

November 1, 2017

Elaine C. Duke, Acting Secretary
U.S. Department of Homeland Security

Kevin McAllenan, Acting Commissioner
Customs and Border Protection
U.S. Department of Homeland Security

Eric Hargan, Acting Secretary
U.S. Department of Health and Human Services

Scott Lloyd, Director
U.S. Department of Health and Human Services
Office of Refugee Resettlement
Administration for Children and Families

Steven Wagner, Acting Assistant Secretary
U.S. Department of Health and Human Services
Administration for Children and Families

To All Concerned:

We, the undersigned 174 organizations, write to urge the Department of Homeland Security to not pursue removal proceedings against Rosa Maria Hernandez and for the Office of Refugee Resettlement (ORR) to immediately release her to her family. Rosa Maria is a 10-year-old girl with cerebral palsy who was recently detained by U.S. Customs and Border Protection (CBP) after agents stopped the medical transport vehicle that was transporting her to the hospital for a necessary operation. CBP agents later arrested her after her surgery and transferred her to ORR custody—where she remains to date. We are aware that Rosa Maria has lived in the United States with her parents since she was three months old, and that her family here in the United States has been and remains the caregivers who serve the best interests of this child.

We understand that a Notice to Appear (“NTA”) has been issued against Rosa, but not yet filed in immigration court. We urge you not to file her NTA and abandon any deportation case against her.” Rosa Maria should never have been placed into removal proceedings.

We also demand that you immediately return her to her family. As you are aware, ORR has a responsibility to promote expeditious family reunification for children who come into its custody. Children in ORR custody are protected by the U.S. Constitution, the Trafficking Victims Protection Reauthorization Act (TVPRA), and the *Flores* Consent Decree. The government should only detain children as a measure of last resort. Both the TVPRA and the *Flores* Settlement embody a strong policy in favor of releasing children from custodial settings into placements with family members or in the community. The TVPRA requires that children in ORR custody be “promptly” placed “in the least restrictive setting that is in the best interest of the child.”¹

Similarly, the *Flores* Consent Decree mandates that the government “release a minor from its custody without unnecessary delay,” as long as detention is not required to ensure a child’s appearance at immigration court, or for safety reasons.² Taken together, these provisions demand that the government actively and continuously seek release of each child in custody, unless the child’s detention is necessary to secure her appearance in court or her safety.³ There is no basis to hold a child who has been living in

¹ 8 U.S.C. § 1232(c)(2)(A)

² *Flores* Settlement, ¶ 14

³ See also 8 C.F.R. § 236.3(b) (setting forth scheme for release of immigrants under 18 years old).

the United States with her parents for a decade in ORR custody when her family were and remain appropriate guardians, and it is certainly against the best interests of the child in this case.

Particularly in light of Rosa Maria's medical condition—a child with cerebral palsy who recently underwent a surgical operation—family reunification is critical to this child's wellbeing. Children with cerebral palsy require intensive therapy and medical care, which Rosa Maria was receiving under the care of her parents and family members here in the United States. As investigations mount into the U.S. Customs and Border Patrol's decision to target and detain Rosa Maria, we ask that DHS close her immigration case and ORR immediately facilitate the reunification of Rosa Maria with her family in the United States before further harm is done.

Please contact Astrid Dominguez, Immigrants' Rights Policy Strategist, ACLU of Texas, (713-942-8146, adominguez@aclutx.org) or Lorella Praeli, Director of Immigration Policy and Campaigns, ACLU (202-675-2328, lpraeli@aclu.org) with any questions or to further discuss this letter.

Sincerely,

National Organizations

Access Living
American Association of People with Disabilities
American Civil Liberties Union
American Federation of Teachers (AFT)
American Friends Service Committee
America's Voice Education Fund
Asian & Pacific Islander American Health Forum
Autism Women's Network
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Border Studies Program
Center for American Progress
Center for Biological Diversity
Center for Law and Social Policy (CLASP)
Center on Immigration and Child Welfare
Christian Chirxh (Disciples of Christ)
CNLD
Columbia Law School Immigrants' Rights Clinic
Community for Children
Disability Action for America
Disciples Refugee & Immigration Ministries
DREAM: Disability Rights, Education, Activism, and Mentoring
Little Lobbyists
Equal Voice Action
Families USA
Farmworker Justice
FIRM (Fair Immigration Reform Movement)
First Focus
Franciscan Action Network
Free Migration Project

FWD.us
Global Diversity Leadership Exchange
Hispanic Federation
Human Impact Partners
Human Rights Watch
Immigrant Legal Resource Center
Immigration Clinic, UH Law Center
International Rescue Committee
Justice for Our Neighbors
Justice Strategies
Lutheran Immigration and Refugee Service
Mennonite Central Committee U.S. Washington Office
Mi Familia Vota
MomsRising/Mamásconpoder
MoveOn.org Civic Action
National Association of the Deaf
National Center for Lesbian Rights
National Center for Transgender Equality
National Coalition for Latinxs with Disabilities
National Council of Asian Pacific Americans (NCAPA)
National Council of Jewish Women Texas
National Council on Independent Living
National Disability Rights Network
National Education Association
National Employment Law Project
National Immigrant Justice Center
National Immigration Law Center
National Latina Institute for Reproductive Health
National Network for Immigrant and Refugee Rights
National Organization of Nurses with Disabilities (NOND)
National Partnership for Women & Families
NETWORK Lobby for Catholic Social Justice
Not Dead Yet
NYU Immigrant Rights Clinic at Washington Square Legal Services, Inc.
Partnership for Inclusive Disaster Strategies
Peoples Action
Planned Parenthood Federation of America
Provincial Council Clerics of St. Viator (Viatorians)
Queerability
Refugee and Immigrant Center for Education and Legal Services (RAICES)
San Antonio Region Justice For Our Neighbors
Sargent Shriver National Center on Poverty Law
Sisters of Mercy of the Americas
Sisters of Mercy South Central Community
Southeast Asia Resource Action Center (SEARAC)
TASH
Texas Alliance for Retired Americans, Austin Chapter
The Advocates for Human Rights
The United Methodist Church - General Board of Church and Society
Unitarian Universalist Service Committee
United We Dream

We Belong Together
Witness to Mass Incarceration

State and Local Organizations

ADAPT Montana
American Gateways
Asian Americans Advancing Justice-LA
Austin DSA Queer Coalition
BC Consulting Services, Inc.
Bellingham Deaf and Disability Justice Coalition
Boat People SOS - Houston
BorderAction Network
Brenda Bentley
California Pan-Ethnic Health Network
Capital Area Immigrants' Rights Coalition
Casa del Alfarero
Cascadia Deaf Nation
Catholic Charities - Refugee & Immigration Services
Catholic Migration Services
Center for Disability Rights
Center for Public Policy Priorities
Cesar Chavez Memorial Alliance of South Texas
Children's Defense Fund- NY
Children's Law Center of Massachusetts
Coalición de Derechos Humanos
Coalition for Humane Immigrant Rights (CHIRLA)
Community Legal Services in East Palo Alto
Connecticut Legal Services, Inc.
Cornell Law School Asylum and Convention Against Torture Appellate Clinic
Democratic Socialists of America Feminist Action Committee
Detained Migrant Solidarity Committee
DFW Lideres
Disability Activists and Allies of Maine - DAAM
Disability Policy Consortium MA
Disability Policy Consortium of Massachusetts
Disability Rights Texas
Dolores Street Community Services
Elkins Park Indivisible
Esperanza Peace and Justice Center
Faith Lutheran Church
Federation for Children with Special Needs
First Christian Church (Disciples of Christ), Tucson, AZ
Flor López
Florida Legal Services, Inc.
FosterAdopt Connect
Friends of Broward Detainees
Fuerza del Valle Workers Center
Grassroots Leadership
Happy on Wheels
Humane Borders

Immigrant Law Center of Minnesota
Interfaith Welcome Coalition - San Antonio, TX
International Rescue Committee in Dallas
Johnny N. Mata, Greater Houston Coalition for Justice
Johns Hopkins University School of Nursing
Justice for our Neighbors Houston
Justice For Our Neighbors West Michigan
La Frontera Ministries
La Union Del Pueblo Entero(LUPE)
Left Up To Us
Legal Services for Children
Make the Road New York
Mango Travels
Migrant Center for Human Rights
Migrant Rights Collective
New York Lawyers for the Public Interest
Northern Illinois Justice for Our Neighbors
NWDC Resistance
Ohio ADAPT
Oregon Latino Health coalition
Our Revolution-Cameron County
Pro- Immigrant Coalition/Coalicion Pro-Inmigrante.
Progress Center for Independent Living
Pro-Immigrant Coalition/Coalicion Pro-Inmigrante
PSR
Public Counsel
Reformed Church of Highland Park
Resource Center for Independent Living
Sarai Urzua
SEIU Texas
Services, Immigrant Rights, and Education Network (SIREN)
Social Justice Collaborative
south texas resistance movement
Southeast Immigrant Rights Network
Texas Organizing Project
The Arc, Disability Activists & Allies of Maine
The Door's Legal Services Center
The New York Immigration Coalition
The Student Association for International Studies
TX21 Indivisible
United We Dream Houston
UnLocal, Inc.
Upstate for Peace
USA Northeast Province of the Society of Jesus
Volunteers of Legal Service

