



August 16, 2019

**VIA ELECTRONIC MAIL**

Cameron Quinn  
Officer for Civil Rights and Civil Liberties  
Department of Homeland Security  
245 Murray Lane, SW  
Washington, DC 20528

Joseph Cuffari  
Inspector General  
Department of Homeland Security  
245 Murray Lane, SW  
Washington, DC 20528

**Re: Separation of families via the 'Migrant Protection Protocols'**

Dear Ms. Quinn and Mr. Cuffari:

The Women's Refugee Commission (WRC) files this complaint on behalf of numerous families who were separated by U.S. Customs and Border Protection (CBP) officials along the United States' southwestern border, where at least some member(s) of the family were placed into the administration's so-called 'Migrant Protection Protocols' (MPP) (hereinafter referred to as its 'Remain in Mexico' or RIM program) and sent back to Mexico. WRC, along with many partner organizations who shared cases for the purposes of filing this complaint, is extremely concerned about this practice: in addition to subjecting migrants to physical danger, it has serious, harmful consequences on the ability of asylum-seeking families to meaningfully be able to seek protection in our country as well as on the physical and mental well-being of those separated from loved ones, and in certain cases, it runs afoul of federal court orders under the *Ms. L. v. ICE* lawsuit.

WRC urges you to conduct a prompt and thorough investigation into the 20 cases described below as well as to fully investigate into any pattern or practice of separating families under the auspices of RIM as part of a broader deterrence policy at the border. WRC also asks that you report on the steps that CBP and the Department of Homeland Security (DHS) have taken to record and track these families and the reason(s) for their separation, provide information to

families in this situation about their rights and how they can communicate, reunify and present their case prior to transferring them from custody, develop and implement processes to reunify in the United States when the separation was erroneous or unnecessary, and to facilitate their cross-border communication, should the separation continue.

## I. Background

The Women’s Refugee Commission, along with others, has for years and in great detail documented the immense trauma created by the separation of family members and the impact of separation on their ability to pursue legal immigration relief.<sup>1</sup> In December 2017, and together with partner organizations, WRC filed a complaint with your offices on family separations effectuated by U.S. Customs and Border Protection (CBP) officials along the United States’ southern border.<sup>2</sup>

Since that time, the administration announced its ‘zero tolerance’ policy in April 2018, which resulted in the systematic separation of thousands of migrant families arriving to the U.S. border. After significant public outcry and backlash, as well as the federal court’s orders under the *Ms. L. v. ICE* lawsuit, instances of family separation were greatly reduced. However, in the past several months, advocates and non-profit organizations operating along the border have documented an increase again in family separations. In addition to the separations at the border in which both parties are transferred within the United States, some of these separations, as is the focus of the present complaint, involve the RIM program. **Specifically, in RIM separations, one part of the family is processed into the United States to undergo their immigration proceedings, while the other part is returned to Mexico, where they must await their [separate] court proceedings.**

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<sup>1</sup> See, e.g., Women’s Refugee Commission, Kids in Need of Defense, and Lutheran Immigration and Refugee Service, *Betraying Family Values: How Immigration Policy at the United States Border is Separating Families*. March 2017, <https://www.womensrefugeecommission.org/rights/gbv/resources/1450-betraying-family-values>. See also American Immigration Council. *Divided by Detention: Asylum-Seeking Families Experiences of Separation*. August 2016, <https://www.americanimmigrationcouncil.org/research/divided-by-detention-asylum-seeking-families-experience-of-separation>; Jesuit Conference of the United States and Canada & Kino Border Initiative. *Our Values on the Line: Migrant Abuse and Family Separation at the Border*. September 2015, [http://jesuits.org/Assets/Publications/File/REPORT\\_2015\\_Our\\_Values\\_on\\_the\\_Line.pdf](http://jesuits.org/Assets/Publications/File/REPORT_2015_Our_Values_on_the_Line.pdf).

<sup>2</sup> American Immigration Council (Council), the American Immigration Lawyers Association (AILA), the Women’s Refugee Commission (WRC), Lutheran Immigration & Refugee Service (LIRS), the Refugee and Immigrant Center for Education and Legal Services (RAICES), Kids In Need Of Defense (KIND), Al Otro Lado, and the Florence Immigrant & Refugee Rights Project (FIRRP), “Civil and Human Rights Organizations File Joint Complaint With DHS on Behalf of Families Forcibly Separated in Customs and Border Protection (CBP) Custody,” December 2017, available at:

<https://www.womensrefugeecommission.org/news/press-releases-and-statements/2762-civil-and-human-rights-organizations-file-joint-complaint-with-dhs-on-behalf-of-families-forcibly-separated-in-cbp-custody>

This complaint will not detail all of WRC’s concerns with the RIM program, which are numerous<sup>3</sup>, but will instead focus on the rights violations caused by family separations. The present complaint includes documented cases involving separations of children from their parents, legal guardians, and caretakers, pursuant to or as part of RIM. It also documents cases involving spouses who were separated from one other, where one spouse is returned to Mexico under RIM, and a case involving an entire family that was split into two, where one half was placed into RIM and the other half was processed into the United States.

As we mentioned in our December 2017 complaint, while the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) allows for the separation of children from non-parents and legal guardians in certain limited circumstances - in order to prevent trafficking and comply with safe family reunification standards, **it is WRC’s position that no parent, guardian, or caretaker (including any alleged parent, guardian or caretaker who DHS suspects does not have a valid relationship or is suspected of trafficking,) who has been separated from their child or other family members should ever be placed into RIM:**

- 1) In the case of a parent or legal guardian accompanying a child, absent a risk of imminent harm to the child, separation is unlawful, renders the child unaccompanied, has tremendous negative impacts on the well-being of that child (and family), and potentially splits one case in the immigration court system into two (or more, if two or more children are involved). In fact, the American Academy of Pediatrics has warned that “highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child's brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress - known as toxic stress - can carry lifelong consequences for children.”<sup>4</sup>
- 2) In the case of a caretaker accompanying a child (most often a family member such as a grandparent, aunt, or older sibling), that caretaker may be the best suited person to care for that child during her or his immigration proceedings in the United States. Along those same lines, the caretaker may be the only person who is able to provide critical information regarding the child, including past mental or physical health needs, food or drug allergies, past trauma, and so forth; their circumstances and their family contacts; and may be the only person available to provide critical elements of the child’s asylum claim or protection needs. Indeed, this person may have been caring for that child for years in their home country, prior to ever arriving to the United States. By returning that person to Mexico, and especially in cases where there is no other family present in the United States or no other suitable sponsor, or where the child does not have that information or key documents pertinent to their case (as the adult, in practice, usually retains those), that child will languish in the custody of the Office of Refugee

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<sup>3</sup> These concerns are detailed in our report, *Chaos, Confusion, and Danger: The Remain in Mexico Program in El Paso*, from May 2019. The report is available on our website at: <https://www.womensrefugeecommission.org/rights/resources/1763-chaos-confusion-and-danger>.

<sup>4</sup> See, e.g., “AAP Statement Opposing Separation of Parents and Children at the Border,” May 8, 2018, available at: <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx>.

Resettlement needlessly, at great harm to the well-being of the family and at great cost to the government.

- 3) Due process is jeopardized. When one part of the family has all the documents, critical details, or may have a better understanding of the full reasons for fleeing their home country, having that family member and that information in Mexico does not allow for the family in the United States to fully prepare their cases. In cases in which families are seeking safety and protection in the United States, this may have life or death consequences. This is especially likely when children are involved – since parents may have been trying to protect them from disturbing or dangerous information. Additionally, having multiple cases for the same family in multiple courts creates inefficiency in the immigration court system and contributes to the backlog of cases.
- 4) As mentioned previously, the barriers to communication are extreme. Many separated families do not know how to locate their loved ones in the United States and they are not given this information by US authorities. Even advocates, Mexican authorities, and some US authorities are unaware of how families can locate one another. Furthermore, even if they obtain relevant information about how to locate a family member, procedures for making contact can be impossible to implement from Mexico with no phone or address.<sup>5</sup> Similarly, returned family members who are unable to find housing at a shelter, may end up on the street or renting space in private homes, where they may be at risk of abuse and exploitation and are certainly cut off from resources and information.<sup>6</sup> WRC is aware of some families that have gone months without being able to communicate with their loved ones on the other side of the border. Additionally, this lack of communication also affects other federal employees and contractors. For example, for children who have been rendered unaccompanied and are in ORR custody, ORR, the child’s legal representative (if she has one), or her assigned child advocate (if she has one), may need to contact the family who has been returned to Mexico to solicit additional information about the child and his/her case, or potential sponsors available in the United States to care for the child. If they cannot locate the family in RIM, the child’s case may be delayed and their time held in ORR custody will increase. Absent information from family in RIM, it could also lead to less safe placements for children who are released from government custody – when the ideal sponsor is waiting in Mexico – which increases the risk for abuse and neglect of those children, among other risks. Furthermore, as we have already mentioned, such separations, especially without follow-up contact or information are extremely traumatic and damaging to children – who are likely to suffer irreparable harm from such a separation.
- 5) In cases where CBP alleges that either a parent or legal guardian is not actually who they purport to be in relationship to a child, returning that individual to Mexico under RIM –

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<sup>5</sup> ORR relies on parents calling a 1-800 number that cannot be reached from Mexico. Furthermore, if a parent calls ORR looking for their child, the standard procedure is to obtain information and require a call-back number for ORR to reach the parents after confirming the relationship. This is often impossible for a parent who is homeless and waiting for a hearing in Mexico with no local connections and no money.

<sup>6</sup> CBP does not collect any personal contact information for those returned under RIM; rather, in some places, they cite that every person in RIM is staying at one shelter in Ciudad Juárez when this is simply not the case.

as opposed to taking any additional steps to verify the relationship or to conduct any type of investigation where wrongdoing is suspected – is contrary to law enforcement best practice, disregards parental rights and the human right to family unity, may render a permanent separation of a family, and is dangerous in that it potentially places other children with whom the individual comes into contact into harm in Mexico.

## **II. Individual Cases**

### ***Biological parents separated from their children and returned to Mexico under RIM***

#### **1) Alvaro**

Alvaro, an indigenous Guatemalan man who speaks little Spanish, and his son Enzo, were separated by CBP officials when they entered the United States on April 6, 2019 near El Paso, Texas. Alvaro presented his son's birth certificate to prove that Enzo was his son, but officials claimed that the documents were false. Alvaro was called a liar by U.S. Border Patrol officials, who forcibly separated him from his son. Enzo was sent to an ORR shelter in the United States. Alvaro was kept in CBP processing for 12 days, during which time he asked about his son but received no answers. The government never provided Alvaro with any information on how to contact his son or even with the whereabouts of his son. Alvaro was sent to Ciudad Juárez in Mexico, pursuant to RIM. It was only in Juárez that he was able to borrow a phone to contact a family member in the US, who was able to provide information about his son because this family member had been contacted by ORR. Alvaro was not afforded an opportunity to ask any U.S. immigration official about his son or the separation until his first immigration court hearing, over two months after they were initially separated. Alvaro asked the immigration judge about his son and was told that he needed to bring his case to the attention of immigration officials at CBP and that the court could do nothing to facilitate reunification. Alvaro was sent back to Mexico following the hearing and, again, was not given any information on how he could reunify with his son.

Pro bono immigration attorneys who met with Alvaro in immigration court were able to take on his case. Together with the American Civil Liberties Union (ACLU), they worked with the Department of Justice (DOJ) to facilitate Alvaro's parole into the United States so that he could reunify with his son. Alvaro's attorneys accompanied him to a port of entry to be processed into the United States on June 15, 2019, but CBP refused to allow the attorneys to accompany him during his processing or to specify how long Alvaro would be in CBP custody again. In the end, Alvaro remained the rest of that day and all night in an outdoor CBP facility that was covered by a tarp. He was held with approximately 150 other people. He was forced to sleep directly on the concrete with no blanket. He was released the following day and was finally reunified with his son on July 3, 2019, nearly three months after they were separated.

## 2) Bianca

Bianca, a young woman from Nicaragua, was separated from her five-year-old daughter, Helen, and her 16 year-old-brother, Eddy, with whom she was traveling to the United States when they turned themselves in to immigration agents at or near El Paso, Texas on/about May 1, 2019. Bianca was kidnapped and raped when she was a young teen, which resulted in her pregnancy with Helen. Because of the violent circumstances of her pregnancy and because she was a minor at the time of the birth, Bianca was not listed as the birth mother on Helen's birth certificate. Rather, Bianca's mother, Ingrid, was listed instead. However, a biological parent-child relationship claim (between Bianca and Helen) was made clear to the CBP officials verbally and by way of hospital records when Bianca and her child were in CBP custody. Despite that claim, and amid ongoing intergovernmental discussions about providing Bianca with a DNA test, Helen was sent to the same ORR shelter where Eddy had already been sent. After approximately six weeks in CBP custody, Bianca was never provided with the DNA test and was placed into RIM. A team of attorneys and advocates searched for Bianca in Ciudad Juárez, and only after getting in touch with Ingrid (Bianca's mother), was she able to be located. Eventually pro bono attorneys familiar with her case, together with the ACLU, negotiated with a DOJ attorney to bring Bianca back to the Port of Entry for a DNA test. When Bianca returned to the US for her first immigration court hearing on July 8, 2019, her counsel was under the impression she was to receive the DNA test while in CBP custody or after having been transferred to ICE custody. Neither happened, and Bianca was returned to Mexico again. Following weeks of further advocacy and follow-up with government officials, Bianca finally received a DNA test on August 1, 2019. On August 7, 2019, the results came back confirming her parental relationship to Helen.

In total, Bianca was separated from her daughter (and from her younger brother) for approximately three months. The separation wrought distress on Bianca's family and traumatized Bianca and her daughter. In addition, Bianca herself was placed at higher risk upon being sent to Ciudad Juárez to wait for her immigration hearings, as she did not feel safe in Ciudad Juárez and had a difficult time finding a place to stay. For example, upon her initial return to Mexico, she was turned away from one shelter that was full and was sleeping in a church.

## 3) Marcelo

Marcelo, a father from Guatemala, was separated from his 15-year-old son Byron when they crossed into the US on approximately May 2, 2019 near Calexico, California. According to Marcelo, CBP officials accused him of lying about whether Byron was his son. He said that officers "humiliated him," and that they threw Byron's birth certificate into the garbage. He was told that if it was determined that he was lying, he would go to jail. When Marcelo received a Notice to Appear (NTA) while in CBP custody, where he was held for eight days, he asked why they did not give him an NTA for Byron. Marcelo was told not to worry about it. Unbeknownst to Marcelo, Byron was sent to an ORR facility in Florida, and Marcelo – without ever having received any explanation or warning for the separation or his placement into RIM – was returned

to Mexicali, Mexico. His first immigration court hearing, held hundreds of miles away in San Diego, California, was on July 8, 2019. Marcelo was returned to Mexico after his July 8<sup>th</sup> hearing and again following a second hearing on August 7, 2019.

Marcelo now has counsel; together with the ACLU, the attorneys are negotiating with the DOJ in trying to process Marcelo into the US so that he and his son can be reunified while they go through immigration proceedings. As of mid-August 2019, neither has happened. Marcelo and his son have now been separated for three months. Regarding the separation, Marcelo is devastated and wants to be back with his son.

#### ***Legal guardians separated from their children and returned to Mexico under RIM***

##### 4) Gladys

Gladys is a 24-year-old woman from El Salvador, who was separated from her younger siblings, Elmer (14 years old) and Nancy (11 years old) when they entered the United States. Gladys's young daughter was also with her when the siblings entered the US. Gladys has been the legal guardian and primary caretaker for her younger siblings since their mother was murdered three years ago. Her custody of Elmer and Nancy is recognized by the Salvadoran government. Their dad died many years ago. She has never been separated from her siblings in the past.

Following their processing at the border, Gladys's siblings were transferred to an ORR shelter. Neither Gladys nor her siblings were provided with any explanation of what was happening; Gladys is unsure of whether CBP recorded their family relationship. She did not even have the chance to say goodbye to them when she realized that she was being returned to Tijuana under RIM. Gladys thinks her siblings did not realize what had happened to her, until she was finally able to speak telephonically with them many weeks later, after WRC contacted ORR to alert them of the situation and provide them with Gladys's contact information.

Upon Gladys and her daughter's return to Tijuana, Gladys was robbed. Out of desperation, she and her daughter travelled to the Nogales area. They tried to present at the port of entry there and were held for seven days in holding cells at the port. Gladys and her daughter were ultimately sent back again to Mexico to wait for her court hearing in the fall.

The separation was deeply traumatic for both Gladys and her siblings. They cry a lot and have experienced heightened anxiety and uncertainty.

##### 5) Ana

Siblings Ana (20 years old) and Alberto (13 years old) arrived at the border together, along with Ana's 5-year-old daughter. Although Alberto had been residing with his grandmother in Honduras, his grandmother provided Ana with a letter and documents authorizing her as Alberto's custodian. The siblings were separated by CBP at the border, and the reason agents

provided was that Ana was not his mother. CBP told Ana that they would be separated and that Alberto would be reunified with his mother (who is living in the United States). Ana was afraid and tried to insist that she was his caregiver and provide the paperwork that she had, but she was told that her brother was being taken away. In the end, no agent looked at the letter or paperwork that she had with her. She had a moment to say goodbye to her younger brother and told him to behave well.

When Ana was told that she would be sent to Juárez under RIM, she began to cry, explaining that she also wanted to be released to her mother. Ana and her daughter were sent back to Mexico despite the fact that her daughter was sick with a bad cough and a fever. Alberto was worried about what would happen to them, especially while he was in ORR care. Ana and her daughter were sent to a shelter, which had no space for them. They then tried to go to a church, but there was no space for them there, either. They were on the streets with nowhere to go, they had no food, and Ana could not provide for her hungry daughter. Ana's mother was able to contact some of her husband's relatives in Durango, Mexico, to see if they might be able to provide her daughter with refuge. Ana and her daughter are now staying with these relatives and waiting for their immigration hearing in October 2019.

6) Wilfredo

Wilfredo, a 19-year-old from a Central American country, traveled with his 17-year-old sister, who has a mental health condition. Wilfredo carried with him a power of attorney document that he says allows him to make decisions about his sister in their parents' absence. Despite this, Wilfredo was placed in RIM and Wilfredo's sister was sent to an ORR shelter in the US. As of early May 2019, he had not seen his sister for five weeks nor been able to contact her.

7) Gil X.

Gil, a 28-year-old from Guatemala, traveled with his 15-year-old brother for whom he is the primary caregiver. Gil had a power of attorney form with him. Gil was separated from his brother and returned to Mexico under RIM. His younger brother was sent to an ORR shelter. When Gil appeared before immigration court, he showed the court a power of attorney form, which he said he carried since their father died. He said it had been over five weeks since he was separated from his brother (as of early May 2019) and that they had not been able to speak in that time.

***Legal guardian or adoptive parent separated from child and returned to Mexico under RIM***

8) Ilma

Ilma travelled with her niece by birth, Roxana, to the US border and was separated from her niece by CBP officials on June 14, 2019 in El Paso, Texas. Both Ilma and Roxana are from Guatemala and are indigenous language speakers. Ilma and the child's mother (Ilma's sister) went to see an attorney in Guatemala prior to Ilma and Roxana leaving the country. Ilma says



Roxana's mother authorized Ilma to be the caregiver for Roxana from that day onward and for Ilma to treat Roxana as a daughter. The attorney prepared a document to memorialize this arrangement, including by changing Roxana's last name to match Ilma's. Ilma carried this document with her and presented it to CBP officials. Nonetheless, CBP officials accused Ilma at one point in processing of having "kidnapped" Roxana. CBP said that since Ilma was not on the child's birth certificate, they would have to separate her from Roxana. Ilma does not know what happened to the document she presented, as CBP officials held on to it.

After being separated, Roxana was sent to an ORR shelter, and Ilma was held in custody for 12 days before being returned to Ciudad Juárez, Mexico under RIM. Regarding her time in CBP custody, Ilma described extremely poor conditions and that officials treated her "inhumanely," noting that not once was she afforded the opportunity to bathe nor was she offered a change of clothing. Further, CBP never explained what was happening or where Roxana was being sent, much less how to get in touch with Roxana or whether Ilma would eventually be able to be reunified with her. As a result, Ilma did not know where Roxana was being held and was unable to speak with her for two months. Ilma described how painful the separation was for her and how she worried all the time about Roxana. Once alerted to the situation, WRC intervened with ORR to provide contact information for Ilma, such that she and Roxana could finally be in communication.

***Caretakers/common law guardians separated from their children and returned to Mexico under RIM***

9) Henry

Henry, a 19-year-old from Guatemala, raised his three younger siblings from when he was approximately 10 years old. His mother left when he was that age, and he does not know his father. One of his siblings was still in diapers when his mother left. Henry and his younger siblings were separated at the border in El Paso, Texas, after they fled their home country. The separation was very sudden and traumatic, according to Henry, who has essentially served as the "parent" to his siblings for most of their lives. Although Henry had his siblings' documents with him (e.g., birth certificates), he said that CBP officials would not even look at the documents. Henry still has the documents with him. His younger siblings were transferred to the custody of ORR. Henry was held in the 'hielera' for approximately four days and nights standing up because there was no room to lie or sit down. Henry was then sent to Ciudad Juárez in Mexico under RIM. Since being in Juárez, he has been robbed and his living situation is not secure.

10) Laura

CBP separated Laura, a 24-year-old asylum seeker and her 15-year-old brother, Humberto, after they crossed the border in mid-April near the El Paso port of entry. Held for two weeks in a CBP tent camp, Laura reported that officers falsely told her she would be reunited with her brother but instead pressured her to sign documents acknowledging her return to Mexico under RIM. Laura was sent to Ciudad Juárez around 3 o'clock in the morning in late April by CBP without

anywhere to go. Her brother was sent to an ORR facility, and she has not seen him in more than three months.

11) Josefa

Josefa is a 53-year-old grandmother from Honduras who raised her three granddaughters. The girls' mother moved to the United States approximately five years ago, and since that time Josefa has been the girls' caretaker. When Josefa fled from Honduras, she took her granddaughters, then aged 7, 12, and 15, with her. Once in CBP custody, she said agents took the girls away, forcibly removing the children as the 7-year-old clung to Josefa's pants and all four cried. The separation was very traumatic for Josefa, who said that she "never imagined this could happen. We don't deserve this because we are human beings." Josefa was placed into RIM and returned to Mexico alone, while the girls were transferred to an ORR shelter.

***Families with children where parents and children are split up, with some part of the family being sent back to Mexico under RIM***

12) Mayra

Mayra and her three sons crossed into Texas between ports of entry, from somewhere near Reynosa, Mexico, on July 13, 2019. They were taken to a 'hielera' that Mayra believes was located in McAllen, Texas. Mayra and her two minor sons were placed in one area and Javier, her 18-year-old son, was taken to another area – Mayra did not know where at the time. CBP sent Mayra and her two minor sons, via plane, to San Diego. When she was boarding the plane, Mayra told an official that she did not have her oldest son with her, and the official said that Javier was an adult and had to undergo his process separately. Javier had his passport with him, but Mayra had his birth certificate and his cell phone with her. After 15 days, she was able to establish telephonic communication with him and found out that he is being held in immigration detention in Texas, waiting to apply for asylum. Meanwhile, Mayra and her two younger sons were placed into RIM and sent to Tijuana, where they are currently waiting for their first court date scheduled to take place in October 2019.

13) Lorena

Common law partners, Lorena and Nery fled Honduras with both of their children (a girl approximately 22 months old, Martha, and their 6-year-old son, Vicente) due to death threats the family was receiving. The last message that Lorena received threatened the lives of their children, as well. Terrified, the family left and made their way to the US southern border. The family presented themselves at the border at El Paso on or around June 1, 2019. Lorena believes they were separated on or around June 3, 2019. She said the family was simply told to go to different places around 6pm one evening. She said they assumed they would be together. CBP officials did not ask her for any information, just to show them her ID. Once Lorena was returned to the 'hielera' around 8pm that evening, she did not see her husband or son again. No

explanation was provided. The next morning, Lorena and her daughter were transferred to another place.

Lorena and her daughter are now undergoing their immigration proceedings in the United States, separately from her husband and son, who were placed into RIM and returned to Ciudad Juárez. According to Lorena, the separation has been “incredibly hard” for her family. They have never been separated before. Lorena has been able to speak with her husband over the phone, and she learned that her son got very ill after he left CBP custody: he had a fever and was vomiting blood. She mentioned that the CBP facility was very cold and that they were not provided with sufficient food while held there. Lorena says her son is depressed and will not speak with her anymore over the phone; he just cries. Her husband told Lorena that he and their son have food where they are staying in Juárez but that it is not enough. “It’s very hard for me. I suffer a lot,” she said. “I don’t have words for it...they separated me from my son.”

#### 14) Katia

CBP sent Katia and her daughter to Mexico, separating them from Katia’s husband and 7-year-old son when the girl fell ill in CBP custody. After days in makeshift CBP detention facilities under the Paso del Norte Bridge and a desert tent camp with limited food and heavily chlorinated water that burned their lips, Katia’s daughter collapsed. The child was sent to a local hospital with her mother. “When I returned to the camp with my daughter, my husband and son were gone. They’d been released. No one had told me that was happening,” Katia said. CBP returned Katia and her daughter to Mexico where a taxi driver kidnapped them outside of a Mexican migration office in Ciudad Juárez.

#### 15) Blanca

CBP in El Paso also separated Blanca from her longtime partner and partner’s son, when they sought asylum after facing violence in Guatemala because of their sexual orientation. Blanca said, “[w]hen we told [Border Patrol] we were a couple, the officers in the green uniforms told us that if we weren’t married, we couldn’t stay together.” She was sent to Mexico after 20 days in CBP holding cells. “No one ever asked if I was afraid of being in Mexico,” she said. “They just gave me papers to sign. That’s it.” In Juárez, Blanca and other asylum seekers were repeatedly robbed and assaulted.

#### 16) Victoria

On or about April 2, 2019, Victoria, an 18-year-old young woman, was separated from her mother and younger siblings at the San Ysidro port of entry in San Diego, California. Her family is seeking asylum in the United States. When Victoria was first separated from her family, CBP told her that she was just going to be questioned separately. At some point during the interview, the tone changed, and she was told she would be going to Mexico. Victoria and her family members have similar underlying claims for asylum. Although Victoria’s lawyer was able to

have her removed from RIM and her case consolidated with her family's – through the immigration judge's grant of a change of venue to the court presiding over her family's case (the grant was issued on July 18, 2019) – had this not have happened, her case would have been impacted tremendously: as Victoria is only 18, she knows the reason for needing to flee but does not have all the details of the entire threat to her family.

***Spouses, including common law partners, separated from one another where one is returned to Mexico under RIM***

17) Christopher E.

Christopher E. fled Honduras with his pregnant wife. While they were traveling through Mexico, they were kidnapped in Nuevo Laredo, Tamaulipas for two months. After their kidnappers had no success in reaching a family member, they were released. By the time they turned themselves in to the U.S. Border Patrol, Christopher's wife was six-months pregnant. Border Patrol separated them, sending Christopher to Ciudad Juárez while his wife was processed in and is currently staying with a family member in the US. Christopher said he was worried about his wife; he also said he was too afraid to leave the home where he was staying in Juárez. "One feels as if one is not a human being," he said.

18) Donaldo U.

Donaldo U. arrived at the U.S. southern border with his common law partner, who is pregnant. U.S. Border Patrol separated them. Donaldo's partner was processed and released into the US, while he was sent back to Juárez under RIM.

***Adult siblings separated from minor siblings and returned to Mexico under RIM***

19) Amanda M.

Amanda M., a 19-year-old asylum-seeker from Guatemala, travelled with her 14-year-old sister to the US border. When they turned themselves in to the U.S. Border Patrol near El Paso, Texas, Amanda told agents that she was afraid to return to her home country. One agent responded: "We can't help you here." She was then separated from her younger sister, who was sent to ORR. Meanwhile, Amanda was placed into RIM and returned to Ciudad Juárez, where she said she is too afraid to leave the hotel room she shares with other young women. She also stated that sometimes she and the other women do not eat so that they can afford shelter in Juárez.

20) Gloria

Gloria O., a 20-year-old woman from Honduras, fled with her 16-year-old brother. U.S. Border Patrol separated the siblings, and when she asked agents where they were taking him, an agent told her that "He's going to a better place than you." She said that while in Border Patrol

custody, agents woke her and the other women (including some who were pregnant) in the middle of the night and shouted at them to sign documents in English that she and the others could not understand. As of early May 2019, she had no idea as to the whereabouts of her brother and only more recently was she finally able to speak with him over the phone, where she learned that he is being detained in an ICE detention center.

### **III. Conclusion**

The above case examples demonstrate a disturbing practice of continued family separations by CBP agents along the U.S.-Mexico border under the administration's Remain in Mexico program. Separation of family members, and especially minor children from their parents or legal guardians, absent extraordinary circumstances, raises significant legal concerns and threatens the most fundamental of interests. Separations of children from caretakers may not raise the same legal concerns but certainly have a profound, negative impact on the child and the family as a whole and, like separations from parents and legal guardians, may have serious implications for the child's case for protection and how long they spend in government custody.

WRC urges your office to investigate and clarify current DHS policy on family separation, particularly as it pertains to the RIM program. WRC continues to advocate for many of the recommendations that we and partner organizations put forth in our December 2017 complaint to prevent family separation, ensure a fair process for those seeking protection, and help families stay connected and in communication if a separation does occur. To those recommendations, and more specifically to address RIM separations, we would add:

1. DHS should never place any separated family members into RIM – parent, legal guardian, caretaker, or other part of the family;
2. "Alleged" family members or those whom DHS suspects of not having legitimate family ties should also not be placed in RIM; and
3. DHS should develop and implement a process to immediately identify families separated under RIM, take those family members out of RIM, and work to facilitate reunification in the US where possible.

Thank you in advance for your time and consideration. If you have any questions or require additional information, please feel free to reach out.

Sincerely,

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