the children to Juarez to visit their parents, a place unknown to them before then. Before long, the two youngest children, who wanted to stay with their parents, moved to Mexico, while the older three remained with the guardian in Chaparral to continue their studies. When the middle child, the 12 year old, began getting into trouble at school and acting out at home, the guardian decided he could no longer handle her. She was sent to live in Mexico with her parents, and missed the majority of the 2007-2008 school year. The two oldest children remain with the guardian in Chaparral attending school, separated from the rest of their family. (Over Raided, Under Siege. National Network for Immigrant and Refugee Rights. January 2008)

<sup>5</sup> FACTS 466104 Law enforcement gave CYFD custody of a 3-year-old US citizen child on April 18, 2008. A passerby had found the child walking on the street wearing only a diaper. The child had been staying with a paternal aunt, and the home was extremely dirty and possibly unsafe for a child. Both of the child's parents had been deported soon after the child's birth, and are believed to be in Juarez, though exact whereabouts are unknown. The aunt believes the parents were deported because they didn't have documentation of residence in the U.S. The aunt placed the child with another sister temporarily until the home situation was remedied. The family is now receiving In Home Services.

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<sup>6</sup>The guidelines dictate that prior to conducting a worksite enforcement operation targeting the arrest of more than 150 persons, ICE should develop a comprehensive plan to identify, at the earliest possible point, any individuals arrested on administrative charges who may be sole care givers or who have other humanitarian concerns, including those with serious medical conditions that require special attention, pregnant women, nursing mothers, parents who are the sole caretakers of minor children or disabled or seriously ill relatives, and parents who are needed to support their spouses in caring for sick or special needs children or relatives. Where practical, at the direction of the Assistant Secretary, ICE will continue to implement these guidelines in all smaller worksite enforcement operations .

<sup>8</sup> FACTS 459768 & 459769. Immigration enforcement raided a motel and found several adults and 2 children. The children were 1 month and 6 years old. Several adults were arrested and deported for not having documentation in the U.S. One of the adults arrested was the father of the baby and uncle to the six year old. The father of the baby reported to immigration that the mother was residing in Taos, as well as the parents of the 6 year old, and we were able to obtain their contact information. Immigration wanted CYFD staff to tell them when the other parents arrived in Deming, and when staff refused, they said that they would not give CYFD custody of the children. CYFD informed immigration that they could keep custody of the children, and they then changed their minds and turned over custody of the children to CYFD. The children came into custody on a 48 hour hold and were put into foster care. The parents, who were in Taos, were contacted and they came to Deming the following day to pick up the children.

<sup>9</sup> FACTS 404939- Two children came into care in Las Cruces on October 12, 2006. Mother was incarcerated at the time the children were placed into custody. She had voluntarily placed the children with her sister at the time of her incarceration . At time of this report, maternal aunt wasn't caring for the children nor meeting the needs of the children.

The father of the children was incarcerated in Estancia due to re-entry into the US.. The children's service plan included release to the father upon his release from prison. However, upon his release from incarceration on June 17, 2007, he was deported to Mexico. The case plan had to be altered for the father to be able to work the plan from Mexico, and permanency of the children was delayed. The father was ordered to move from Tijuana to Juarez so that he could work reunification plan with his children. the father is currently working successfully with CYFD's counterpart in Mexico, attends treatment reviews by phone, contacts his children by phone and the children are taken to visit with him at port of entry on weekends.