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**BRIEF OF THE CHILDREN’S ADVOCACY
INSTITUTE, HUMAN IMPACT PARTNERS, AND
THE NATIONAL ASSOCIATION OF COUNSEL
FOR CHILDREN AS *AMICI CURIAE* IN
SUPPORT OF PETITIONER**

The Children’s Advocacy Institute, Human Impact Partners, and the National Association of Counsel for Children respectfully submit this brief as *amici curiae* in support of petitioner, Clerde Pierre.

INTERESTS OF *AMICI CURIAE*¹

Amici curiae are three national organizations with decades of firsthand experience researching, developing, and implementing best practices and policies for health and child welfare in many contexts. Thus, *amici* have a substantial interest in the issues this case presents and offer a distinct perspective on the consequences of the Second Circuit’s decision.

The Children’s Advocacy Institute (“CAI”) is an academic center based at the University of San

¹ Under Supreme Court Rule 37, counsel of record for both parties have received timely notice of *amici*’s intention to file an *amici curiae* brief in support of the petition for writ of certiorari, and letters of consent to the filing of this brief have been submitted to the Court. No counsel for either party to this matter authored this brief in whole or in part. Furthermore, no persons or entities, other than the *amici* themselves, made a monetary contribution to the preparation or submission of this brief.

Diego School of Law focused on advancing the rights of children through a combination of scholarship, direct legal services, and public policy reform. CAI emphasizes the importance of a stable family environment for children, working to strengthen the foster care system in order to promote family unification and re-unification where feasible. CAI has worked to advance and protect the rights of children and their families for 23 years through appellate court advocacy, agency rulemaking, and local and national legislative lobbying. CAI believes in the right of children to enjoy the many developmental benefits that only a family, however composed, can provide, and the right to live without the fear of being torn away from a healthy, loving family environment.

Founded in 2006, Human Impact Partners (“HIP”) is a national non-profit organization working to transform the policies and places people need to live healthy lives by increasing the consideration of health and equity in decision-making. HIP uses innovative research and data to evaluate the impact of public policies on community health and empowers advocates, organizations, and public agencies to holistically address the physical, mental, and social well-being of individuals, families, and communities. In 2013, HIP published *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families*. This study revealed the negative impact of current immigration policy on communities, paying

particular attention to the physical and mental health impacts on children and families. Based on that research, HIP recommended an immigration policy that prioritizes keeping families together in order to support the health and well-being of children living in mixed-status families.

Founded in 1977, the National Association of Counsel for Children (“NACC”) is a non-profit child advocacy and professional membership association dedicated to enhancing the well-being of America’s children. A multidisciplinary organization with more than 1,500 members representing all 50 states and the District of Columbia, the NACC is comprised primarily of attorneys and judges, although it also includes members from the fields of medicine, social work, mental health, education, and law enforcement. The NACC works to strengthen legal advocacy for children and families by promoting well-resourced, high-quality legal advocacy; implementing best practices; advancing systemic improvement in child serving agencies, institutions, and court systems; and promoting a safe and nurturing childhood through legal and policy advocacy. Additionally, the NACC has filed numerous briefs involving the legal interests of children and their families in this Court and state and federal appellate courts. The NACC, in recognition of the fundamental role played by families in children’s lives, supports their preservation and opposes laws that would undermine their stability.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Second Circuit's decision prevents some children from obtaining citizenship solely as a result of the marital status and gender of their caretaker. That decision therefore disrupts the parent-child relationship and places one group of children at greater risk of separation from their families, which can have life-long detrimental effects. The wealth of social science research shows that a stable family unit, no matter what its form, is in the best interest of the child. The importance of preventing the needless separation of children from their families—considered against the backdrop of this Court's precedents—warrants this Court's review of the decision below.

ARGUMENT**I. THE DECISION OF THE COURT BELOW IS AT ODDS WITH THIS COURT'S EQUAL PROTECTION JURISPRUDENCE AND THREATENS THE INTEGRITY OF A CHILD'S FAMILY UNIT****A. The Second Circuit's Decision Upholding § 1432(a)—Which Categorically Denies A Child From Deriving Citizenship From His Father—Is A Departure From This Court's Decisions Protecting The Parent-Child Relationship**

A law that discriminates against “unwed fathers[,] even when their identity is known and they have manifested a significant paternal interest in the child,” violates the Equal Protection Clause of the Fourteenth Amendment. *Caban v. Mohammed*, 441 U.S. 380, 394 (1979); *see also Lehr v. Robertson*, 463 U.S. 248, 267 (1983) (“We have held that these statutes [where mothers and fathers are treated disparately] may not constitutionally be applied in that class of cases where the mother and father are in fact similarly situated with regard to their relationship with the child.”). While *Nguyen v. INS* permitted Congress to impose “minimal” obligations on a citizen father with respect to acquisition of citizenship by the child, 533 U.S. 53, 70 (2001), that decision does not

support legislation, such as § 1432(a),² that imposes an absolute bar preventing children, like petitioner, from deriving automatic citizenship from their fathers. *See id.* at 70–71 (noting, as a consideration in upholding the statute at issue, that “Congress has not erected inordinate and unnecessary hurdles to the conferral of citizenship on the children of citizen fathers in furtherance of its important objectives”). The Second Circuit’s misplaced reliance on *Nguyen* in upholding § 1432(a)’s discriminatory classification merits review.

This Court first recognized in *Stanley v. Illinois* that the interest of “a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection.” 405 U.S. 645, 651 (1972). Rejecting the State’s position that “most unmarried fathers are unsuitable and neglectful parents,” the Court held that, where such presumptions lead to statutory schemes that “foreclose[] the determinative issues of competence and care,” such laws “needlessly risk[] running roughshod over the important interests of both parent and child” and violate equal protection. *Id.* at 654, 656–57.

Following *Stanley*, this Court has repeatedly held that “the relationship between parent and child is constitutionally protected,” particularly in the case of unwed fathers when they “shoulder[] significant responsibility with respect to the daily

² Throughout this brief, § 1432(a) refers to 8 U.S.C. § 1432(a) (repealed 2000).

supervision, education, protection, or care of the child.” *See, e.g., Quilloin v. Walcott*, 434 U.S. 246, 255–56 (1978). These decisions rest “upon the historic respect—indeed, sanctity would not be too strong a term—traditionally accorded to the relationships that develop within the unitary family.” *Michael H. v. Gerald D.*, 491 U.S. 110, 123 (1989); *Lehr*, 463 U.S. at 256 (“The intangible fibers that connect parent and child have infinite variety. They are woven throughout the fabric of our society, providing it with strength, beauty, and flexibility. It is self-evident that they are sufficiently vital to merit constitutional protection in appropriate cases.”).

Therefore, the Second Circuit’s decision upholding § 1432(a)’s unequal treatment of every unwed father without any regard to a father’s present relationship with his children is directly at odds with this Court’s decisions protecting developed, caretaking parental relationships.

B. To The Extent The Second Circuit Properly Applied *Nguyen* In Upholding § 1432(a), *Nguyen* Reinforces Outdated Stereotypes About The American Family And Threatens The Sanctity Of The Family

Today, the American family takes on a greater variety of shapes and forms than the traditional model of a married mother and father with children. *See Troxel v. Granville*, 530 U.S. 57, 63–64 (2000) (“The demographic changes of the past

century make it difficult to speak of an average American family. The composition of families varies greatly from household to household.”). U.S. Census figures and other research demonstrate that an ever-increasing number of children are being raised outside the traditional two-parent nuclear family. *See* Jonathan Vespa, et al., Bureau of the Census, *America’s Families and Living Arrangements: 2012* at 21, 23 (2013), <http://www.census.gov/prod/2013pubs/p20-570.pdf> (noting that the percentage of children in married-parent families had decreased from 2007 and reporting that about 26% of children lived with single parents, two unmarried parents, or no parents); Gary J. Gates, The Williams Inst., *LGBT Parenting in the United States* 1 (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Parenting.pdf> (stating that an estimated six million children have lesbian, gay, bisexual, or transgender parents). The number of single father households alone has risen from less than 300,000 in 1960 to more than 2.6 million in 2011—a nearly nine-fold increase in 50 years. *See* Gretchen Livingston, Pew Research Ctr., *The Rise of Single Fathers* (2013), <http://www.pewsocialtrends.org/files/2013/07/single-fathers-07-2013.pdf>. The significance of the parent-child relationship is not diminished by nonconformance to traditional family structures, *see* Point II, *infra*, nor should these relationships be subordinated in the eyes of the law. *Cf. United States v. Windsor*, 133 S.Ct. 2675, 2694 (2013) (expressing that distinguishing between categories of marital

relationships “humiliates tens of thousands of children” and “makes it even more difficult for the children to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives”) (internal citations omitted).

To the extent the Second Circuit properly applied *Nguyen* to find that an unwed mother and an unwed father are not similarly situated to transmit citizenship to their children, *Nguyen’s* logic is rooted in stereotypical notions of the parenting roles of men and women that do not reflect the changing demographics of the American family. *See, e.g., Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 724–25 (1982) (holding that unequal treatment based on gender cannot rest upon stereotypes and “must be applied free of fixed notions concerning the roles and abilities of males and females”); *see also* Jennifer S. Henricks, *Essentially a Mother*, 13 Wm. & Mary J. Women & L. 429, 458–59 (2007) (“Before [*Stanley* and its progeny], states operated on the assumption that only women formed [emotional] bonds with children. The Court rejected this stereotype and said that men too can form emotional bonds with their children.”).

Because there is nothing inherent or biological about the caregiving role and the parental relationships that develop beyond the moment of birth, a mother’s physiological role in childbirth does not give her an “opportunity” to develop a relationship with her child superior to that of the

father, nor does it justify denying a child the right to citizenship from his parent. *See Caban*, 441 U.S. at 389 (“Even if unwed mothers as a class were closer than unwed fathers to their newborn infants, this generalization concerning parent-child relations would become less acceptable as a basis for legislative distinctions as the age of the child increased”); Albertina Antognini, *From Citizenship to Custody: Unwed Fathers Abroad and at Home*, 36 Harv. J.L. & Gender 405, 432 (2013) (noting that placing legal significance on the moment of birth discounts “the real relationships the unwed fathers may have developed with their children”). Many fathers today, such as petitioner’s, care for and raise their children. This is shown by the changing roles and responsibilities of parenthood, most importantly that the responsibilities of childcare no longer fall solely to the mother. *See* Lynda Laughlin, Bureau of the Census, *Who’s Minding the Kids? Child Care Arrangements: Spring 2011* at 20 (2013) <http://www.census.gov/prod/2013pubs/p70-135.pdf> (finding “economic and normative changes are forcing families and society to re-examine . . . the role and expectation of fathers”); Radcliffe Pub. Policy Ctr., *Life’s Work: Generational Attitudes Toward Work and Life Integration* (2000) (discussing a 2000 study in which 96% of men and women surveyed agreed that fathers and mothers should share equally in the caretaking of children).³

³ The number of stay-at-home dads has more than doubled in the last 15 years, rising from 76,000 in 1994, to 189,000 in

By prioritizing a biological “opportunity” that no man can have over the existence of a bona fide and meaningful relationship, the Second Circuit’s application of *Nguyen* diminishes healthy and nurturing parent-child relationships and can have severe effects, particularly in the context of immigration. *See* Point II, *infra*. This case therefore presents an opportunity for this Court to revisit *Nguyen*.

II. THE DECISION OF THE COURT BELOW IS CONTRARY TO ABUNDANT SOCIAL SCIENCE RESEARCH SHOWING THAT A STABLE FAMILY UNIT, NO MATTER WHAT ITS FORM, IS IN THE BEST INTEREST OF THE CHILD

This case strikes at an issue essential to the future of our nation: the care for and well-being of children. *See Prince v. Massachusetts*, 321 U.S. 158, 168 (1944) (“A democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens, with all that implies.”). As many social science studies have made clear, a child’s

2012. *See* Bureau of the Census, *Families and Living Arrangements*, <http://www.census.gov/hhes/families/data/families.html>. Additionally, a 2000 U.S. Department of Labor study showed that nearly one-third of new fathers took time off from work to care for a newborn. *See* Boston Coll. Ctr. for Work & Family, *Defining Paternity Leave: Shifting Roles, New Responsibilities in the Family and Workplace*, http://www.bc.edu/content/dam/files/centers/cwf/research/publications/pdf/paternityleave_ebs.pdf.

development is intimately tied to the stability of his or her family setting and the social and physical resources it provides. This Court has long recognized the value of a family unit and intervened on numerous occasions to protect the family unit from laws threatening its integrity. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 504–05 (1977) (“Over the years millions of our citizens have grown up in . . . an environment [consisting of uncles, aunts, cousins, and grandparents sharing a household along with parents and children], and most, surely, have profited from it.”); *Stanley*, 405 U.S. at 651. The Second Circuit’s decision prevents a child from deriving citizenship from one of his biological parents, and thereby introduces uncertainty in that child’s citizenship status, his ability to remain with his family, and his right to remain in the United States, for no reason other than an outdated, discriminatory law.

A. Stable Families Come In Multiple Forms And Benefit Children’s Physical And Psychological Health, Social And Behavioral Development, And Academic Success

Whether a family is considered “stable” depends primarily on the type of caregiving practices its members supply to the child. *See* Brenda Jones Harden, *Safety and Stability for Foster Children: A Developmental Perspective*, 14 *Child., Fams., & Foster Care* 31, 32 (2004) (defining “family stability” as “a family environment in which

caregiving practices provide children with the consistent, nurturing care they need to thrive”); Am. Acad. of Pediatrics, *Family Pediatrics: Report of the Task Force on the Family*, 2003 Pediatrics 1541, 1545–56 (2003), http://pediatrics.aappublications.org/content/111/Supplement_2/1541.full.pdf (describing the qualities of successful family units). For this reason, the many benefits a stable family unit provides to children are not limited to the traditional two-parent household and do not depend on the particular form the family takes. See Michael E. Lamb, *Mothers, Fathers, Families, and Circumstances: Factors Affecting Children’s Adjustment*, 16 Applied Dev. Sci. 98, 98 (2012) (noting that family structure is of “little or no predictive importance” to a child’s adjustment when parenting, parent-child relationships, and the family’s economic and social resources are taken into account); Am. Acad. of Pediatrics, *supra* at 1542 (recognizing that “every family constellation can produce good outcomes for children and none is certain to yield bad ones”).

Many nationally representative, credible, and methodologically sound social science studies reveal that a stable family, whatever its form, prepares a child to cope with life’s frustrations and obstacles, and increases the likelihood that he or she will live a healthy and productive life. Children raised in stable family environments fare better across a range of criteria, including physical and psychological health, social and behavioral development, and academic success.

1. *Physical and psychological health*

From a physical health perspective, children in stable families face far fewer obstacles than their peers. Studies have shown that children who have strong relationships with their caregivers are more likely to develop positive health behaviors, including with respect to tooth brushing, sleep habits, exercise, and nutrition. *See* Barbara J. Tinsley, et al., *Health Promotion for Parents, in Handbook of Parenting: Practical Issues in Parenting* 311, 313-14 (2002) (citing two studies finding associations between warm and nurturing parental attitudes and childrearing practices and positive childhood health behaviors). Additionally, children whose home lives are characterized by harmony and stability appear to be less susceptible to illness. *See id.* at 314 (citing study finding parental behaviors that promote children's self-esteem to be positively correlated with children's health); John M. Gottman & Lynn Fainsilber Katz, *Effects of Marital Discord on Young Children's Peer Interaction and Health*, 25 *Dev. Psychol.* 373, 379 (1989) (finding in study of families with four- to five-year-old children that children of couples experiencing marital distress were more susceptible to illness).

Children raised in stable families are also less likely to face mental health problems. Positive relationships between a parent and child are tied to a child's adjustment, meaning a child's "personal characteristics (including the absence of psychological or psychiatric symptoms and the

absence of behavior problems) that allow children . . . to function well in their everyday life.” Lamb, *supra* at 99.

2. *Social and behavioral development*

Stable families produce not only healthier children but also more socialized and self-aware children. A recent study conducted by one of the *amici*, Human Impact Partners, makes clear that “healthy attachment and bonding with parents lays the foundation for a child’s sense of confidence and identity leading to a positive relationship with others.” Human Impact Partners, *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families* 12 (2013), <http://www.familyunityfamilyhealth.org/uploads/images/FamilyUnityFamilyHealth.pdf>. The most fundamental support young children need to develop social and emotional competence stems from positive relationships with their parents. See Shari Miller, et al., *Peer Deviance, Parenting and Disruptive Behavior Among Young Girls*, 37 *J. Abnormal Child Psychol.* 139, 148 (2009) (noting a link between “warm, supportive” parent-child relationships and children’s “development of emotional understanding and empathy”); Gottman & Katz, *supra* at 379 (finding that children from stable marital homes were likely to play with peers more often and display more positive peer interactions

than children of maritally distressed parents).⁴ This Court has joined psychologists and other researchers in recognizing the socializing benefits of familial stability, noting the family's import in promoting emotional attachment and teaching children a way of being in the world. *See Smith v. Org. of Foster Families for Equal. & Reform*, 431 U.S. 816, 844 (1977) (describing “the importance of the familial relationship, to the individuals involved and to the society” as “stem[ming] from the emotional attachments that derive from the intimacy of daily association, and from the role it plays in ‘promot(ing) a way of life’ through the instruction of children”) (internal citations omitted).

In addition, a stable family relationship equips a child to engage and cope with the stressors of the outside world. *See* Christopher B. Forrest & Anne W. Riley, *Childhood Origins of Adult Health: A Basis for Life-Course Health Policy*, 23 Health Affairs 155, 161 (2004) (noting that positive parental relationships provide “models and resources for coping with” and a source of protection from the demands of society). Paternal

⁴ *See also* Laura Jones & Edward Kruk, *Life in Government Care: The Connection of Youth to Family*, 34 Child & Youth Care F. 405, 407–08 (2005) (finding that children who lack a consistent and emotional bond with parental figures and instead experience only tenuous attachments to a string of caregivers are more likely to end up in harmful relationships long-term or perpetuate the pattern of drifting through multiple, unstable relationships).

nurturance, specifically, is positively correlated with a child's ability to adjust in the face of stress or major life events. *See* Paul R. Amato & Fernando Rivera, *Paternal Involvement and Children's Behavior Problems*, 61 *J. Marriage & Fam.* 375, 376 (1999) (noting that the majority of published studies, including the authors', found significant associations between positive paternal involvement and child well-being).

Perhaps because better socialized, more confident, and better equipped to cope with life's difficulties and obstacles, children raised in stable environments with parental involvement have fewer behavioral problems. *See id.* at 380-81 (reporting results of study showing a decrease in school and home problems when fathers felt close to, spent time with, and provided support to their children); Brenda Jones Harden, et al., *Externalizing Problems in Head Start Children: An Ecological Exploration*, 11 *Early Educ. & Dev.* 357, 375 (2000) (finding in study involving children in Head Start programs associations between non-compliance, poor self-control, and problematic social relationships and parental psychopathology, amount of time spent with fathers, and family conflict). In particular, studies show a relationship between familial stability and a decrease in a variety of delinquent behaviors. *See* Amato & Rivera, *supra* at 377 (describing studies showing a correlation between a decrease in drug use, truancy, and stealing and increased paternal nurturance, and between young adolescents'

reports of communications with their fathers and less promiscuous sexual behavior).

These many social and behavioral benefits of family stability are not limited to children raised by two heterosexual parents, but rather have been observed in children in all types of parental environments, from children raised by same-sex couples, *see* Jennifer L. Wainright & Charlotte J. Patterson, *Peer Relations Among Adolescents with Female Same-Sex Parents*, 44 *Dev. Psychol.* 117, 124 (2008) (finding in a study comparing adolescents raised by lesbian couples and those raised by heterosexual couples no significant differences in the adolescents' relationships with their peers based on family type), to children growing up in single-parent households, *see* Raymond W. Chan, et al., *Psychosocial Adjustment Among Children Conceived via Donor Insemination by Lesbian and Heterosexual Mothers*, 69 *Child Dev.* 443, 453 (1998) (finding in study comparing families with different parental structures, including single parents, that all participating children were regarded as socially competent and well-adjusted; no children showed unusual behavior problems; and "no significant differences among children's adjustment emerged as a function of the number of parents in the home"), to children living with stepparents, *see* Amato & Rivera, *supra* at 375 (noting that the association between positive paternal involvement and decreased behavioral problems observed by the authors was similar for biological fathers and stepfathers). Moreover,

studies show that the care and consistent contact that constitute familial stability can be provided by relatives other than parents. See Stephanie Brown, et al., *African American Extended Families and Kinship Care: How Relevant is the Foster Care Model for Kinship Care?*, 24 Child. & Youth Services Rev. 55, 73 (2002) (noting, in the authors' study of children living in kinship foster care, that such children "see [extended family living close by] very frequently" and "rely on family for emotional support," which is "provided not just by co-resident kin but also by continued connections with other kin").

3. *Academic success*

Children in stable family situations also tend to perform better academically, and are less likely to repeat a grade or drop out of school. See Amato & Rivera, *supra* at 377; Paul G. Fehrman, et al., *Home Influence on School Learning: Direct and Indirect Effects of Parental Involvement on High School Grades*, 80 J. Educ. Res. 330, 333 (1987) (finding in survey of high school seniors evidence suggesting a "meaningful direct effect" of parental involvement on time spent doing homework and that "parents can have an important influence on student learning as reflected in the student's higher grades"); see also Michael J. Rosenfeld, *Nontraditional Families and Childhood Progress Through School*, 47 Demography 755, 770 (2010) (conducting a study using 2000 U.S. Census data of children of same-sex couples and children from other family types and noting "that children who

live with parents, regardless of family type, are much more likely to make normal progress through school” than children living in group homes).

In fact, recent studies have shown that parental involvement in a child’s education is more predictive of that child’s academic achievement than the quality of the school itself. *See* Mikaela J. Dufur, et al., *Does Capital at Home Matter More than Capital at School? Social Capital Effects on Academic Achievement*, 31 Res. in Soc. Stratification & Mobility 1, 17 (2013) (studying data from survey of twelfth grade students and concluding that family social capital—including parent-child trust and interconnectedness—“exerts stronger effects on academic achievement than does school social capital”); Andrew J. Houtenville & Karen Smith Conway, *Parental Effort, School Resources, and Student Achievement*, 42 J. Human Resources 437, 445, 450 (2008) (estimating, in study using data for 24,599 eighth grade students, that the effect of parental effort on student academic achievement is equivalent to more than \$1,000 in per-pupil spending).

B. Studies Are Clear That Children Who Are Separated From Their Families, Particularly As A Result Of Immigration-Related Decisions, Suffer Harm And Are More Likely To Face Long-Term Problems

Given the importance that a stable family environment plays in a child’s development, it

comes as no surprise that children who are separated from their families suffer harm as a result. Especially where a traumatic event—such as deportation—separates children from members of their family unit, the separation can cause children great harm, affecting their physical and mental health, their social and cognitive development, and their chances for academic success. Moreover, when undocumented children are deported and thereby separated from their families, they face unique and particularly damaging challenges in their countries of origin. But the separation need not be traumatic to harm children. Indeed, it need not even occur: the mere threat of forced separation can inflict on children many of the same harms that an actual separation causes, casting a shadow on children living with undocumented parents, and on children who themselves are undocumented.

1. ***Separation of a child from his or her family causes long-term physical and psychological harm, impairs social and cognitive development, and impacts academic success***

Studies have found strong links between traumatic childhood events and a wide array of physical and mental health problems carrying into adulthood. See Jack P. Shonkoff, et al., *Neuroscience, Molecular Biology, and the Childhood Roots of Health Disparities: Building a New Framework for Health Promotion and Disease Prevention*, 301 JAMA 2252, 2253 (2009) (citing

studies linking childhood trauma to “coronary artery disease, chronic pulmonary disease, cancer, alcoholism, depression, and drug abuse, as well as overlapping mental health problems, teen pregnancies, and cardiovascular risk factors such as obesity, physical inactivity, and smoking”). The separation caused by detention or deportation is one such event. Children whose familial arrangements change for immigration-related reasons are even more likely to sustain long-term emotional and mental health damage than children separated from their parents for other reasons, since deportation often occurs against a background of additional risk factors—like family disruption, poverty, and high parental stress—which exacerbate its effects. *See* Human Impact Partners, *supra* at 11.⁵

Specifically, by “disrupt[ing] th[e] essential secure base” a family provides, deportation puts

⁵ More specifically, the risk factors that undocumented families face include the following: they are typically low-income or poor (51% of such children in 2011 were below the federal poverty line); most lack health insurance; and the parents of undocumented children typically lack English language skills and are more likely to experience economic hardship, occupational stress, social isolation, psychological distress, discrimination, and racial profiling, all of which affects the mental states of their children. Post-Deportation Human Rights Project, Boston Coll., *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 2–3 (2013), <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf>.

children at greater risk for depression, anxiety, withdrawal, and aggression. Post-Deportation Human Rights Project, Boston Coll., *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (2013), <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf>. The most common short-term effects of parental separation through deportation include loss of appetite, excessive crying, nightmares, and other difficulty sleeping. *See id.* at 5-6; *see also* Int'l Human Rights Law Clinic, et al., *In the Child's Best Interest? The Consequences of Losing a Lawful Immigrant Parent to Deportation* 9 (2010), http://www.law.berkeley.edu/files/IHRLC/In_the_Childs_Best_Interest.pdf. Withdrawal and aggression, although less common, have been found to be “especially persistent and troubling for children . . . separated from their parents for long periods.” Ajay Chaudry, et al., The Urban Inst., *Facing Our Future: Children in the Aftermath of Immigration Enforcement* 44-46, 53 (2010), http://www.urban.org/UploadedPDF/412020_FacingOurFuture_final.pdf.

The trauma of separation from a parent can also damage a child's social and cognitive development. *See* Post-Deportation Human Rights Project, *supra* at 5 (noting that the secure base provided by a child's relationship with familiar caregivers is “a necessary foundation for developing social,

cognitive, and emotional regulation skills that are fundamental throughout life”). In one study, some young children developed speech problems after they were separated from their parents, and others were less willing to do things for themselves, like use a trainer toilet, eat rather than use a bottle, or dress themselves. Chaudry, et al., *supra* at 48-49.

Moreover, immigration-related separation at an early age is linked to poor school readiness and social adjustment in children. *See* Human Impact Partners, *supra* at 11. Children can lose interest in school, be afraid to attend, act out, or perform poorly because of difficulty studying or changes in work habits. *See* Chaudry, et al., *supra* at 49-51, 53; Post-Deportation Human Rights Project, *supra* at 6 (noting academic decline is more prevalent “among children whose household structure and primary caregiving relationships changed” as the result of immigration enforcement).

These early setbacks can continue to affect children throughout their lives, making it, for many, more difficult to learn to read, find a job, and maintain relationships, and increasing the likelihood of mental health problems and anti-social behavior. *See* Human Impact Partners, *supra* at 11.

2. *Children deported to their countries of origin without their family unit face unique harms*

Research shows that when children are deported, they face difficult obstacles in their countries of origin—countries with which, in many cases, they have little connection, and which have become foreign to them, having called the United States home for much of their lives. *See* Deborah Boehm, Univ. of Nev. at Reno, *Out of Place: Youth and Deportation in the U.S.-Mexico Transnation*, Panel Presentation at Annual Meeting of Anthropology of Children and Youth Interest Group, Charleston, South Carolina (Feb. 19, 2011); Victor Zuñiga & Edmund T. Hamman, *Going Home? Schooling in Mexico of Transnational Children*, 2 *Confines de Relaciones Internacionales y Ciencia Política* 41 (2006). As a general matter, deportees face stigma in their countries of origin and often feel like exiles, ashamed, demoralized, and depressed. Post-Deportation Human Rights Project, *supra* at 6; Joanna Dreby, Ctr. for Am. Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 16 (2012) [hereinafter *How Today's Immigration*], <http://www.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>. Having grown up speaking English in many cases, language difficulties contribute to what for many children are already difficult transitions between school systems, adding to peer discrimination and obstacles to enrollment.

Post-Deportation Human Rights Project, *supra* at 7; Dreby, *How Today's Immigration*, *supra* at 16 (studying children who previously attended schools in the United States and were forced to return to Mexico). Children who are deported find “their educational opportunities . . . curtailed” and their lives generally negatively affected, *see* Dreby, *How Today's Immigration*, *supra* at 14, often resulting in lowered aspirations and dreams accompanied by less education and less training, *see* Post-Deportation Human Rights Project, *supra* at 7.

3. *The mere threat of separation caused by the uncertainty of immigration outcomes harms children*

The threat of parental separation in the immigration context alone damages children in many of the same ways that actual separation does. *See* Joanna Dreby, *The Burden of Deportation on Children in Mexican Immigrant Families*, 74 J. Marriage & Fam. 829, 843 (2012) (reporting the results of a study of the impact of enforcement policies on Mexican families which showed that “[c]hildren, regardless of whether they have had a direct experience with an act of enforcement, harbor many fears about their family stability”). As a result of an uncertain legal climate, the children of immigrants live in constant fear that their families will be torn apart. *Id.* In one survey, around a third of undocumented parents said their children exercised less and ate and slept poorly as a result of the threat of separation caused by

detention or deportation. Human Impact Partners, *supra* at 7. Studies have shown that around half of undocumented parents report that the threat of detention or deportation affects the mental and emotional well-being of their children, causing anxiety, fear, and sadness. *Id.* at 7-8; *see also* Kalina M. Brabeck & Qingwen Xu, *The Impact of Detention and Deportation on Latino Immigrant Children and Families: A Quantitative Exploration*, 32 *Hisp. J. Behav. Sci.* 341, 353-54 (2010) (reporting results of survey conducted of Latino immigrants that the greater a parent's legal vulnerability to deportation, the greater the impact on the child's well-being, including his or her emotional well-being and academic performance).

Using a tool to screen for post-traumatic stress disorder, one study found symptoms present not only in children whose lives had been affected directly by immigration enforcement, but also in children living under the threat of enforcement. Human Impact Partners, *supra* at 8. These symptoms were not limited to children with undocumented parents, although children of undocumented parents manifested them at much higher rates (85% of children with undocumented parents compared with 57% of children with documented parents). *Id.* Indeed, the possibility of separation from one's parent is so terrifying, and the legal landscape so opaque, that immigrant children often "express fear that they may be separated from parents and families by immigration-related arrest." *Id.* at 7-8.

U.S.-citizen children and undocumented children alike worry that deportation will rip their families apart; “[i]t is, in fact, the aura of ambiguity and insecurity that is especially scary for children,” whatever their immigration status. Dreby, *How Today’s Immigration*, *supra* at 25.

In sum, social science research emphasizes the importance of a stable family, whatever form that family might take, to a child’s health, development, and general well-being. Children separated from their families are not only deprived of these benefits, but they also suffer additional harms that increase susceptibility to a host of physical, mental, and social impairments. The best interests of children demand that our laws be crafted so as to foster the unity of the family in all its forms, and dispel uncertainty with respect to the legal status of children.

CONCLUSION

For the foregoing reasons, *amici* respectfully support petitioner's request that a writ of certiorari be granted in this case.

Respectfully submitted,

Samar A. Katnani
James M. Blakemore
Kathryn G. Wellman
CLEARY GOTTlieb STEEN
& HAMILTON LLP

Michael R. Lazerwitz
Counsel of Record
CLEARY GOTTlieb STEEN
& HAMILTON LLP
One Liberty Plaza
New York, NY 10006
(212) 225-2000
mlazerwitz@cgsh.com

Counsel for Amici Curiae

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