

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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August 2, 2018

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

The Honorable Kirstjen M. Nielsen
Secretary
Department of Homeland Security
245 Murray Lane, S.W.
Washington, D.C. 20528

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

Dear Attorney General Sessions, Secretary Nielsen, and Secretary Azar:

On July 5, 2018, I joined Rep. Mark Meadows, the Chairman of the Subcommittee on Government Operations, in sending each of you a letter requesting 11 categories of documents and information relating to the status of children separated from their parent or other accompanying adult as a result of the Trump Administration's zero-tolerance immigration policy announced by Attorney General Sessions on April 6, 2018.

Chairman Meadows and I were careful in our request not to seek the names of the children, but rather to request anonymized information organized by each separated child. We requested these documents and information by July 19, 2018.¹

To date, none of your agencies has complied with this request. Although the Committee received a briefing on July 18, your agencies have failed to produce any of the 11 categories of documents and information that we requested in order to conduct our oversight responsibilities:

- The Department of Justice failed to send any letter at all in response to our request.

¹ Letter from Chairman Mark Meadows, Subcommittee on Government Operations, and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Kirstjen M. Nielsen, Department of Homeland Security, Secretary Alex M. Azar II, Department of Health and Human Services, and Attorney General Jeff Sessions, Department of Justice (July 5, 2018) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Meadows-Cummings%20Letter%20Requesting%20Info%20on%20Separated%20Children.pdf).

- The Department of Health and Human Services sent a response on July 11, 2018, but produced none of the information or documents we requested. The letter asserted that the Department's policy is "to not publish" information about children in its custody or its care provider facilities.² As you know, our request letter did not ask the Department to "publish" any information, but rather to submit it to the Committee as part of our constitutional oversight duties.
- The Department of Homeland Security sent a response from Secretary Nielsen Nielsen on July 24, 2018, but produced none of the requested information or documents. Instead, the Secretary made general assertions about the zero-tolerance policy and President Trump's Executive Order and claimed—contrary to statements by President Trump, Attorney General Sessions, and other senior officials—that the Department "has never had a blanket policy of separating families at the border."³

Disregarding congressional requests in this way is unacceptable, particularly when these requests are made by the Chairman of the Subcommittee and Ranking Member of the full Committee with oversight responsibilities over your agencies. I am writing today to insist on your full and immediate compliance with our bipartisan request for documents and information.

Your refusal to produce information to Congress has been aggravated by your failures to produce information required under the Freedom of Information Act and by court orders in pending litigation. For example, in June, a watchdog group was forced to file a federal lawsuit against the Department of Health and Human Services for failing to provide documents in response to four requests involving the Office of Refugee Resettlement, which is responsible for separated children.⁴ In addition, the Trump Administration has fought against producing information on separated children and their parents to both plaintiffs and the court as part of the ongoing court-ordered family reunification process.⁵

² Letter from Deputy Secretary Eric D. Hargan, Department of Health and Human Services, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (July 11, 2018) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/HHS%20to%20Meadows%20and%20Cummings%2007-11-18.pdf).

³ Letter from Secretary Kirstjen M. Nielsen, Department of Homeland Security, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (July 24, 2018) (democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-07-24%20DHS%20to%20Cummings%20Dems%20Child%20Separation%20Request%20062218.pdf).

⁴ *HHS Sued for Documents Related to Child Separation Policy*, The Hill (June 26, 2018) (online at <http://thehill.com/policy/healthcare/394107-hhs-sued-for-documents-related-to-child-separation-policy>).

⁵ *Judge Orders Trump Administration to Help Lawyers Find 'Missing Parents' of Migrant Kids*, NBC News (July 29, 2018) (online at www.nbcnews.com/politics/immigration/judge-orders-trump-administration-help-lawyers-find-missing-parents-migrant-n895596).

Your refusal to produce information is even more disturbing with respect to parents who have been deported by the Trump Administration.⁶ Last week, the Trump Administration deemed 650 children “ineligible” to be reunited with their parents, including parents your agencies admitted deporting.⁷ In some cases, your agencies reportedly have been unable to locate these deported parents.⁸ In other cases, your agencies reportedly coerced some parents into waiving their rights and leaving their children behind—or even separating their children again if their parents refused.⁹

As part of our request last month, Chairman Meadows and I requested detailed information about children whose parents were deported—including the dates, locations, and destination of their parents’ deportations—but all three of you refused to comply with this bipartisan congressional request.

For all of these reasons, I request that you produce, by August 16, 2018, all of the documents and information requested in our original letter of July 5, 2018. If you continue to refuse to produce this information to the Committee, I will be forced to seek compulsory process to obtain this information.

Thank you for your prompt attention to this matter.

Sincerely,



Elijah E. Cummings
Ranking Member

cc: The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations

The Honorable Trey Gowdy
Chairman, Committee on Oversight and Government Reform

⁶ *Trump Administration Says Hundreds of Migrant Parents May Have Been Deported*, Wall Street Journal (July 24, 2018) (online at www.wsj.com/articles/trump-administration-says-hundreds-of-migrant-parents-may-have-been-deported-1532440026).

⁷ *Sabraw Focuses on Deported Parents*, Politico (July 30, 2018) (online at www.politico.com/newsletters/morning-shift/2018/07/30/sabraw-focuses-on-deported-parents-300236).

⁸ *Id.*

⁹ *Most Deported Migrants Were Not Asked About Leaving Children Behind, Trump Official Says*, Politico (July 25, 2018) (online at www.politico.com/story/2018/07/25/deported-migrants-leaving-children-behind-712088); *Lawsuit: ICE is Using Separation to Coerce Parents Into Letting Kids Get Deported*, Vox (July 29, 2018) (online at www.vox.com/2018/7/29/17626588/separated-families-lawsuit-deport-ice).