Wednesday, June 27, 2018

Inter-American Commission on Human Rights  
1889 F Street N.W.  
Washington, DC 20006  
United States  
cidhoea@oas.org  

Via e-mail

Re: Antonio Bol Paau and others  
Request for Precautionary Measures MC 505-18  
United States

Dear Members of the Inter-American Commission:

Please find below and attached additional information regarding the above-referenced matter. This information provides answers to the request for information sent by the Executive Secretariat on June 22, 2018, requesting a response within five (5) days. Petitioners reiterate the urgent need for the Inter-American Commission to grant the requested Precautionary Measures, as explained below.

It is increasingly urgent for the Commission to issue a Resolution granting Petitioners’ Requests for Precautionary Measures. Since the filing of this Request, Petitioners have interviewed an additional 376 families separated at the Texas-Mexico border.\(^1\) Of those, 266 remain separated, because Petitioners have confirmed that the parent is still detained at a detention facility for adults, necessarily without their children. 101 of the adults are not in ICE custody according to the ICE online detainee locator system, which may mean that they have been deported. At least five (5) parents have been deported without their children, who remain in the United States. Petitioners have confirmed that five other parents have also been deported, and Petitioners are in the process of confirming whether they were deported with or without their children. At least two children have been deported without the parent they were separated from. According to the information available to Petitioners, eight (8) families are detained in residential detention centers, possibly with their children. Also, Petitioners have confirmed that four families have been reunited and released.

Most alarming, **Petitioners have confirmed that parents have been deported without their children**, underscoring the urgency for the Commission to act. At least three fathers that Petitioners interviewed have been deported to Guatemala, and their minor sons remain in the United States. In addition, a single-father was deported earlier this month to Honduras, and his six-year-old daughter

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\(^1\) The vast majority of the adults have been parents separated from their children, but a handful were aunts and uncles separated from their nieces or nephews, one stepfather separated from his stepson, and two grandparents separated from their grandchildren. Few have been reunited.
remains in the United States. The same is true for yet another father deported to Honduras, whose seven-year-old son remains in the United States.

With respect to the specific questions submitted by the Commission, Petitioners respond as follows:

a. **In case of having additional information to the one already provided, inform what is the situation of the deportation proceedings in relation to the parents of the children proposed beneficiaries. Indicate whether there is a date for deportation and whether said deportation will be carried out or has already been carried out jointly or separately with the children proposed beneficiaries.**

The information Petitioners have of the proposed beneficiaries is as follows:

1. Vilma Aracely Lopez Juc de Coc and her son S.V.C.L. As of June 26, 2018, Ms. Lopez Juc de Coc is being detained at the [redacted] United States. Her son, S.V.C.L. is admitted at a shelter with the Office of Refugee Resettlement (ORR), but Petitioners’ inquiry to have an ORR case worker contact us has not been answered. Petitioners do not have further information about the whereabouts of S.V.C.L.

2. Antonio Bol Paau and his son R.B.S. As of June 26, 2018, Mr. Bol Paau’s information is not available in ICE’s Online Detainee Locator System, system, and there is no information about him at the Executive Office for Immigration Review (EOIR) hotline. Likewise, his son, R.B.S., is not on the ORR system to locate children at ORR shelters. Based on Petitioners’ best available information, that the parent is not on the ICE or EOIR system can mean a few things: (a) that the parent’s information still has not been added to the system—despite the fact that these families were apprehended and processed five weeks ago—but the parent is still in ICE detention; (b) the parent may have been released to a family member in the United States and given a “Notice to Appear” in immigration court; or (c) that the parent was deported. Petitioners have not been able to confirm which of these three possibilities actually took place, and the United States government would be the best source of that information. Similarly, that the child is not at an ORR shelter can mean that the child was either (a) released to a family member or other sponsor in the United States; or (b) deported. Again, Petitioners have not been able to confirm which one of these possibilities actually took place, and the United States government would be the best source of that information. If any proposed beneficiary has been removed from the United States, the United States

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2 [https://locator.ice.gov/odls/#/index](https://locator.ice.gov/odls/#/index).
government should inform whether they were removed together with the child/parent they were separated from, and whether they have been reunited.

(3) Leonel Chub Cucul and his son L.D.C.I. Like Mr. Bol Paau, Mr. Chub Cucul is not in ICE’s Online Detainee Locator System and there is no information about him at the EOIR hotline as of June 26, 2018. Similarly, L.D.C.I. is not at an ORR shelter, based on Petitioners’ inquiries with ORR. The United States government would be the best source of information as to whether Mr. Chub Cucul and L.D.C.I. are still in detention, have been released, or have been removed, and whether they have been reunited.

(4) Maria Andrés de la Cruz and her children D.P.A., G.A.P.A. and D.M.P.A. As of June 26, 2018, Ms. de la Cruz and her children are also not in the ICE or EOIR or ORR systems, respectively, based on Petitioners’ inquiries with each of these agencies. The United States government would be the best source of information as to whether Ms. de la Cruz and her children are still in detention, have been released, or have been removed, and whether they have been reunited.

(5) Dagoberto A. Melchor Santacruz and his son K.A.M.A. As of June 26, 2018, and according to the ICE Online Detainee Locator System, Mr. Melchor Santacruz is detained at the [REDACTED]. His son, K.A.M.A., is still at an ORR shelter [REDACTED]. When Petitioners called the facility where Mr. Melchor Santacruz is detained to ascertain whether he could communicate with his son, the representative Petitioners spoke to relayed that Mr. Melchor Santacruz could call his son only if he “had money in his account.” Based upon information and belief, Mr. Melchor Santacruz has not communicated with his son since they were separated.

b. What is the current status of the asylum applications or procedures that are carried out to the proposed beneficiaries.

The first step for a person to enter into the asylum process is for he or she to conduct a credible fear interview (CFI). If the agent conducting the CFI determines that the person’s fear of returning to their home country is “credible,” then the person proceeds to the next step of the process. As of this date, Petitioners can only confirm that Mr. Melchor Santacruz received preparation for a CFI, and may have received one. As for the other proposed beneficiaries, Petitioners have not been able to confirm whether the proposed beneficiaries received a CFI, or what the results of those were.
c. Indicate if the measures have a temporary character, or if there is knowledge about when the children will be reunited with their parents. In case of having additional information, indicate the manner in which said procedure would occur.

At this time, the Petitioners do not have any specific information with regard to whether, when, or how the separated children will be reunited with their parents.

Vilma Aracely Lopez Juc de Coc has been separated from her son since May 22, 2018. The United States government has made no clear plans regarding whether or when Ms. Lopez Juc de Coc will be reunited with S.V.C.L.

Dagoberto Melchor Santacruz has been separated from his son since May 22, 2018. The government has not indicated whether and when or how Mr. Melchor Santacruz will be reunited with his child. To the best of Petitioners’ knowledge, K.A.M.A. is at an ORR shelter in South Texas.

As noted previously, it is unknown whether or when Maria Andrés de la Cruz, Leonel Chub Cucul, and Antonio Bol Paau have been or will be reunited with their children.

Aside from having confirmed the separation of two of the children proposed beneficiaries for over 30 days, and that no information is disclosed or attainable relating to the separation of our remaining proposed beneficiaries, the United States government has disclosed very little information pertaining to its plans, if any, to reunite separated families and whether the separation is temporary in nature.

The limited information provided by the government relating to reunification was disclosed on June 23, 2018, by the U.S. Department of Homeland Security’s publication of a “Fact Sheet” on “Zero-Tolerance Prosecution and Family Reunification.”

The Fact Sheet highlights that U.S. Customs and Border Protection (CBP) has reunited 522 children in its custody, but fails to specify if those children were reunited with the parent they were separated from, or instead released to another family member in the United States. The Fact Sheet also fails to discuss any plans or procedures available to reunite any of the proposed beneficiaries, or any of the thousands of other families who have already been separated under the zero-tolerance policy or in the months leading up to its implementation, except to state that the Government “is working” to reunite children with adults “for the purposes of removal.” Id. The Fact Sheet provides certain information raising concern relating to the Department of Homeland Security’s plans for reunification and relating to whether its separation measures have a temporary character as follows:

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3 See: https://content.govdelivery.com/accounts/USDHS/bulletins/1f98ad8.
The Department of Homeland Security announces no procedures or plans, available to parents and children separated from one another, relating to reunification and whether such a process is possible to expedite. To the contrary:

- The Fact Sheet does not depart from previous practice: it places the onus of locating a separated child on the parent by providing the ORR Hotline number and ORR Resource Center email address for the purpose of “determin[ing] if their child is in the custody of ORR.”

- Separated parents who are located in ICE custody are, by the Department’s own announcement, and notwithstanding any regulations that may be present inside the detention facilities, only able to contact the ORR Hotline number from Monday through Friday between 8AM and 8PM. The Fact Sheet does not specify whether parents can make these calls free of charge, and, as discussed above, the operator at the Stewart Detention facility informed Petitioners that Mr. Melchor Santacruz would have to pay for such a call.

- The government has declined to address whether, when, and how reunification will occur for families that have been separated and who are seeking asylum, including the proposed beneficiaries.

- According to the Department of Homeland Security, Immigration and Customs Enforcement has designated a specific facility (Port Isabel Detention Center) as the primary “family reunification and removal facility” and a parent “who is ordered removed …may request that his or her minor child accompany them.” (emphasis added). Id. It is therefore not clear whether any parent separated from their child and who will remain in the United States for the duration of their immigration or asylum proceedings will be reunited with his or her child. Instead, the government appears to limit reunification to parents who have been or will be ordered removed.

- Petitioners are aware of only four families (not proposed beneficiaries) who have been reunited with their children to pursue their immigration cases in the United States, outside of a detention facility.

Petitioners have also received information that at least two parents have been told by government agents that the way for them to be reunited with their children is for them to sign a “voluntary” return.

Please refer to Annex A, Declaration of Michelle Brané, for additional information.
d. Report on the availability and access to means of contact between the children and their parents and their frequency (for example, telephone, visit, etc.) until the reunification takes place.

In addition to the above, the United States government’s June 23, 2018 Fact Sheet on “Zero-Tolerance Prosecution and Family Reunification” suggests that, “[w]ithin 24 hours of arriving at an HHS funded facility minors are given the opportunity to communicate with a vetted parent, guardian or relative” and “while in [Health and Human Services] funded facilities’ care, every effort is made to ensure minors are able to communicate (either telephonic or video depending on the circumstances) with their parent or guardian (at least twice per week).” In light of the difficulties faced by parents who are detained relating to communication, there are no assurances that the government has made provisions to ensure that the children be permitted to communicate with their parents who may be detained.

To the best of Petitioners’ knowledge, proposed beneficiary Mr. Melchor Santacruz has not been able to communicate with his son, K.A.M.A. since they were separated. Petitioners have not been able to confirm whether any of the other proposed beneficiaries have been permitted or afforded an opportunity to communicate with their children. In fact, as highlighted above, the location of some of the family members at present has still not been determined, which is a first step in setting up any type of communication, much less meaningful and regular communication. Finally, per the Commission’s question of whether the communication includes a visit, in the Petitioners’ experience, it does not. This includes the present five cases as well as dozens of other cases Petitioners have now documented.

Moreover, Petitioners have experienced significant difficulties when contacting the ORR hotline and, especially, the Detainee Reporting and Information Line operated by ICE. Based on Petitioners’ information, when parents have tried to call these hotlines to locate their children, wait times sometimes exceed an hour, parents are unable to get through or only hear busy signals, the call disconnects, and that, once a parent is able to speak with an operator, all he or she can do is provide information. The hotline personnel then must independently verify the information and family relationship and call back.

Detained parents cannot receive phone calls and often have difficulties, due to limited phone access, in remaining on hold for long periods of time.

Petitioners have also received information that parents must purchase phone credits or have money in their “account” in order to use phone services while in custody. If true, this would indicate that it is not possible for detained parents who were separated from children to communicate with ORR or their children by telephone without purchasing phone credits.
Most concerning, when Petitioners have called the ICE hotline on June 26, 2018, the government representatives Petitioners spoke with often deliberately hung up on Petitioners upon Petitioners disclosing that they were calling to inquire about the location of a parent separated from a child at the border.

**e. Inform if any appeal has been lodged due to the alleged risk situation and the result obtained.**

On February 26, 2018, the American Civil Liberties Union (ACLU) filed a lawsuit against ICE and others over the practice of family separation: *Ms. L v. ICE.* Petitioners are not named plaintiffs in that case. On June 6, 2018, the judge hearing the case rejected the government’s request to dismiss the case, allowing the lawsuit to proceed. The Plaintiffs filed a motion for a class-wide preliminary injunction to prevent the government from separating families. The ACLU filed a supplemental memo on June 25, 2018, requesting that the United States government reunify all separated children with their parents within 30 days. Late on June 26, 2018, the court of first instance issued a preliminary injunction, ordering that separated families be reunited within thirty (30) days and that any child younger than five (5) years of age be reunited within 14 days. This decision is a **preliminary ruling that is not final,** and the government will likely appeal it first to the Court of Appeals for the Ninth Circuit, and eventually to the Supreme Court of the United States. A copy of the injunction is attached as Annex B.

Among other things, the Court preliminarily ordered ICE and other federal agencies—including Customs and Border Protection and ORR—to no longer “detain[] Class Members in DHS custody without and apart from their minor children, absent a determination that the parent is unfit or presents a danger to the child, unless the parent affirmatively, knowingly, and voluntarily declines to be reunited with the child in DHS custody.” Annex B., p. 23. The Court further ordered:

“Unless there is a determination that the parent is unfit or presents a danger to the child, or the parent affirmatively, knowingly, and voluntarily declines to be reunited with the child:

(a) [Federal agencies] must reunify all Class Members with their minor children who are under the age of five (5) within fourteen (14) days of the entry of this Order; and
(b) [Federal agencies] must reunify all Class Members with their minor children age five (5) and over within thirty (30) days of the entry of this Order.

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4 See [https://www.aclu.org/cases/ms-l-v-ice](https://www.aclu.org/cases/ms-l-v-ice); see also [https://www.aclu.org/legal-document/ms-l-v-ice-amended-complaint](https://www.aclu.org/legal-document/ms-l-v-ice-amended-complaint).
[Federal agencies] must immediately take all steps necessary to facilitate regular communication between Class Members and their children who remain in ORR custody, ORR foster care, or DHS custody. Within ten (10) days, Defendants must provide parents telephonic contact with their children if the parent is not already in contact with his or her child.” *Id.*

Importantly, the Court noted: “[The situations of Plaintiffs] confirm what the [United States] Government has already stated: it is not affirmatively reuniting parents like Plaintiffs and their fellow class members for purposes other than removal. Outside of deportation, the onus is on the parents, who, for the most part, are themselves in either criminal or immigration proceedings, to contact ORR or otherwise search for their children and make application for reunification.” Annex B., p. 16.

As it relates to the present Request for Precautionary Measures, Petitioners underscore the urgency of this matter, as there are grave concerns that some of the proposed beneficiaries may have already been deported, and the children continue to suffer irreparable harm by being separated from their parents. Moreover, the ruling in *Ms. L v. ICE* is subject to appeal, which will further delay the reunification process.

On June 20, 2018, the President of the United States signed an Executive Order relating to the separation of immigrant families. Most relevant to this Request, the Executive Order is entirely silent about the process to reunite separated families with their children, including all the proposed beneficiaries. Secondly, the Executive Order provides that the DHS Secretary may detain all families in family detention facilities, pursuant to available resources and where permitted by law. Importantly, ICE – the custodian of families in immigration detention – has admitted that it currently does not have sufficient bed space to detain all arriving families. Because of this and this administration’s targeting of immigrant and asylum-seeking families, Petitioners fear that family

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6 Available at: [https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/](https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/).
separation will continue to occur, at least in some cases, unless this Commission issues a Resolution. 

f. Any additional information deemed relevant in light of regulatory requirements.

As mentioned above, Petitioners have interviewed over 370 additional families separated by the United States at the Texas-Mexico border. Petitioners have heard heart-breaking accounts of parents fleeing violence and death threats in their home country, political persecution, rape, among other atrocities, only to have the United States government take their children from them. The Commission should grant the Precautionary Measures requested immediately.

Some of the families that Petitioners have come across have recounted stories, such as:

(i) A Honduran mother seeking protection from violence and threats, traveling with her 6-year-old son who has brain damage since birth. The United States government separated her from her son on June 5 in McAllen, Texas, and she has only spoken to him by telephone once since. They remain separated: she is at an adult detention facility in South Texas, and her son is at an ORR shelter. Petitioners do not have information about the son’s precise diagnosis, except that his mother told Petitioners that he “swallowed a lot of liquid” at birth.

(ii) A Guatemalan father who Petitioners interviewed on May 29, 2018, and who the United States government forcibly separated from his underage son. The United States government deported the father on June 6, and as of today, his teenage son remains at an ORR shelter in the United States, according to information Petitioners obtained from ORR representatives.

(iii) Another Guatemalan father who Petitioners also interviewed on May 29, 2018, and who was separated from his teenage son was also deported earlier this month. Petitioners have not been able to confirm the exact date of the deportation because the representative Petitioners spoke to on the ICE hotline refused to provide an

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7 Ron Nixon, Erica Green, and Michael Shear, “Border Officials Suspend Handing Over Migrant Families to Prosecutors,” New York Times, June 25, 2018, https://www.nytimes.com/2018/06/25/us/politics/border-officials-suspend-handing-over-migrant-families-to-prosecutors.html?smtype=cur&smid=tw-nytimes (parents with a prior criminal record or who may present a danger to the welfare of their child may still be prosecuted; it is unclear what criteria is used to determine the latter and whether there is any meaningful review of that determination or investigation that takes place).

8 Moreover, ICE is presently seeking to expand its family detention capacity. CBS News, ICE may seek up to 15,000 beds to detain immigrant families, June 22, 2018, https://www.cbsnews.com/news/ice-may-seek-up-to-15000-beds-to-detain-immigrant-families/.
exact date. This father’s son remains at an ORR shelter in the United States, according to information Petitioners obtained from ORR representatives.

(vi) Petitioners interviewed a single-father from Honduras on June 18, 2018, in McAllen, Texas. He was traveling with his 7-year-old daughter. When immigration agents told him that they were going to take his daughter away from him, he told his daughter that she was going to a “summer camp,” so that she would not suffer at the moment of separation. He described how his daughter was very excited to go to a camp, and she went away with the agent. Petitioners do not know if he has seen or spoken to her since.

(vii) Petitioners interviewed multiple mothers who recounted that they had had their young sons and daughters taken from them, and initially taken to another place within that facility. Their children were crying so much at night because they were separated from their mothers, that agents had to bring the children back to their mothers at night so that they could console their children. The mothers would console the children, put them to sleep, and then the agents would take them away again.

CONCLUSION

If the United States of America does not respond to this request for information within the established timeframe, Petitioners urge the Commission to proceed with its analysis and determination of the Request. As illustrated herein and in Petitioners’ original submission, the
threats to proposed beneficiaries’ lives, personal integrity, and human rights are imminent, ongoing, severe, and may have permanent, irreparable effects.

For these reasons, Petitioners reiterate that it is urgent for the Commission to grant the requested Precautionary Measures immediately.

Respectfully submitted,

/s/ Efrén C. Olivares

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