

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Fifteenth Congress

June 28, 2018

President Donald J. Trump
1600 Pennsylvania Ave
Washington, DC

Dear President Trump,

We have repeatedly expressed our disagreement with your Administration's decision to separate families at our Southern border. We remain opposed to any policy that separates children from their parents or legal guardians in order to deter future migrant flows. Such a policy is inhumane, cruel, and un-American.

We have concerns not only with the policy itself, but with the chaos and confusion that this Administration displayed in its implementation. For weeks, your Administration refused to concede that a family separation policy was in existence. On June 17th, Secretary of Homeland Security Kirstjen Nielsen tweeted that there was no family separation policy. Yet a mere 3 days later, you signed an Executive Order reversing this supposedly non-existent policy.¹ This disconnect is emblematic of the disarray that surrounded the implementation of the family separation policy.

At least one media source suggests that your senior immigration advisor, Stephen Miller, was the architect of the family separation policy, reporting that he intentionally refused to consult with relevant agencies as he formulated the policy because he feared that career government officials would sabotage its implementation.² The result of this paranoia was an ill-advised policy that was also poorly executed. The human cost of this incompetence is evidenced by the pandemonium in immigration detention centers across the country, as desperate parents and traumatized children attempt to locate each other with minimal success. In a recent decision, Federal Judge Dana M. Sabraw explains: "the government has no system in place to keep track of, provide effective communication with, and promptly produce alien children. The unfortunate

¹ Secretary Kirstjen Nielsen, *Twitter*, 17 Jun 2018, <https://twitter.com/SecNielsen/status/1008467414235992069>

² The "secretive nature of the effort was born of Miller's assumption that hostile bureaucrats would try to undermine the administration's aggressive policies before they got off the ground, by leaking to the news media or pushing alternative proposals to senior officials." Eliana Johnson, *Stephen Miller roiling nation with back-channel immigration meetings*, *POLITICO* (June 26, 2018) <https://www.politico.com/story/2018/06/26/stephen-miller-trump-immigration-win-678720>

reality is that under the present system migrant children are not accounted for with the same efficiency and accuracy as *property*.”³

It is our understanding that although criminal immigration-only prosecutions for parents traveling with children have been temporarily paused, over 2,000 children remain separated from their parents.⁴ Your Administration, and the relevant agencies—the Department of Justice, the Department of Homeland Security, and the Department of Health and Human Services—have failed to communicate a clear, cognizable plan for family reunification.⁵ Your Administration continues to make contradictory statements with regards to family reunification, and these claims fail to line up with what is being reported by lawyers working to reunify families.⁶

As Members of Congress with jurisdiction over immigration and criminal enforcement, we seek to better understand the inception of the family separation policy, its implementation, and the level of coordination between relevant agencies. We ask that your Administration answer the following questions:

- (1) When did the Department of Justice begin criminally prosecuting parents who entered the country with children?
 - (a) How many parents have been criminally prosecuted pursuant to 8 U.S.C sections 1325 and 1326, respectively, since January 20, 2017? Please provide a monthly breakdown of these prosecutions.
 - (b) How many children have been separated from their parents as a result of these prosecutions since January 20, 2017?
 - (c) How many parents who were prosecuted pursuant to this policy have been removed since January 20, 2017?
 - (d) How many parents have been removed without their children since January 20, 2017?
 - (e) How many children have been removed without their parents since January 20, 2017?
 - (f) How many children whose parents were prosecuted pursuant to this policy have been removed since January 20, 2017?
- (2) On what date did your Administration decide to implement a zero-tolerance policy recommending the prosecution of all parents encountered between ports of entry?

³ *Ms. L v. ICE*, Case No: 18cv0428 (S.D.Ca. June 26, 2018) at p. 14-15.

⁴ Tal Kopan, *DHS: 2000 children separated from parents border*, CNNPolitics, 16 June 2018, <https://www.cnn.com/2018/06/15/politics/dhs-family-separation-numbers/index.html>

⁵ Isaac Stanley-Becker & Devlin Barrett, *Federal judge orders reunification of migrant families*, Washington Post, June 27, 2018, https://www.washingtonpost.com/news/morning-mix/wp/2018/06/27/federal-judge-enjoins-separation-of-migrant-children-orders-family-reunification/?utm_term=.3e0fc78c7263

⁶ Ella Nielson, *The Trump administration says it has reunited more than 500 families. One legal group in Texas has confirmed 4 cases*, Vox, June 26, 2018, <https://www.vox.com/policy-and-politics/2018/6/26/17500996/family-separation-reunification-trump-administration>

- (a) Which, if any, agencies were consulted in advance of this policy announcement?
 - (b) Did any such consultations involve career officials at the relevant agencies? If so, what was the level and nature of those discussions?
 - (c) What advice, guidance, or consultation did DHS provide in advance of the policy announcement? Please provide us with a copy of any relevant documentation.
 - (d) What advice, guidance, or consultation did DOJ provide in advance of the policy announcement? Please provide us with a copy of any relevant documentation.
- What advice, guidance, or consultation did HHS provide in advance of the policy announcement? Please provide us with a copy of any relevant documentation.

(3) When did your Administration decide to expand the use of family separation for individuals legally entering at the ports of entry?

- (a) How many parents encountered at ports of entry were separated from their children since January 20, 2017?
- (b) How many children were taken from parents who entered at ports of entry?

(4) Please describe the preparatory steps, if any, taken by the Administration to implement the policy before its announcement.

- (a) Prior to the announcement of the policy, what systems were put in place, if any, to ensure that children separated from their parents were tracked and accounted for, both with respect to their location and to the identity of their parents?
- (b) Prior to the announcement of the policy, what steps were taken, if any, to ensure that parents separated from their children could communicate with those children?
- (c) Prior to the announcement of the policy, what steps were taken, if any, to ensure that parents were aware of the location of their children, and that children were aware of the location of their parents?
- (d) Prior to the announcement of the policy, what other steps were taken, if any, to ensure the reunification of parents and children after the conclusion of the parents' criminal proceedings?

(5) Please describe the steps, if any, taken by the Administration after implementation of the policy to identify, track, and reunify separated families.

- (a) After the announcement of the policy, what systems have been put in place, if any, to ensure that children separated from their parents are tracked and accounted for, both with respect to their location and to the identity of their parents?
- (b) After the announcement of the policy, what steps have been taken, if any, to ensure that parents separated from their children can communicate with those children?

- (c) After the announcement of the policy, what steps have been taken, if any, to ensure that parents are aware of the location of their children, and that children are aware of the location of their parents?
 - (d) After the announcement of the policy, what other steps have been taken, if any, to ensure the reunification of parents and children after the conclusion of the parents' criminal proceedings?
 - (e) After the announcement of the policy, what policy recommendations have internal agency civil rights organizations, such as the DHS Office of Civil Rights and Civil Liberties or the DOJ Civil Rights Division, provided to the Administration?
- (6) Please provide, in detail, the number of children who have been reunited with their separated parents since January 20, 2017.
- (a) Please provide a monthly breakdown of child-parent reunifications since January 20, 2017?
 - (b) Please provide a narrow range of age and gender of children who have been reunified since January 20, 2017.
 - (c) Of the families that have been reunified since January 20, 2017, how many have been removed?
 - (d) Of the families that have been reunified since January 20, 2017, how many have signed voluntary orders of removal, stipulated orders of removal, or failed to pursue legal relief before an immigration judge.

We understand that your Administration is responding to many inquiries from Members of Congress regarding the family separation policy, but we trust that you will respond to our requests with the utmost urgency and expedience. We look forward to reviewing your response.

Sincerely,



Hank Johnson

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Karen Bass

Jamie Nash

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CC: Chairman Bob Goodlatte, House Judiciary Committee
Kirstjen Nielsen, Secretary of Homeland Security
Jefferson Sessions, Attorney General, Department of Justice
Alex Azar, Secretary of Health and Human Services