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ONE HUNDRED FIFTEENTH CONGRESS

Congress of the United States

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COMMITTEE ON THE JUDICIARY

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June 1, 2018

The Honorable Kirstjen M. Nielsen
Secretary
Department of Homeland Security
301 7th Street SW, Mail Stop 0501
Washington, D.C. 20528-0150

The Honorable Jeff Sessions
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Secretary Nielsen and Attorney General Sessions,

We are disappointed that Secretary Nielsen's previously planned appearance for June 7, 2018 before the House Judiciary Committee has been cancelled, which compels us to write this letter seeking immediate information and a briefing by your agencies on the humanitarian crisis that is playing out along our Nation's border. The Administration's recent implementation of a "zero tolerance" policy towards border crossers apprehended between ports of entry has resulted in the criminalization of asylum seekers and a drastic increase in family separation. As Members of the House Judiciary Committee, we take seriously our oversight responsibilities and believe that it is imperative that you immediately provide us with additional information about the impetus for, and the impact of, these new policies.

In the last two months, the Trump Administration has chosen to enact policies that ignore asylum claims and increase the likelihood that children will be separated from their parents. On April 6, 2018, the Department of Justice (DOJ) directed federal prosecutors to adopt a "zero-tolerance" policy toward individuals entering the United States illegally along the southwest border. Then, in May, the Department of Homeland Security (DHS) announced its corresponding policy to refer for criminal prosecution all individuals who cross the border without inspection.

As you know, many of the families and individuals crossing the southwest border between ports of entry are travelling from countries ravaged by violence and are seeking

protection. Many of these individuals first presented themselves at ports of entry only to be turned away. It is well established that the United States must process asylum applications, including those filed by individuals who do not present themselves at a port of entry. That is why we are extremely alarmed that the Administration would enact a policy that prioritizes the criminal prosecution of those seeking protection rather than the assessment of their asylum claims.

Further troubling is that the Administration's policy will result in the increased separation of families. As parents remain in criminal proceedings or detention, children will be removed and placed in the care of the U.S. Department of Health and Human Services. Recent news reports of unaccounted children suggest, however, that the Administration lacks policies to ensure that such children are eventually reunified with their families. We also remain concerned about the negative health and social impacts of family separation. In fact, in response to DHS' new policy, the American Academy of Pediatrics released a statement urging the Agency to reverse course stating, "In fact, highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child's brain architecture and affecting his or her short- and long-term health." This separation is even more alarming when considered in the context of comments made by Trump Administration officials that suggested that the separation of families will deter individuals from migrating to the United States.

Please provide us with the following by June 7, 2018:

- An explanation for the Administration's new policy to prosecute all individuals apprehended between ports of entry, including those who voluntarily turn themselves in to request asylum.
- The Administration's view of whether prosecuting asylum seekers, and thereby separating children from their parents, violates international human rights law.
- The Administration's plans to ensure that individuals seeking asylum at ports of entry are not turned away, and that any such families are not separated.
- The Administration's plans to ensure that separated children are reunited with their families.
- The Administration's efforts to ensure that separated children are not placed with human traffickers.
- The number of families seeking asylum since 2013, disaggregated by month.
- The number of individuals who have been referred for prosecution since 2013, disaggregated by month.

- The number of children who have been separated from their families since 2013, disaggregated by month.
- The number of children who, since January 1, 2017, have been separated from their families and then returned to their families.
- The number of children who, since January 1, 2017, have been separated from their families and remain separated to this day.

Denying protection to those fleeing persecution is cruel and unproductive; removing children from their parents is unconscionable and simply un-American. We urge you to provide us with an immediate briefing on these matters, as well as to respond to the above requests for information. Thank you for your attention to this important matter.

Sincerely,

Jerald Nadler

Ted W. Lee

Zoe Lof

Debra

Pramila Jayal

Ed Dentch

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CC: Chairman Bob Goodlatte, House Judiciary Committee