

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Fifteenth Congress

November 20, 2018

The Honorable Matthew Whitaker
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human
Services
200 Independence Avenue, SW
Washington, D.C. 20201

The Honorable Kirstjen M. Nielsen
Secretary
U.S. Department of Homeland Security
301 7th Street SW
Washington, D.C. 20528

Dear Acting Attorney General Whitaker, Secretary Nielsen, and Secretary Azar:

As you are no doubt aware, Members of the House Judiciary Committee have written repeatedly to the Trump Administration to request briefings, information, and document preservation on matters related to family separation, migrant detention, and related policies on the border. To date, we have received little or no substantive response to any of these requests.

In addition, your agencies have been—at best—inconsistent in your public statements on these issues. As we have cited in previous letters, Secretary Nielsen publicly stated there was no policy of family separation,¹ despite an executive order reversing this allegedly non-existent policy three days later. Multiple reports indicate that White House advisors refused to consult with career government officials in the relevant agencies during the formulation, implementation, and execution of the policy.²

We are increasingly worried about the well-being and safety of the children in your facilities. The courts have found that the “government has no system in place to keep track of,

¹ Sec. Kirstjen M. Nielsen, Dep’t. of Homeland Security (@SecNielsen), TWITTER, Jun 17, 2018, 5:52 PM.

² Eliana Johnson, *Stephen Miller roiling nation with back-channel immigration meetings*, POLITICO, June 26, 2018.

provide effective communication with, and promptly produce alien children.”³ The DHS Office of Inspector General confirmed this in a September 2018 report, noting that “DHS was not fully prepared” to implement the Administration’s policy; that “DHS also struggled to identify, track and reunite families;” and that DHS provided inconsistent information to migrants, resulting in parents being unable to communicate with their children.⁴ The Administration has also prevented Members of Congress, the media, advocates, legal assistance providers, and public health providers from accessing your holding facilities. The total number of children still held by the government remains unclear.⁵ I have read disturbing reports about forced drugging,⁶ physical and sexual abuse, and psychological trauma.⁷ Instead of providing a clear plan for family reunification, as each of you has promised, the Administration appears to have dedicated its resources towards transporting children from one facility to another in the dead of night.⁸

In the next Congress, this Committee will examine the Administration’s immigration and detention policies and the longstanding damage these policies may have had on families and children in your custody. To this end, I ask that you provide a complete response to each of the letters on these subjects sent to you by some or all of the Members of the House Judiciary Committee, including each of the following:

- An October 26, 2017 letter from Ranking Member Conyers and Representative Zoe Lofgren to Acting Secretary of Homeland Security Elaine C. Duke, expressing concern regarding the detention of a 10-year-old child with cerebral palsy.
- A February 8, 2018 letter from 75 Members to Secretary Nielsen, expressing concern with DHS’s practice of separating immigrant families, both in the United States and at the U.S.-Mexico border.

³ Laura Jarrett, *Federal judge orders reunification of parents and children, end to most family separations at border*, CNN, July 27, 2018.

⁴ DEPT. OF HOMELAND SECURITY, OFFICE OF INSPECTOR GENERAL, SPECIAL REVIEW: INITIAL OBSERVATIONS REGARDING FAMILY SEPARATION ISSUES UNDER THE ZERO TOLERANCE POLICY, OIG-18-84 (Sept. 27, 2018.)

⁵ Caitlin Dickerson, *Migrant children moved under cover of darkness to a Texas tent city*, N.Y. TIMES, Sept. 30, 2018; Angela Chapin, *Migrant children describe tent city as ‘punishment’ experts say*, HUFF. POST, Oct. 2, 2018 (“[t]hat since the tent city is considered an emergency facility, it’s not held to the same child welfare standards as the government-run shelters and groups homes for migrant children.”).

⁶ James Lartey, *No more psychotropic drugs to migrant children without consent, US judge rules*, THE GUARDIAN, Aug. 1, 2018.

⁷ See e.g., Blake Ellis, Melanie Hicken, and Bob Ortega, *Handcuffs, assaults, and drugs called ‘vitamins’: Children allege grave abuse at migrant detention facilities*, CNN, June 21, 2018; Kate Linthicum and David Montero, *El Salvador says three migrant children separated from their families were sexually abused at U.S. shelters*, LA TIMES, Aug. 31, 2018, and Michael E. Miller, *Immigrant kids held in shelters: ‘They told us to behave, or we’d be there forever.’*, WASH. POST, July 15, 2018.

⁸ Caitlin Dickerson, *Migrant Children Moved Under Cover of Darkness to a Texas Tent City*, N.Y. TIMES, Sept. 30, 2018.

- A June 1, 2018 letter from all Committee Democrats to Secretary Nielsen and Attorney General Jeff Sessions, demanding answers about DHS's treatment of refugees and immigrants along the southern border of the United States, including the dramatic increase in family separations caused by the "zero tolerance" policy.
- A June 8, 2018 letter led by Representative Luis Gutiérrez and Representative Pramila Jayapal to Secretary Nielsen, Attorney General Sessions, and Secretary Azar, opposing the Administration's new policy of prosecuting asylum seekers and asking for information regarding the holding of children separated from their families due to this prosecution.
- A June 13, 2018 letter from Representative Sheila Jackson Lee to Secretary Nielsen, voicing opposition to the Department's plan to build tent cities at military posts around Texas to shelter unaccompanied migrant children.
- A June 20, 2018 letter from 54 Members to Secretary Azar and Secretary Nielsen, demanding information on the location of unaccompanied minor immigrant girls who have been separated from their parents.
- A June 26, 2018 letter led by Representative Tony Cárdenas, requesting additional information about the substantial increase in the number of children placed into the custody of the Office of Refugee Resettlement.
- A June 28, 2018 letter led by Representative Suzanne Bonamici to Attorney General Sessions, Secretary Nielsen, and Secretary Azar, requesting information on the Administration's plan for reuniting families that were separated at the border.
- A June 13, 2018 letter led by Representative Jackson Lee to Secretary Azar, requesting a census of all accompanied and unaccompanied immigrant children apprehended by U.S. Customs and Border Patrol.
- A July 13, 2018 letter to Secretary Azar on the use of DNA testing on children by HHS to reunite separated families.
- A June 20, 2018 letter from the Women's Working Group on Immigration Reform to Secretary Nielsen requesting information regarding the status and treatment of pregnant women held in ICE and CBP custody.
- A June 26, 2018 letter from Ranking Member Nadler and Representative Lofgren to Attorney General Sessions, Secretary Nielsen, and Secretary Azar, seeking additional information about the Administration's policies and progress in regards to the number of children who have been separated from their parents at the border.
- A September 7, 2018 letter led by the Women's Working Group on Immigration Reform, urging support for the Flores Settlement.
- October 18, 2018 letter led by Ranking Member Nadler and Ranking Member Thompson of the Committee on Homeland Security to Secretary Nielsen, requesting information on delayed processing of asylum seekers at ports of entry.

- An October 23, 2018 letter by Representatives Lofgren and Joaquin Castro to Attorney General Sessions and Secretary Azar, requesting information regarding the implementation of a video teleconferencing initiative for unaccompanied immigrant children.

I ask that you respond to these outstanding requests no later than December 31, 2018. Thank you for your prompt consideration of these matters.

Sincerely,

A handwritten signature in blue ink that reads "Jerrold Nadler". The signature is written in a cursive style and is positioned above a horizontal line.

Rep. Jerrold Nadler
Ranking Member
House Committee on the Judiciary

cc: The Hon. Bob Goodlatte, Chairman, House Committee on the Judiciary