

Congress of the United States

Washington, DC 20515

October 11, 2018

The Honorable Kirstjen Nielsen
Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen,

We are writing to express concern regarding the implementation of the President's "zero tolerance" immigration policy.

As you know, the Department of Homeland Security (DHS) Inspector General issued a report concluding that DHS was ill-prepared to deal with the effects of the policy, including the separation of children from parents. This report is alarming and stresses the need for clarification on how the policy was developed.

Soon after the implementation of the policy, at a May 15th hearing before the Senate Committee on Homeland Security and Governmental Affairs, you testified the Department does "not have a policy to separate children from their parents." On June 17th, you tweeted, "We do not have a policy of separating families at the border. Period." The next day at a press conference at the White House, you again repeated "this administration did not create a policy of separating families at the border."

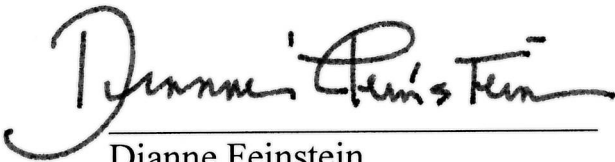
However, it has come to our attention that there was an internal memo on April 23rd recommending the implementation of a family separation policy that went to your office. In this memo, the heads of the three immigration agencies outlined options for how to prosecute more parents for immigration violations. The memo concluded with a recommendation to prosecute parents who came to the U.S. with children because it would have the greatest impact for deterring future migration. The memo also stated that DHS could "permissibly direct the separation of parents" from children. To support that conclusion, a footnote stated a full legal analysis of the family separation option was attached.

The versions of this memo that are publicly available are heavily redacted or unsigned. The legal analysis justifying family separation included as an attachment to the memo is currently unavailable to the public.

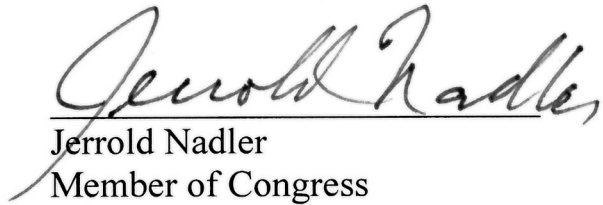
We respectfully request an unredacted copy of the signed memo and all attachments, including the legal analysis on family separation cited in footnote five. Understanding the Administration's views will clarify the process by which the "zero tolerance" policy was implemented and answer questions raised by the recent Inspector General's report.

We appreciate your assistance with this request.

Sincerely,



Dianne Feinstein
Dianne Feinstein
United States Senator



Jerrold Nadler
Jerrold Nadler
Member of Congress