

Williams, Beth A (OLP)

From: Williams, Beth A (OLP)
Sent: Thursday, May 24, 2018 6:12 PM
To: Lichter, Jennifer (OLP)
Cc: Champoux, Mark (OLP); Crytzer, Katherine (OLP)
Subject: RE: Immigration FYIs

Great, thanks!

Beth A. Williams
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

From: Lichter, Jennifer (OLP)
Sent: Thursday, May 24, 2018 5:49 PM
To: Williams, Beth A (OLP) (b) (6)
Cc: Champoux, Mark (OLP) (b) (6); Crytzer, Katherine (OLP)
(b) (6) >
Subject: Immigration FYIs

Beth, (b) (5)
(b) (5) Please see below.

(b) (5).

Jennie

- The AP reports on **increasing employer audits by immigration officials**. ICE opened 2,282 employer audits between Oct. 1 and May 4—nearly a 60 percent jump over the numbers for the previous fiscal year. The number of employers arrested on criminal immigration charges has also risen sharply, as has the number of civil immigration charges filed against employers.
 - ICE has announced plans for another nationwide wave of audits this summer, which would push the total for the year well over 5,000 by Sept 30. This number would far exceed the previous peak number of ICE audits: 3,127 in 2013.
 - The agency's goal is to create a "culture of compliance," largely by building a reasonable expectation among employers that they will be subject to audit. One key aspect of its plan is the creation of a centralized Employer Compliance Inspection Center, armed with a large staff and advanced technology, that will allow it to open as many as 15,000 audits a year.
- The Washington Times reports on a **recent surge in illegal immigrants kidnapping or "harrowing"**

- [The Washington Times](#) reports on a recent surge in illegal immigrants kidnapping or borrowing children to take advantage of legal loopholes that have allowed (apparent) family units to be released more quickly after entering the country illegally. **DHS numbers project 400 fraudulent family claims by illegal immigrants in 2018—a 900-percent increase over 2017’s total.** The practice seems to be particularly prevalent among Honduran migrants.
- The [New York Times](#) reports on Senate testimony delivered by Steven Wagner, acting head of HHS’s Administration for Children and Families, in which he acknowledged that the agency has not been able to determine the whereabouts of nearly 1500 unaccompanied minors it had released to sponsors. The article reports that Senator Rob Portman expressed concern about the dangers those missing children may face from abusers or traffickers. **Nearly 60% of UACs fail to appear for their hearing before an immigration judge and just 3.5 percent who came during the most recent surge are deported,** as reported by [The Washington Times](#). The Washington Times also reports that **MS-13 is using protections for unaccompanied minors as a pipeline for getting gang members coached by smugglers into the U.S.**
- The [Los Angeles Times](#) describes the **impact of the new zero tolerance immigration policy on the federal courts.** Immigration lawyers expect the caseload in the McAllen, TX courthouse to increase to 400 immigrants per day by summer, due to increased enforcement.

Jennie Bradley Lichter
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (202) 514-4606
Cell: (b) (6)
(b) (6)

DEPUTY ATTORNEY GENERAL'S WEEKLY IMMIGRATION MEETING
May 31, 2018

I. Introductions

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VII. Next Steps

A. Scheduling follow up meeting

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

v.

ALEX AZAR, *et al.*,

Defendants.

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) Civil Action No. 1:18-cv-00378 APM
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DEFENDANT U.S. CONFERENCE OF CATHOLIC BISHOPS' MOTION TO DISMISS

For the reasons stated in the attached Memorandum of Points and Authorities, Defendant U.S. Conference of Catholic Bishops respectfully moves that the Court dismiss all claims for lack of subject-matter jurisdiction under Rule 12(b)(1) of the Federal Rules of Civil Procedure.

Respectfully submitted,

/s/ David T. Raimer

David T. Raimer (DC ID #994558)
Anthony J. Dick (DC ID #1015585)
JONES DAY
51 Louisiana Ave. NW
Washington, DC, 20001-2113
Tel.: 202-879-3939
Fax: 202-626-1700
dtraimer@jonesday.com
ajdick@jonesday.com

*Leon F. DeJulius, Jr. (PA ID #90383)
*John D. Goetz (PA ID #47759)
JONES DAY
500 Grant Street, Suite 4500
Pittsburgh, PA 15219-2514
Tel.: 412-391-3939
Fax: 412-394-7959
lfdejulius@jonesday.com
jdgoetz@jonesday.com

**Admitted pro hac vice*

Counsel for Defendant United States Conference of Catholic Bishops

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

v.

ALEX AZAR, *et al.*,

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**DEFENDANT U.S. CONFERENCE OF CATHOLIC BISHOPS' MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT OF ITS MOTION TO DISMISS**

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INTRODUCTION

This case involves federal grants to Catholic charitable organizations that play a critical role in providing foster care to immigrant and refugee children at a time of desperate need. These grants fall within a long tradition of religious groups receiving government funds to provide social services in their communities. As long as the government does not engage in religious favoritism, and allows secular and religious groups to receive grants on an equal footing, this tradition is wholly consistent with the Constitution. At the same time, the Constitution permits religious accommodations that allow grant recipients to provide secular services while refraining from activities that would violate their religious conscience. Such accommodations are an essential part of American pluralism and “follow[] the best of our traditions.” *Zorach v. Clauson*, 343 U.S. 306, 314 (1952).

Despite these long-settled principles, Plaintiffs contend that the Constitution requires the government to cut off federal aid to Catholic foster-care organizations, solely because their religion forbids them from providing certain services that violate Catholic teaching. Plaintiffs concede that Defendant U.S. Conference of Catholic Bishops (“USCCB”) is only one of several organizations that receive federal grants to provide foster care to unaccompanied minors. Nonetheless, Plaintiffs claim that, by allowing Catholic entities to receive such grants, the government has violated the Establishment Clause, as well as the equal-protection and due-process components of the Fifth Amendment.

Although Plaintiffs’ constitutional claims lack merit, there is no need to resolve them because Plaintiffs do not have standing to sue the government for its allegedly “unlawful funding” activity. 1st Amend. Compl. (FAC) ¶ 1. They do not have taxpayer standing because they do not allege that there is any statute that directs taxpayer funds to be spent in the ways that they claim violate the Constitution. Nor can they establish personal standing for two basic reasons. *First*, they

do not allege any personal injury that is fairly traceable to the government itself. The only injury they allege is that a third party not before this Court – a sub-grantee of USCCB – denied their foster application based on its religious beliefs. That injury is traceable to the actions of a private party, not to the government. *Second*, Plaintiffs also cannot show that their alleged injury could be redressed by any of the judicial relief they seek against the government. If they prevailed, they could effectively cut off funds to all Catholic organizations that provide foster care for immigrant and refugee children. That would dramatically decrease the resources available to provide foster care for thousands of the nation’s most vulnerable children, but would have only a speculative impact on the Individual Plaintiffs’ opportunity to become foster parents.

BACKGROUND¹

A. The Grant Programs for Refugee and Immigrant Children

This case involves the Unaccompanied Alien Children Program and the Unaccompanied Refugee Minor Program, which are run by the Department of Health and Human Services through the Office of Refugee Resettlement. In the Unaccompanied Alien Children Program, the Office provides for the care of children who arrive in the United States unaccompanied by a parent or legal guardian, and who lack lawful immigration status. *See* 6 U.S.C. § 279(g); FAC ¶ 18. In the Unaccompanied Refugee Minor Program, the Office provides for the care of children who are under the age of 18, unaccompanied by an adult, and qualify as refugees, entrants, asylees, victims of trafficking, etc. FAC ¶ 17. Under both programs, the Office may provide “grants to . . . public and private nonprofit agencies, for the provision of child welfare services.” 8 U.S.C. § 1522(d)(2)(A); *see also* 8 U.S.C. § 1232(i); FAC ¶ 19. In recent years, the Office has relied

¹ Discussion of facts in this Memorandum are based on the allegations in Plaintiffs’ Complaint.

on this authority to award grants to many different organizations, including USCCB. *See, e.g.*, 82 Fed. Reg. 28659-04 (June 23, 2017) (announcing the award of 43 grants); 82 Fed. Reg. 26806-01 (June 9, 2017) (announcing the award of 48 grants); FAC ¶¶ 21, 27.

The funding for these programs currently comes from four different congressional appropriations. *See* Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, div. H, tit. II, 132 Stat. 348, 728 (Mar. 23, 2018); Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, div. H, tit. II, 131 Stat. 135, 531 (May 5, 2017); Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div. H, tit. II, 129 Stat. 2242, 2612 13 (Dec. 18, 2015); Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, div. G, tit. II, 128 Stat. 2130, 2479 (Dec. 16, 2014). These funds are not earmarked for any particular program or grant recipient; instead, they are earmarked for “refugee and entrant assistance activities authorized by” several different statutes. Consolidated Appropriations Act, 2018, 132 Stat. at 728; Consolidated Appropriations Act, 2017, 131 Stat. at 351; Consolidated Appropriations Act, 2016, 129 Stat. at 2612; Consolidated and Further Continuing Appropriations Act, 2015, 128 Stat. at 2479.

Under U.S. Department of Health and Human Services (“HHS”) regulations, “[f]aith-based or religious organizations are eligible, on the same basis as any other organization, to participate in any HHS awarding agency program for which they are otherwise eligible.” 45 C.F.R. § 87.3(a). As a result, religious organizations are eligible to participate in both the Unaccompanied Alien Children Program and the Unaccompanied Refugee Minor Program, and the Office has awarded grants to such organizations. FAC ¶ 21. Religious organizations may not, however, use grant funds to “support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), as part of the programs

or services funded with direct financial assistance from the HHS awarding agency, or in any other manner prohibited by law.” 45 C.F.R. § 87.3(b); *see also* FAC ¶ 21.

B. USCCB Receives Funding Under the Grant Programs

For many years, USCCB has participated in both programs described above. FAC ¶¶ 27 39. As a Catholic organization, however, USCCB cannot provide services that would violate its religious beliefs. USCCB has long made the government aware of this fact. FAC ¶ 34. Thus, in its most recent grant applications, USCCB informed the Office that “USCCB must ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs.” FAC ¶ 30 32.

During several different presidential administrations, the Office of Refugee Resettlement has awarded grants to USCCB under both programs to help provide child-welfare services for refugee and immigrant children. FAC ¶ 28. In turn, USCCB has awarded sub-grants to multiple organizations, including Catholic Charities of Fort Worth (“Catholic Charities FW”). *Id.* Under these sub-grants, Catholic Charities FW is responsible for providing foster services in the area of Fort Worth, Texas. FAC ¶ 27.

C. USCCB and Catholic Charities FW Provide Foster Care While Avoiding Actions That Would Violate Their Religious Beliefs

In February 2017, the Individual Plaintiffs informed Catholic Charities FW that they wanted to submit an application to become foster parents. FAC ¶ 46. According to its view of Catholic teaching, however, Catholic Charities FW cannot place foster children with anyone other than “a mother and a father who are married.” FAC ¶ 35. Because the Individual Plaintiffs do not meet that description, Catholic Charities FW could not accept their application. FAC ¶ 48.

On February 20, 2018, Plaintiffs filed a complaint challenging the denial of their application to become foster parents, followed by an amended complaint on March 22. Plaintiffs allege that the government violated the Constitution by awarding a grant to USCCB, which in turn awarded a sub-grant to Catholic Charities FW, which in turn denied Plaintiffs' foster application. *See, e.g.*, FAC ¶ 56. In Plaintiffs' view, the government's failure to require Catholic Charities FW to make foster placements in violation of its religious beliefs was itself a violation of the Establishment Clause, along with the equal-protection and due-process components of the Fifth Amendment. FAC ¶¶ 74, 83, 91.

STANDARD OF REVIEW

“[T]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim [of standing] that is plausible on its face.’” *Arpaio v. Obama*, 797 F.3d 11, 19 (D.C. Cir. 2015) (second alteration in original) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)); *see also Humane Soc’y v. Vilsack*, 797 F.3d 4, 8 (D.C. Cir. 2015) (“To survive a motion to dismiss for lack of standing, a complaint must state a plausible claim that the plaintiff has suffered an injury in fact fairly traceable to the actions of the defendant that is likely to be redressed by a favorable decision on the merits.”). The Court must “accept all the well-pleaded factual allegations of the complaint as true.” *Hurd v. D.C., Gov’t*, 864 F.3d 671, 678 (D.C. Cir. 2017). But “threadbare recitals of the elements of standing, supported by mere conclusory statements, do not suffice.” *Arpaio*, 797 F.3d at 19. The Court cannot assume the truth of “legal conclusions” or “formulaic recitation[s],” *Iqbal*, 556 U.S. at 678, nor can it “accept inferences that are unsupported by the facts set out in the complaint,” *Arpaio*, 797 F.3d at 22 n.2 (citation omitted).

ARGUMENT

To establish Article III standing, Plaintiffs must allege facts demonstrating that they “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Town of Chester v. Laroe Estates, Inc.*, 137 S. Ct. 1645, 1650 (2017). This inquiry is “especially rigorous when reaching the merits of the dispute would force [a court] to decide whether an action taken by one of the other two branches of the Federal Government [i]s unconstitutional.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 408 (2013). Plaintiffs bear the burden to establish standing “for each claim . . . and for each form of relief that is sought.” 137 S. Ct. at 1650. They cannot carry that burden here.

Plaintiffs assert standing to bring three different claims against the government’s alleged “unlawful funding” activity, FAC ¶ 1, but the only personal injury they allege is that the Individual Plaintiffs’ application to serve as foster parents was denied by Catholic Charities FW, a private organization that is a sub-grantee of defendant USCCB. That alleged injury is not fairly traceable to the challenged conduct of the government, which plays no role in approving or denying foster applications. Nor is the alleged injury redressable by a court decision in Plaintiffs’ favor, which would accomplish nothing more than pushing Catholic organizations out of the business of providing government-assisted aid to immigrant and refugee children. While that would have a devastating impact on thousands of vulnerable children, it would provide no benefit to Plaintiffs in their efforts to serve as foster parents. Although Plaintiffs try to get around these problems by asserting standing in their capacity as “taxpayers” and indeed their real interest appears to be a generic concern with how “taxpayer dollars contribute to the administration of federal welfare programs,” FAC ¶ 5 they cannot satisfy the exceedingly narrow test for taxpayer standing.

I. THE INDIVIDUAL PLAINTIFFS LACK STANDING BECAUSE THEIR ALLEGED INJURY IS NOT FAIRLY TRACEABLE TO THE GOVERNMENT’S CHALLENGED CONDUCT

The Individual Plaintiffs maintain that they have standing to sue the government because they suffered a personal injury when “organizations receiving federal funds denied them the opportunity to be foster parents.” FAC ¶ 6.² As a threshold matter, Plaintiffs correctly note that unaccompanied minors are the beneficiaries of the “federal child welfare programs” at issue. *E.g.*, FAC ¶¶ 5, 20. But even assuming that putative foster parents can assert a cognizable personal injury based on a funding program designed to benefit disadvantaged children, the injury alleged here is not “fairly traceable” to the challenged conduct of the government.

To establish standing, a plaintiff must show a “causal connection between the injury and the conduct complained of the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). When a plaintiff challenges “the legality of government action,” the ability to “establish standing depends considerably upon whether the plaintiff is himself an object of the [government] action” alleged be to unlawful. *Id.* at 561. “Thus, when the plaintiff is not himself the object of the government action,” standing is “substantially more difficult to establish” due to the attenuated causal link between the government’s action and the plaintiff’s injury. *Id.* at 562. “[T]he presence of an independent variable between either the harm and the relief or the harm and the conduct makes causation sufficiently tenuous that standing

² Plaintiff National LGBT Bar Association does not assert a personal injury for purposes of Article III standing, and thus cannot, as an organization, satisfy the injury in fact requirement. Instead, it “brings this action on behalf of its members” in their capacity as “federal taxpayers.” FAC ¶ 8. But its theory of taxpayer standing fails for the reasons discussed below. *See infra* Part III.

should be denied.” *Mideast Sys. & China Civil Constr. Saipan Joint Venture, Inc. v. Hodel*, 792 F.2d 1172, 1178 (D.C. Cir. 1986).

In particular, when the government provides funding to a grant recipient that subsequently makes an independent decision that allegedly injures a third party, that third party does not have standing to challenge the legality of the government funding. For example, in *Freedom Republicans, Inc. v. FEC*, 13 F.3d 412 (D.C. Cir. 1994), the plaintiffs sought to challenge the FEC’s provision of federal funds to a political party’s nominating process, which they alleged to be racially discriminatory. Just like Plaintiffs in the present case, the plaintiffs there argued that the government needed to take steps to prevent the funding recipient from discriminating, or else cut off federal funds. The court held that the plaintiffs lacked standing to sue the government because “the injury alleged in [the] complaint is not fairly traceable to any encouragement on the part of the government, but appears instead to be the result of decisions made by the Party without regard to funding implications.” *Id.* at 419–20. In other words, the alleged discrimination was directly attributable to the actions of the political party that was receiving federal funds, not any action of the government itself. For that reason, “[t]he links in the chain of causation between the challenged Government conduct and the asserted injury [were] far too weak for the chain as a whole to sustain [the plaintiffs’] standing.” *Id.* at 420 (quoting *Allen v. Wright*, 468 U.S. 737, 759 (1984)).

The Supreme Court recognized the same point in *Simon v. East Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976), which held that a group of plaintiffs lacked standing to challenge IRS tax rules that allegedly “encouraged” nonprofit hospitals to deny service to the plaintiffs. *Id.* at 42. Although the plaintiffs adequately alleged that they were personally injured by the hospitals’ denial of service, the Court held that they did not have standing to challenge the

IRS's tax treatment of the hospitals. As the Court explained, "the denials of service" by the hospital could not "fairly . . . be traced to [the IRS's action]," but instead "result[ed] from decisions made by the hospitals without regard to the tax implications." *Id.* at 42–43.

Simon and *Freedom Republicans* show that the Individual Plaintiffs lack standing to sue the government for its alleged "unlawful funding" activity. FAC ¶ 1. They assert claims solely against the government, but the only personal injury they allege is that Catholic Charities FW denied their application to serve as foster parents. FAC ¶ 6. That alleged injury is fairly traceable to the religious beliefs of *a private party*, not to any action of the government. The Individual Plaintiffs do not allege that they themselves are the "object of [any] government action," *Lujan*, 504 U.S. at 561, or that the government in any way encouraged or directed Catholic Charities FW to do anything that injured them. Nor do they allege that Catholic organizations would conduct foster services any differently with respect to same-sex couples if they did not receive federal funds. Indeed, the Individual Plaintiffs do not even allege that the government provided funds directly to Catholic Charities FW. Instead they allege that the government provided funds to USCCB, which in turn provided funds to Catholic Charities FW, which in turn decided to deny the Individual Plaintiffs' foster application for its own religious reasons. That attenuated causal chain is not remotely sufficient to make the Individual Plaintiffs' injury "fairly traceable" to the government's challenged conduct.

II. THE INDIVIDUAL PLAINTIFFS LACK STANDING BECAUSE THEIR ALLEGED INJURY IS NOT REDRESSABLE BY A FAVORABLE DECISION

The Individual Plaintiffs also lack standing because their alleged personal injury is not redressable by any judicial relief that could be ordered against the government. As described in the Complaint, Plaintiffs' injury is that they were "denied . . . the opportunity to be foster parents" when Catholic Charities FW rejected their foster application. FAC ¶ 6. As the Supreme Court

has made clear, however, Plaintiffs must show that it is “likely, as opposed to merely speculative, that [this] injury will be redressed by a favorable decision” in court. *Lujan*, 504 U.S. at 561. That showing is impossible to make where, as here, the plaintiffs seek relief solely against the government, but the redressability of their injury “hinge[s] on the response of” a “third party” like Catholic Charities FW that is not the target of judicial relief, and whose response the Court “cannot presume either to control or to predict.” *Id.* at 562; *see also Renal Physicians Ass’n v. U.S. Dep’t of Health & Human Servs.*, 489 F.3d 1267, 1274 (D.C. Cir. 2007) (“[S]tanding to challenge a government policy cannot be founded merely on speculation as to what third parties will do in response to a favorable ruling.”).

Here, it is not only speculative but highly doubtful that granting Plaintiffs relief against the government would have any impact on their “opportunity to be foster parents.” FAC ¶ 6. Catholic organizations are conscience-bound to uphold their belief in traditional marriage. Thus, if Plaintiffs were to prevail, Catholic Charities FW and many similar groups would be cut off from government aid. They would continue to provide foster services in accordance with their religious beliefs, but the scale of services they provide would be greatly diminished. This would reduce the availability of care for refugee and immigrant children, but would not remedy Plaintiffs’ injury because it would have no impact on their “opportunity to be foster parents.” FAC ¶ 6. The only aspect of Catholic Charities FW’s behavior that affects Plaintiffs i.e., its practice of placing foster children only with traditional married couples would remain unchanged.

While Plaintiffs may speculate that their “opportunity to be foster parents” would improve due to other organizations that might step in as replacements if USCCB were cut off from federal funding and if Catholic Charities FW were not able to participate as a sub-grantee, that type of “merely speculative” hypothesis cannot satisfy the redressability prong of Article III standing.

Lujan, 504 U.S. at 561. “When considering any chain of allegations for standing purposes, we may reject as overly speculative those links which are predictions of future events (especially future actions to be taken by third parties).” *United Transp. Union v. ICC*, 891 F.2d 908, 912 (D.C. Cir. 1989); *see also Nat’l Wrestling Coaches Ass’n v. Dep’t of Educ.*, 366 F.3d 930, 941 (D.C. Cir. 2004) (stating that the “causal relationship between the government policy and the third-party conduct” must, “leav[e] little doubt as to . . . the likelihood of redress.”).

Plaintiffs admit in their Complaint that USCCB and Catholic Charities FW are currently only “one of” several organizations that are responsible for placing foster children while receiving federal funds under the government programs at issue. FAC ¶ 27; *see also id.* at ¶ 21 (“Religiously affiliated organizations are *among* the providers of federally funded care for children under the URM Program and the UC Program.” (emphasis added)). Thus, the appropriate remedy for Plaintiffs’ asserted injury would be to foster a child through one of the other participating organizations, or through an alternative arrangement with the government that would not require Catholic Charities FW to violate its religious beliefs. That type of solution would have the advantage of allowing Plaintiffs *and* Catholic service providers to participate in the federal programs at issue. By contrast, the relief requested by Plaintiffs in the present case would simply force Catholic service providers out of the grant program altogether, which would provide no tangible benefit to anyone not to Plaintiffs, not to Catholic organizations, and not to the immigrant and refugee children they serve. *Cf. Warth v. Seldin*, 422 U.S. 490, 508 (1975) (to establish standing, plaintiffs must show that they “personally would benefit in a tangible way from the court’s intervention”).

III. PLAINTIFFS DO NOT HAVE TAXPAYER STANDING

As an alternative to personal standing, the Individual Plaintiffs try to establish “taxpayer standing” to assert an Establishment Clause claim. They allege that, “[a]s federal taxpayers, [they]

are harmed by Federal Defendants’ use of federal taxpayer funds to underwrite and endorse religious beliefs to which they do not subscribe.” FAC ¶¶ 5, 72. Plaintiff National LGBT Bar Association sets forth similar allegations in order to “bring[] this action on behalf of its members who are federal taxpayers.” FAC ¶ 8; *see also Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977) (explaining that to sue on behalf of its members, an association must establish that at least one of its members has standing to sue in her own right). Neither claim, however, “fit[s] within the narrow confines of Establishment Clause taxpayer standing.” *In re Navy Chaplaincy*, 534 F.3d 756, 760 (D.C. Cir. 2008).

“As the Supreme Court has repeatedly held, a taxpayer’s interest in ensuring that appropriated funds are spent in accordance with the Constitution does not suffice to confer Article III standing.” *Id.* at 761. Although “the general bar against taxpayer standing” is subject to a “very narrow exception” under the Establishment Clause, that exception does not encompass “discretionary” action by the Executive Branch. *Id.* Instead, taxpayers can establish standing only if they allege that Congress itself has violated the Establishment Clause through an expenditure that is “expressly authorized or mandated by [a] specific congressional enactment.” *Id.* at 762 (quoting *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 608 (2007) (plurality op.)); *see also Ansley v. Warren*, 861 F.3d 512, 520 (4th Cir. 2017) (denying taxpayer standing where the plaintiffs “cannot point to any specific appropriation by the legislature to implement the [challenged] scheme”); *Murray v. U.S. Dep’t of Treasury*, 681 F.3d 744, 751 (6th Cir. 2012) (denying taxpayer standing where the statute itself “d[id] not contemplate” the conduct that allegedly violated the Constitution); *Freedom From Religion Found., Inc. v. Nicholson*, 536 F.3d 730, 742 (7th Cir. 2008) (denying taxpayer standing where the alleged violation did not result from “express congressional action but rather resulted from executive discretion”). In other words,

taxpayers have standing only if they can “link[] the appropriations at issue . . . to congressional intention that the funds . . . be disbursed to religious groups” in a way that violates the Constitution. *Murray*, 681 F.3d at 750.

Here, Plaintiffs do not have taxpayer standing because the violation they allege results from discretionary *Executive Branch* action, not from any “*congressional* action under the taxing and spending clause.” *Flast v. Cohen*, 392 U.S. 83, 106 (1968) (emphasis added); *see also Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 479 (1982) (explaining that taxpayer standing is limited to challenges to the ““exercise[] of congressional power”” (quoting *Flast*, 392 U.S. at 102)). The programs at issue were authorized by two specific congressional enactments: The first is the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which authorizes the Office of Refugee Resettlement to “award grants to, and enter into contracts with, voluntary agencies to carry out [the Unaccompanied Alien Children Program].” 8 U.S.C. § 1232(i). The second is the Refugee Act of 1980, which authorizes the Office “to provide assistance, reimbursement to States, and grants to and contracts with public and private nonprofit agencies” to carry out the Unaccompanied Minor Program. 8 U.S.C. § 1522(d)(2)(A). Both programs are funded by general appropriations for “refugee and entrant assistance activities.” Consolidated Appropriations Act, 2018, 132 Stat. at 728; Consolidated Appropriations Act, 2017, 131 Stat. at 351; Consolidated Appropriations Act, 2016, 129 Stat. at 2612; Consolidated and Further Continuing Appropriations Act, 2015, 128 Stat. at 2479.

None of these enactments, however, “expressly authorize[] or appropriate[] funds for” the conduct that Plaintiffs allege violates the Establishment Clause i.e., allowing religious organizations to receive grant funds even if they have a conscientious objection to making foster placements with same-sex couples. *See In re Navy Chaplaincy*, 534 F.3d at 762 (no standing where

the statutes “establishing the Navy Chaplain Corps” did not “authorize[] or appropriate[] funds for the Navy to favor Catholic Chaplains in its retirement system”); *see also Hein*, 551 U.S. at 593 (no standing where “Congress did not specifically authorize the use of federal funds to pay for the conferences or speeches that the plaintiffs challenged”). Instead, Congress authorized and appropriated funds to provide foster care for immigrant and refugee children, and the Executive Branch has exercised its discretion to allow religious social-services organizations to lend their considerable resources to assist with this task. Plaintiffs’ attempt to establish taxpayer standing thus fails under the clear rule of *Hein* and *Navy Chaplaincy*.³

CONCLUSION

For the foregoing reasons, Plaintiffs’ claims should be dismissed for lack of standing.

³ Plaintiffs do not try to establish taxpayer standing for their equal-protection and due-process claims. And even if they had tried, the Supreme Court has “declined to lower the taxpayer standing bar in suits alleging violations of any constitutional provision apart from the Establishment Clause.” *Hein*, 551 U.S. at 609–10. Thus, these claims should be dismissed even if this Court concludes that Plaintiffs can fulfill the narrow exception for taxpayer standing. *See Town of Chester*, 137 S. Ct. at 1650 (stating that plaintiffs must establish standing “for each claim” asserted).

Dated: May 21, 2018

Respectfully submitted,

/s/ David T. Raimer.

David T. Raimer (DC ID #994558)
Anthony J. Dick (DC ID #1015585)
JONES DAY
51 Louisiana Ave. NW
Washington, DC, 20001-2113
Tel.: 202-879-3939
Fax: 202-626-1700
dtraimer@jonesday.com
ajdick@jonesday.com

*Leon F. DeJulius, Jr. (PA ID #90383)
*John D. Goetz (PA ID #47759)
JONES DAY
500 Grant Street, Suite 4500
Pittsburgh, PA 15219-2514
Tel.: 412-391-3939
Fax: 412-394-7959
lfdejulius@jonesday.com
jdgoetz@jonesday.com

*Counsel for Defendant United States
Conference of Catholic Bishops*

**Admitted pro hac vice*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

V.

ALEX AZAR, *et al.*,

Defendants.

Civil Action No. 1:18-cv-00378 APM

[PROPOSED] ORDER

Upon consideration of Defendant United States Conference of Catholic Bishops' Motion to Dismiss and supporting authorities, that Motion is hereby GRANTED.

IT IS SO ORDERED.

Dated: _____

THE HONORABLE AMIT P. MEHTA
United States District Judge

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

v.

ALEX AZAR, *et al.*,

Defendants.

)
)
)
)
) Civil Action No. 1:18-cv-00378 APM
)
)
)
)
)

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2018 a true and correct copy of the foregoing Motion to Dismiss and accompanying papers was filed using the Court's CM/ECF system, which will serve all counsel of record.

/s/ David T. Raimer

David T. Raimer (DC ID #994558)

Anthony J. Dick (DC ID #1015585)

JONES DAY

51 Louisiana Ave. NW

Washington, DC 20001-2113

Tel.: 202-879-3939

Fax: 202-626-1700

dtraimer@jonesday.com

ajdick@jonesday.com

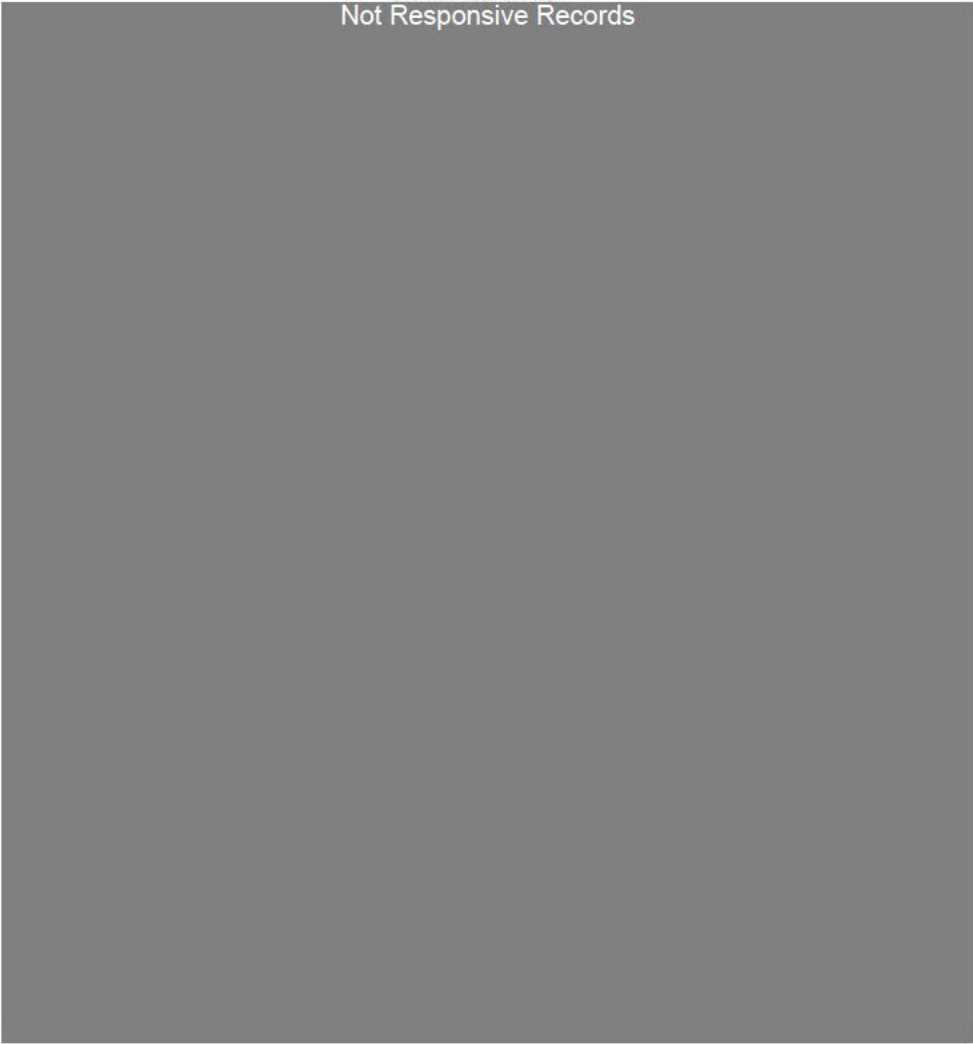
*Counsel for Defendant United States
Conference of Catholic Bishops*

Not Responsive Records



On Jun 1, 2018, at 3:59 PM, Alert Desk <alert.desk@medianewsalert.com> wrote:

Department of Justice
Afternoon News Digest
June 01, 2018
04:00 PM EST
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U S JU STICE SYSTEM NEWS

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PRINT: [OPINION] "Separating migrant families is un-American and bound to fail," *The Economist*, Byline: Unattributed, June 1, 2018

"Family values do not stop at the Rio Grande," said George W. Bush. But that may depend on which bank of the river you have in mind. Even by the standards of President Donald Trump's administration, the way America has begun separating migrant children from their parents is horrific. [\[Continue Reading\]](#)

END

Hybart, Camden (JMD)

From: Hybart, Camden (JMD) Attorney General Sessions
Sent: Sunday, June 3, 2018 9:50 AM
To: Rosenstein, Rod (ODAG)
Subject: Re: Continued Coordination to Implement and Fund the Zero Tolerance Initiative

Often things on front lines are not as good as headquarters reports. Need that California prison reopened ASAP. Goal should be to get above 2000 a week while enhancing prosecution of transporters et al too. Increased pressure on all fronts we may hope will bend curve. I really like the game plan that produces immediate intelligence and results in immediate action. That's the key. Looks like the President has all of us focused.

Sent from my iPhone

On Jun 3, 2018, at 9:38 AM, Rosenstein, Rod (ODAG) (b) (6) > wrote:

We confirmed that USMS is now able to handle the increased volume at least through October 1. They are moving detainees around 7 days a week to maintain space at border facilities.

On Jun 3, 2018, at 9:34 AM, Hybart, Camden (JMD) (b) (6) > wrote:

Attorney General Sessions

Thanks. I'm very interested in this. Keep on it. Every decline in entry's is huge reducing those who got past border too. With the decline and continued prosecution numbers the percentage goes up and we are in virtuous cycle. We have to do all we can to help with UACs Every little bit helps.

Our Marshal MUST move rapidly. Not sure now.
Keep at it!!

Sent from my iPhone

On Jun 2, 2018, at 4:30 PM, Rosenstein, Rod (ODAG)
<(b) (6)> wrote:

Begin forwarded message:

From: "Grady, Claire" (b)(6) per DHS
Date: June 2, 2018 at 4:23:27 PM EDT
To: "Vought, Russell T. EOP/OMB"
<(b)(6) per OMB "Eric.Hargan@hhs.gov">
<Eric.Hargan@hhs.gov> (b)(6) - Rod Rosenstein Email Address
(b)(6) - Rod Rosenstein Email Address

(b)(6) - Rod Rosenstein Email Address

Cc: Kathleen.L.Kraninger (b)(6) per OMB

(b)(6) per OMB

Subject: RE: Continued Coordination to Implement and Fund the Zero Tolerance Initiative

Good afternoon,

Quick update. There was a productive call this afternoon with CBP, ICE, and HHS ORR. Overall population being encountered by CBP is down, but

(b)(5) per DHS

(b)(5) per DHS

(b)(5) per CBP

, Claire

From: Vought, Russell T. EOP/OMB

[mailto: (b)(6) per OMB]

Sent: Friday, June 1, 2018 6:24 PM

To: Grady, Claire < (b)(6) per DHS >

Cc: Kathleen.L.Kraninger (b)(6) per OMB

(b)(6) per OMB

Subject: Fwd: Continued Coordination to Implement and Fund the Zero Tolerance Initiative

Claire,

My apologies. Wrong email address for you; it didn't look right when I sent it! See below though. Thanks, Russ

Begin forwarded message:

From: "Vought, Russell T. EOP/OMB"

(b)(6) per OMB

Date: June 1, 2018 at 5:28:48 PM EDT

TO: "Eric.Hargan@nns.gov"

<Eric.Hargan@hhs.gov>, (b)(6) per DHS

"

(b)(6) per DHS

(b)(6) - Rod Rosenstein Email Address

(b)(6) - Rod Rosenstein Email Address

Cc: "Kraninger, Kathleen L. EOP/OMB"

(b)(6) per OMB

"Gr

ay, John W. EOP/OMB"

(b)(6) per OMB

**Subject: Continued Coordination to
Implement and Fund the Zero Tolerance
Initiative**

Dear Colleagues,

As we briefly discussed at the May 24 meeting on border crossings, OMB has been working with departments and agencies since early May to implement the zero tolerance immigration policy. We have been focused on identifying and managing anticipated resource shortfalls so that agencies have the detention space, personnel, and transportation capabilities they need to fully implement the President's initiative.

OMB will continue convening agencies to discuss their resource needs, and in particular your agency Chief Financial Officers should be closely engaged in the planning process for how we will continue implementing the administration's new immigration posture. We anticipate (b)(5)

per

OMB

As your managers refine their plans for the summer, we expect they will also be working with your CFOs to ensure the plans are appropriately funded.

I also wanted to flag the need OMB sees for integrated operational data and projections. While there continue to be many meetings and calls at all levels, principals would benefit greatly from

principals would benefit greatly from having a common baseline of information. Specifically, we request your support for a single collaboration group to provide interagency situation updates on a regular basis, coordinate the development of common interagency predictive models to inform decisions about resource allocation, and identify solutions to logistical and operational challenges that may arise.

U.S. Customs and Border Protection's Migration Crisis Action Team (MCAT) has been working since Fall 2017 to manage CBP resources and operations in response to the increase in illegal immigration along the southwest border. In recent weeks, the MCAT has also led CBP efforts to implement the zero tolerance policy. DHS has graciously offered the MCAT to serve as a central interagency coordination body to help identify and overcome potential policy implementation challenges. I ask that you give DHS your full support in this important effort. CBP will be reaching out to participating agencies with further details. Please let me know if you have any questions.

Best,

Russ Vought
Deputy Director
Office of Management and Budget

(b)(6) per OMB

O: (b)(6) per OMB

C: (b)(6) per OMB

Hybart, Camden (JMD)

From: Hybart, Camden (JMD) Attorney General Sessions
Sent: Sunday, June 3, 2018 8:45 PM
To: Hamilton, Gene (OAG)
Subject: Re: Continued Coordination to Implement and Fund the Zero Tolerance Initiative

Thanks!

Sent from my iPhone

On Jun 3, 2018, at 4:46 PM, Hamilton, Gene (OAG) (b) (6) wrote:

Thank you, sir. Will do.

As to your question (b) (5)

(b) (5)

(b) (5)

Gene P. Hamilton
Counselor to the Attorney General
U.S. Department of Justice

From: Hybart, Camden (JMD) Attorney General Sessions
Sent: Sunday, June 3, 2018 4:38 PM
To: Hamilton, Gene (OAG) (b) (6)
Subject: Re: Continued Coordination to Implement and Fund the Zero Tolerance Initiative

(b) (5). ? Also if things are not moving at any DOJ agency don't hesitate to report it to me, and Rod or I may need to call them. We are in post 9/11 mode. All is asap.

Sent from my iPhone

On Jun 3, 2018, at 10:39 AM, Hamilton, Gene (OAG) (b) (6) wrote:

Thank you, sir. For your awareness, the following activities are also ongoing in this area:

(b) (5)

(b) (5)

(b) (5)

Also, (b) (5)

Gene P. Hamilton
Counselor to the Attorney General
U.S. Department of Justice

On Jun 3, 2018, at 9:52 AM, Hybart, Camden (JMD) (b) (6) > wrote: Attorney General Sessions

FYI.

Sent from my iPhone

Begin forwarded message:

From: "Hybart, Camden (JMD)" (b) (6) Attorney General Sessions
Date: June 3, 2018 at 9:49:50 AM EDT
To: "Rosenstein, Rod (ODAG)" (b) (6)
Subject: Re: Continued Coordination to Implement and Fund the
Zero Tolerance Initiative

Duplicative Material

Not Responsive Records

From: Davis, Valorie A (OLP)
Sent: Monday, June 4, 2018 4:00 PM
To: OLP-ALL (JMD) [REDACTED] (b) (6) >
Subject: Afternoon Digest

Good afternoon,

**Department of Justice
Afternoon News Digest
June 04, 2018
04:00 PM EST**

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US JUSTICE SYSTEM NEWS

Not Responsive Records

Not Responsive Records

PRINT: [ANALYSIS] “Cops are called when a senator tries to see kids taken from their immigrant parents,” *Washington Post*, Byline: James Hohmann, June 4, 2018, 8:32 AM

As the sun set Sunday night, Sen. Jeff Merkley (D-Ore.) went to a shuttered Walmart in Brownsville, Texas, that has been converted into a detention center for immigrant children who have been separated from their parents. He asked for a tour. Instead, the government contractor that runs the converted store called the cops. [\[Continue Reading\]](#)

Not Responsive Records

END

Williams, Beth A (OLP)

From: Williams, Beth A (OLP)
Sent: Thursday, June 7, 2018 9:29 AM
To: Crytzer, Katherine (OLP); Champoux, Mark (OLP)
Subject: RE: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE
QUARTERLY ALIEN INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE
EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED FOR BORDER SECURITY

(b) (5) ?

Beth A. Williams
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office (b) (6)
(b) (6)

From: Crytzer, Katherine (OLP)
Sent: Thursday, June 7, 2018 9:27 AM
To: Williams, Beth A (OLP) (b) (6) >; Champoux, Mark (OLP)
(b) (6)
Subject: RE: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE QUARTERLY ALIEN
INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED
FOR BORDER SECURITY

(b) (5)

Katie Crytzer
Chief of Staff
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Williams, Beth A (OLP)
Sent: Thursday, June 7, 2018 9:25 AM
To: Champoux, Mark (OLP) (b) (6) >; Crytzer, Katherine (OLP)
(b) (6) >
Subject: FW: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE QUARTERLY ALIEN
INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED
FOR BORDER SECURITY

(b) (5)

(b) (5)

Beth A. Williams
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

From: USDOJ-Office of Public Affairs <(b) (6)>
Sent: Thursday, June 7, 2018 9:17 AM
To: Williams, Beth A (OLP) (b) (6)
Subject: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE QUARTERLY ALIEN
INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED
FOR BORDER SECURITY

☒ This United States Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 7, 2018

NOTE: The FY 2018 Q1 Alien Incarceration Report can be found [here](#).

**DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY
RELEASE QUARTERLY ALIEN INCARCERATION REPORT
HIGHLIGHTING THE NEGATIVE EFFECTS OF ILLEGAL
IMMIGRATION AND THE NEED FOR BORDER SECURITY**

WASHINGTON—President Trump's [Executive Order on Enhancing Public Safety in the Interior of the United States](#) requires the Department of Justice (DOJ) and the Department of Homeland Security (DHS) to collect relevant data and provide quarterly reports on data collection efforts. On June 7, 2018 DOJ and DHS released the FY 2018 1st Quarter Alien Incarceration Report, complying with this order.^[1] The report found that more than one-in-five of all persons in Bureau of Prisons custody were known or suspected aliens, and 93 percent of confirmed aliens in DOJ custody were in the United States unlawfully.

"The illegal immigrant crime rate in this country should be zero," said Attorney General Sessions. "Every crime committed by an illegal alien is, by definition, a crime that should have been prevented. It is outrageous that tens of thousands of Americans are dying every year because of the drugs and violence brought over our borders illegally and that taxpayers have been forced, year after year, to pay millions of dollars to incarcerate tens of thousands of illegal aliens. That is another reason why the Department of Justice under

President Trump's leadership has instituted a zero tolerance policy for illegal entry on our Southwest border. Today's report is yet another reminder that we must continue this policy and help fulfill President Trump's goals of restoring lawfulness to our immigration system and ensure that immigration serves the good of this country."

"Bad actors know well our legal loopholes which act as a magnet for illegal immigration," said Secretary Nielsen. "As DHS continues to carry out President Trump's immigration priorities to keep America safe, Congress must urgently act to close dangerous loopholes that attract criminal aliens and also inhibit our ability to remove them."

Section 16 of the Executive Order directs the Secretary of Homeland Security and the Attorney General to collect relevant data and provide quarterly reports regarding: (a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons; (b) the immigration status of all aliens incarcerated as federal pretrial detainees under the supervision of the United States Marshals Service; and (c) the immigration status of all convicted aliens in state prisons and local detention centers throughout the United States.

A total of 57,820 known or suspected aliens were in in DOJ custody at the end of FY 2018 Q1, including 38,132 persons in BOP custody and 19,688 in USMS custody. Of this total, 42,284 people had been confirmed by U.S. Immigration and Customs Enforcement (ICE) to be aliens (i.e., non-citizens and non-nationals), while 15,536 aliens were still under investigation by ICE to determine alienage and/or removability.

Among the 42,284 confirmed aliens, 39,413 people (93 percent) were unlawfully present. These numbers include a 62 percent unlawful rate among 38,132 known or suspected aliens in BOP custody and a 78 percent unlawful rate among 19,688 confirmed aliens in USMS custody.

Approximately 16,233 aliens in USMS custody required housing in state, local, and private facilities, which cost \$1,458,372.72 a day.

For the first time, the Quarterly Alien Incarceration Report included examples of newly sentenced or incarcerated aliens in BOP custody. These examples include, but are not limited to:

- Anibel Rondolpho Rodriguez, an illegal alien from Honduras who was residing in Freeport, NY, was sentenced to 45 years in prison after he pled guilty to racketeering charges, two murder conspiracies, two attempted murders, and threatening to commit assault.
- Eduardo Martinez, an illegal alien who was residing in Fort Wayne, Indiana, was sentenced to 324 months in prison after he pled guilty to possession with intent to distribute more than a kilogram of heroin, distribution of over 50 grams of methamphetamine, and possession of a firearm.
- Pedro Quintero-Enriques, an illegal alien from Mexico who was residing in Summerdale, Alabama, was sentenced to 108 months in prison after he pled guilty to illegal reentry after deportation and felon in possession of firearms.

This report does not include data on the alien populations in state prisons and local jails because state and local facilities do not routinely provide DHS or DOJ with comprehensive information about their inmates and detainees—which account for approximately 90 percent of the total U.S. incarcerated population.

Information Regarding Immigration Status of Aliens Incarcerated Under the Supervision of the Federal Bureau of Prisons

The Department of Justice's Bureau of Prisons (BOP) has an operational process for

The Department of Justice's Bureau of Prisons (BOP) has an operational process for maintaining data regarding foreign-born inmates in its custody. On a quarterly basis, BOP supplies this information to U.S. Immigration and Customs Enforcement (ICE). ICE, in turn, analyzes that information to determine the immigration status of each inmate and provides that information back to BOP.

Out of the 183,058 inmates in BOP custody, 38,132 (twenty-one percent) were reported by BOP as known or suspected aliens. Further details regarding these 38,132 known or suspected aliens are as follows:

- 20,976 (55 percent) were unauthorized aliens who are subject to a final order of removal;
- 11,698 (31 percent) remain under ICE investigation;
- 2,850 (seven percent) were unlawfully present and now in removal proceedings;
- 2,484 (approximately seven percent) were lawfully present aliens but are now in removal proceedings; and
- 124 were aliens who have been granted relief or protection from removal.

Information Regarding the Immigration Status of Aliens Incarcerated as Federal Pretrial Detainees

USMS identified 19,688 confirmed aliens under ICE investigation detained at USMS facilities. Further details regarding these 19,688 confirmed aliens are as follows:

- 13,858 (70 percent) were aliens who are subject to a final order of removal;
 - 3,838 (19 percent) remain under ICE investigation;
- 1,560 (7.9 percent) were unlawfully present and now in removal proceedings;
- 387 (approximately two percent) were lawfully present but are now in removal proceedings; and
- 45 were aliens who have been granted relief or protection from removal.

Pending Charges Against Confirmed Aliens in USMS Custody

Of the 19,688 confirmed aliens in USMS custody, 10,971 (56 percent) were in custody for an immigration related offense. Additionally, 4,665 (nearly 24 percent) aliens were in custody for drug related offenses. Further details regarding the related charges of these inmates are as follows:

- 974 (approximately five percent) were in custody for supervision violations;
- 889 (approximately five percent) were in custody for property offenses;
- 391 (approximately five percent) were in custody for weapons violations;
 - 378 (approximately two percent) were in custody for violent crimes;
 - 745 (approximately four percent) in custody were material witnesses.

Immigration Status of All Convicted Aliens Incarcerated in State Prisons and Local Detention Centers Throughout the United States

Some state and local jurisdictions already take proactive measures to make this data available to the public. For example, the Texas Department of Public Safety publishes data online regarding criminal alien arrests and convictions. These data do not account for all aliens in the Texas criminal justice system, as they are limited to criminal alien arrestees who have had prior interaction with DHS resulting in the collection of their fingerprints.

As reported by the Texas Department of Public Safety (DPS), 251,000 criminal aliens have been booked into local Texas jails between June 1, 2011 and April 30, 2018, according to DHS status indicators. These criminal aliens were charged with:

- More than 663,000 criminal offenses;
 - 1,351 homicides;
 - 7,156 sexual assaults;
 - 9,938 weapons charges;
 - 79,049 assaults;
 - 18,685 burglaries;
 - 79,900 drug charges;
 - 815 kidnappings;
 - 44,882 thefts;
 - 4,292 robberies.

Additional conviction data can be found in the report.

The Departments continue to progress towards establishing data collection of the immigration status of convicted aliens incarcerated in state prisons and local detention centers through the Department of Justice's Office of Justice Programs, Bureau of Justice Statistics and the Department of Homeland Security's Office of Immigration Statistics.

#

AG

18-745

Do not reply to this message. If you have questions, please use the contacts in the message or call the Office of Public Affairs at 202-514-2007.

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Williams, Beth A (OLP)

From: Williams, Beth A (OLP)
Sent: Thursday, June 7, 2018 9:37 AM
To: Champoux, Mark (OLP); Crytzer, Katherine (OLP)
Subject: RE: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE
QUARTERLY ALIEN INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE
EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED FOR BORDER SECURITY

Mark, [REDACTED] (b) (5)

Beth A. Williams
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: [REDACTED] (b) (6)
[REDACTED] (b) (6)

From: Champoux, Mark (OLP)
Sent: Thursday, June 7, 2018 9:30 AM
To: Crytzer, Katherine (OLP) [REDACTED] (b) (6) >; Williams, Beth A (OLP)
[REDACTED] (b) (6)
Subject: RE: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE QUARTERLY ALIEN
INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED
FOR BORDER SECURITY

[REDACTED] (b) (5)

MC

[REDACTED] (b) (6)

From: Crytzer, Katherine (OLP)
Sent: Thursday, June 7, 2018 9:27 AM
To: Williams, Beth A (OLP) [REDACTED] (b) (6) : Champoux, Mark (OLP)
<[REDACTED] (b) (6)>
Subject: RE: DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY RELEASE QUARTERLY ALIEN
INCARCERATION REPORT HIGHLIGHTING THE NEGATIVE EFFECTS OF ILLEGAL IMMIGRATION AND THE NEED
FOR BORDER SECURITY

Duplicative Material

Begin forwarded message:

From: USDOJ-Office of Public Affairs <USDOJ-OfficeofPublicAffairs@public.govdelivery.com>

Date: June 7, 2018 at 5:02:18 PM EDT

To: (b) (6)

Subject: ATTORNEY GENERAL JEFF SESSIONS DELIVERS REMARKS TO THE 24TH ANNUAL JOINT CONFERENCE OF THE MONTANA ASSOCIATION OF CHIEFS OF POLICE AND THE 88TH ANNUAL MONTANA POLICE PROTECTIVE ASSOCIATION

Reply-To: <USDOJ-OfficeofPublicAffairs@public.govdelivery.com>



The United States Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 7, 2018

**ATTORNEY GENERAL JEFF SESSIONS DELIVERS
REMARKS TO THE 24TH ANNUAL JOINT CONFERENCE OF
THE MONTANA ASSOCIATION OF CHIEFS OF POLICE AND
THE 88TH ANNUAL MONTANA POLICE PROTECTIVE
ASSOCIATION**

Bozeman, MT

Today I am announcing the Department of Justice's first grants under the STOP School Violence Act, which President Trump signed into law. Under this new law, the Department of Justice will provide \$50 million to train teachers and students and to develop an anonymous reporting system for threats of school violence. In the coming months, we will offer another \$25 million in these school safety grants.

Working with the Department of Education, these grants will go a long way toward giving our young people safety and peace of mind.

Remarks as prepared for delivery

Thank you, Kurt, for that kind introduction. Thank you for your seven years of service to the Department of Justice and for your outstanding leadership now as United States Attorney.

Thank you to Anthony Hutchings, Buck Herron, Dan Smith, Bob Frank, Scott Conrad, and Jerry Williams for your leadership on the Board and for the invitation to join you today.

I also want to thank Chief Ryan Oster, Chief Clint Peters, Chief E.J. Clark, Chief McGee, Chief Steve Crawford, Chief Roger Nasset, and all of our law enforcement officers who are here today.

I especially want to thank Sergeant Tim Berger and Officer Richie O'Brien of Butte, Montana. We were together about a month ago when they won the well-deserved Top Cops Award.

Last May, Sergeant Berger and Officer O'Brien put their lives on the line after one

of their own was struck down. They engaged in a more-than-100-mile chase after two criminals shot and killed Deputy Mason Moore of the Broadwater County Sheriff's department. These officers are true heroes who kept the people of Montana safe and brought justice to those responsible for murdering one of your brothers in blue.

Let's hear it for these two exemplary officers.

It is an honor to be here with you all – with the selfless and courageous men and women of law enforcement. The President has directed us to support you in your work—and we are committed to doing that. And his first order to me when I was confirmed? To back the blue.

Donald Trump ran for office as a law-and-order candidate and now he is governing as a law-and-order President. Under his strong leadership, we are finally getting serious about the rule of law.

As a prime example of that, the Trump administration is taking strong steps to make our schools safer.

Today I am announcing the Department of Justice's first grants under the STOP School Violence Act, which President Trump signed into law. Under this new law, the Department of Justice will provide \$50 million to train teachers and students and to develop an anonymous reporting system for threats of school violence. In the coming months, we will offer another \$25 million in these school safety grants.

Working with the Department of Education, these grants will go a long way toward giving our young people safety and peace of mind.

But what I'd like to talk to you about today is the steps we are taking to help you—our men and women in blue—by restoring the rule of law in our immigration system.

Policing has always been dangerous work. But unchecked illegal immigration has made the work of police officers all across America tougher and more dangerous than it ought to be. It may not seem to be a problem here, but make no mistake about it: our porous Southern border puts you—and your brothers and sisters in uniform—at risk.

Earlier today, the Department of Justice and the Department of Homeland Security released a report that shows that more than one-in-five of all persons in Bureau of Prisons custody were foreign born, and that 93 percent of confirmed aliens in custody were known or suspected illegal aliens.

Officers like you had to arrest them. Officers like you had to go into dangerous situations to take these people off of our streets—people who never should have been here in the first place. You shouldn't have to do that. And to add insult to injury, you're paying taxes to incarcerate these people.

And even when you're not dealing with immigrant crime directly, you're dealing with it indirectly. For example, most of the heroin, cocaine, methamphetamine, and fentanyl in this country got here across our Southern border. Tens of thousands of Americans die every year as a result.

Here in the West, most of our DEA agents tell us that the top drug use is methamphetamine.

In 2016, more than 7,500 Americans lost their lives to a methamphetamine overdose alone. For fentanyl, it was over 20,000.

And this number has been increasing. According to the Montana Department of Justice, methamphetamine violations in this state rose by more than 400 percent from 2010 to 2015. Meanwhile heroin violations increased 1,500 percent.

Our porous border is a big factor in this problem. As just one example of many, in April, we arrested a teen trying to enter the country carrying 14 pounds of fentanyl across the border. That's enough to kill 3.1 million Americans.

Any rational person that takes a look at this situation sees the need to secure the border and end the lawlessness.

But there is an open borders movement afoot in this country. From coast to coast, there are politicians who think that having any border at all—any limit whatsoever—is mean-spirited, unkind, or even bigoted. Sometimes they try to hide it; sometimes not.

And I'm not just talking about the extremists or known radicals, here. I'm talking about powerful, influential politicians.

For example, the vice-chairman of the Democratic National Committee recently wore a t-shirt that says "I don't believe in borders."

For another example, the Mayor of Oakland has called illegal aliens "law-abiding." Think about that. By definition that is not true.

In 2013, back when everybody thought Hillary Clinton would be president and when she could still make millions giving speeches to banks, she reportedly said in

one secret speech, my dream is a hemispheric common market, with open trade and open borders.” This is the presidential nominee of a major political party.

But these are just the explicit, overt examples. There are plenty of other examples of politicians who try to sound like moderates but who vote for open borders policies. Apparently, even the libertarian CATO institute does too.

We must pause and think about this seriously. President Trump’s policies are not extreme, this is extreme. The caravan that came to our southern border demanding entry recently was organized by a group called “pueblos sin fronteras”—people without borders.

Can America welcome all who want to come here? One poll says 150 million people worldwide want to come here. No nation can sustain such a surge. Europe is in political turmoil over excess immigration. Open borders is an extreme, reckless and dangerous idea. It can never be a sane policy for America.

For decades, the American people have been begging and pleading with our elected officials for an immigration system that is lawful and that serves our national interest—one that we can be proud of and that’s fair and just. There is nothing mean-spirited about that. They are right and just and decent to ask for this.

But we’ve been blocked at every turn. Any law enforcement policies are attacked by open borders radicals. And every time something is proposed that would end illegal immigration, it gets blocked. If it works, it gets blocked.

For example, we’ve had Kate’s Law before the Congress. Kate’s Law is named after Kate Steinle, the young woman who was shot to death in San Francisco by an illegal alien who had been deported five times. Kate’s Law would increase the penalty for re-entry after deportation. That would deter illegal aliens from committing this crime.

But no. This bill has been blocked.

We’ve had the Toomey Amendment, to cut funding for sanctuary cities. That was blocked.

We’ve had the Secure and Succeed Act, which would increase funding for border security. That was blocked.

No wonder the American people are so frustrated. If it works, it gets blocked.

President Trump has made it clear that legislation is needed to end the illegality.

And it is. Congress must act.

But at this Department and the Department of Homeland Security, under President Trump's leadership, we're not going to wait around for Congress to get its act together. We are taking action and we are enforcing the law without exception.

Unfortunately there has been a lot of misinformation about there about some of the things that we are doing. The reports have been so wrong that some people might even call it "fake news."

And so I'd like to take a few minutes to clear things up.

For example, members of the media claimed that the government had "lost" thousands of children in the United States. That turned out not to be true.

Several reporters have tweeted out photos taken of Homeland Security facilities during the Obama administration and then used them to attack President Trump.

Sadly, there are many other examples of the media getting this wrong.

So let's clear up some of the misinformation.

Under the laws of this country, illegal entry is a misdemeanor. Re-entry after having been deported is a felony.

Under the law, we are supposed to prosecute these crimes. Our goal is to prosecute 100 percent of illegal entries on the Southwest border.

If you cross the Southwest border unlawfully, then we will prosecute you. That's our goal. It's that simple.

If you smuggle illegal aliens across our border, that is a crime, too. We will prosecute you for a felony as the law requires.

That much should be clear.

But there has been some confusion about this.

If you bring a child, it is still an unlawful act. You don't get immunity if bring a child with you. We cannot have open borders for adults with children.

And when parents are prosecuted for illegal entry, their children cannot go to jail with them—just like when American citizens commit crimes. The Marshals'

detention facility doesn't have a facility for children.

There are too many coyotes—human smugglers and human traffickers—who take kids across the border for a hefty price. The consequences are sometimes tragic.

Hundreds of illegal aliens die every year trying to make it to this country. In many cases, children are trafficked, abused, or recruited by criminal gangs. No one should subject their child to this treacherous journey—and yet the open borders lobby encourages it every day.

This is what happens: After apprehension of adults by the Department of Homeland Security, the children are cared for by the Department of Health and Human Services—and they are transferred to HHS custody within 72 hours. And they are well cared for. In fact, they get better care than a lot of American kids do—all at taxpayer expense.

We currently spend more than \$1 billion a year in taxpayer dollars taking care of unaccompanied illegal alien minors. Most of these are in HHS custody. They are provided plenty of food, education in their language, health and dental care, and transported to their destination city—all at taxpayer expense.

Because of the Flores consent decree and a Ninth Circuit Court decision, ICE can only keep families detained together for a very short period of time.

We take unaccompanied children—on the taxpayer's dime—anywhere they want. They are nearly always placed with a family member—sometimes one who is also here illegally. If they've got family in Missoula, we take them there from El Paso, Texas, free of charge. If they've got family in Boston, we take them there. It's more than generous.

It's almost unbelievable. It cannot be that someone can walk into a country contrary to the laws of the country and then be allowed to roam free in the country while their children get a free ride anywhere they choose.

So what is the alternative to following the law and prosecuting illegal entry? Well, under the Obama administration, the alternative was essentially no prosecution—de facto open borders. De facto amnesty.

If you showed up illegally at the border with a child, then you got off scot-free. Unsurprisingly, word got out about this and more and more people started bringing kids with them—more than 3 times as many this May as last May. It didn't have to even be their child—it could be anyone. You can imagine the horrible abuses that resulted. And the open borders crowd has the gall to blame

those who want to end this lawlessness and the dangers these children face.

Look, I hope that we don't have to separate any more children from any more adults. But there's only one way to ensure that is the case: it's for people to stop smuggling children illegally. Stop crossing the border illegally with your children. Apply to enter lawfully. Wait your turn.

Some people in the media have chosen to attack us for enforcing the law. But I'm not ashamed of the United States of America. I am not going to apologize for carrying out our laws.

We're not the ones breaking the law. If you don't want to be separated from your children, then don't smuggle them illegally. My duty is to enforce the laws of this country—and that's what we're going to do.

If they wanted to, Congress could end illegal immigration tomorrow. I hope that they will. The many good and constitutional proposals that will actually work, like the wall, must not continue to be blocked.

I believe that our political leaders owe it to you, our fabulous law enforcement officers, to get this issue right at last. We've got to stop the flow of drugs and crime into America. It is not fair to keep asking you to go into dangerous situations.

We are under no obligation to accept a single criminal into this country. Not one. Those whom we do accept into this country should have a crime rate of zero.

Tom Homan of ICE tells us that nine out of ten of the illegal aliens that they arrest in the interior have criminal records. Nine out of ten. Seventy-two percent are convicted criminals.

This is a great nation—the greatest in the history of the world. And we are the most generous in the world—admitting 1.1 million legally every year. It is no surprise that people want to come here. But they must do so properly. They must follow our laws—or not come here at all.

And so this Department, under President Trump's leadership along with the Department of Homeland Security, is enforcing the law resolutely. We will finally secure this border so that we can give the American people safety and peace of mind.

That's what the people—and especially you, our brave men and women in blue—deserve.

Thank you.

#

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Williams, Beth A (OLP)

From: Williams, Beth A (OLP)
Sent: Friday, June 8, 2018 4:07 PM
To: Fragoso, Michael (OLP)
Subject: FW: ICYMI: The National Review: The Truth about Separating Kids

Mike, See below.

Beth A. Williams
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b) (6)
(b) (6)

From: USDOJ-Office of Public Affairs <USDOJ-OfficeofPublicAffairs@public.govdelivery.com>
Sent: Tuesday, May 29, 2018 9:08 PM
To: Williams, Beth A (OLP) (b) (6)
Subject: ICYMI: The National Review: The Truth about Separating Kids

 The United States Department of Justice

ICYMI: The National Review: The Truth about Separating Kids

<https://www.nationalreview.com/2018/05/illegal-immigration-enforcement-separating-kids-at-border/>

By: Rich Lowry

The National Review

Some economic migrants are using children as chits, but the problem is fixable — if Congress acts.

The latest furor over Trump immigration policy involves the separation of children from parents at the border.

As usual, the outrage obscures more than it illuminates, so it's worth walking through what's happening here.

For the longest time, illegal immigration was driven by single males from Mexico. Over the last decade, the flow has shifted to women, children, and family units

from Central America. This poses challenges we haven't confronted before and has made what once were relatively minor wrinkles in the law loom very large.

The Trump administration isn't changing the rules that pertain to separating an adult from the child. Those remain the same. Separation happens only if officials find that the adult is falsely claiming to be the child's parent, or is a threat to the child, or is put into criminal proceedings.

It's the last that is operative here. The past practice had been to give a free pass to an adult who is part of a family unit. The new Trump policy is to prosecute all adults. The idea is to send a signal that we are serious about our laws and to create a deterrent against re-entry. (Illegal entry is a misdemeanor, illegal re-entry a felony.)

When a migrant is prosecuted for illegal entry, he or she is taken into custody by the U.S. Marshals. In no circumstance anywhere in the U.S. do the marshals care for the children of people they take into custody. The child is taken into the custody of HHS, who cares for them at temporary shelters.

The criminal proceedings are exceptionally short, assuming there is no aggravating factor such as a prior illegal entry or another crime. The migrants generally plead guilty, and they are then sentenced to time served, typically all in the same day, although practices vary along the border. After this, they are returned to the custody of ICE.

If the adult then wants to go home, in keeping with the expedited order of removal that is issued as a matter of course, it's relatively simple. The adult should be reunited quickly with his or her child, and the family returned home as a unit. In this scenario, there's only a very brief separation.

Where it becomes much more of an issue is if the adult files an asylum claim. In that scenario, the adults are almost certainly going to be detained longer than the government is allowed to hold their children.

That's because of something called the Flores Consent Decree from 1997. It says that unaccompanied children can be held only 20 days. A ruling by the Ninth Circuit extended this 20-day limit to children who come as part of family units. So even if we want to hold a family unit together, we are forbidden from doing so.

The clock ticking on the time the government can hold a child will almost always run out before an asylum claim is settled. The migrant is allowed ten days to seek an attorney, and there may be continuances or other complications.

This creates the choice of either releasing the adults and children together into the country pending the adjudication of the asylum claim, or holding the adults and releasing the children. If the adult is held, HHS places the child with a responsible party in the U.S., ideally a relative (migrants are likely to have family and friends here).

Even if Flores didn't exist, the government would be very constrained in how many family units it can accommodate. ICE has only about 3,000 family spaces in shelters. It is also limited in its overall space at the border, which is overwhelmed by the ongoing influx. This means that — whatever the Trump administration would prefer to do — many adults are still swiftly released.

Why try to hold adults at all? First of all, if an asylum-seeker is detained, it means that the claim goes through the process much more quickly, a couple of months or less rather than years. Second, if an adult is released while the claim is pending, the chances of ever finding that person again are much less than if the adult is held.

the chances of ever finding that person again once he or she is in the country are dicey, to say the least. It is tantamount to allowing the migrant to live here, no matter what the merits of the case.

A few points about all this:

1) **Family units can go home quickly.** The option that both honors our laws and keeps family units together is a swift return home after prosecution. But immigrant advocates hate it because they want the migrants to stay in the United States. How you view this question will depend a lot on how you view the motivation of the migrants (and how seriously you take our laws and our border).

2) **There's a better way to claim asylum.** Every indication is that the migrant flow to the United States is discretionary. It nearly dried up at the beginning of the Trump administration when migrants believed that they had no chance of getting into the United States. Now, it is going in earnest again because the message got out that, despite the rhetoric, the policy at the border hasn't changed. This strongly suggests that the flow overwhelmingly consists of economic migrants who would prefer to live in the United States, rather than victims of persecution in their home country who have no option but to get out.

Children should not be making this journey that is fraught with peril. But there is now a premium on bringing children because of how we have handled these cases.

Even if a migrant does have a credible fear of persecution, there is a legitimate way to pursue that claim, and it does not involve entering the United States illegally. First, such people should make their asylum claim in the first country where they feel safe, i.e., Mexico or some other country they are traversing to get here. Second, if for some reason they are threatened everywhere but the United States, they should show up at a port of entry and make their claim there rather than crossing the border illegally.

3) **There is a significant moral cost to not enforcing the border.** There is obviously a moral cost to separating a parent from a child and almost everyone would prefer not to do it. But, under current policy and with the current resources, the only practical alternative is letting family units who show up at the border live in the country for the duration. Not only does this make a mockery of our laws, it creates an incentive for people to keep bringing children with them.

Needless to say, children should not be making this journey that is fraught with peril. But there is now a premium on bringing children because of how we have handled these cases. They are considered chits.

In April, the [New York Times](#) reported:

Some migrants have admitted they brought their children not only to remove them from danger in such places as Central America and Africa, but because they believed it would cause the authorities to release them from custody sooner.

Others have admitted to posing falsely with children who are not their own, and Border Patrol officials say that such instances of fraud are increasing.

According to [azcentral.com](#), it is "common to have [parents entrust their children to a smuggler](#) as a favor or for profit."

If someone is determined to come here illegally, the decent and safest thing would be to leave the child at home with a relative and send money back home. Because we favor family units over single adults, we are creating an incentive to do the opposite and use children to cut deals with smugglers.

4) **Congress can fix this.** Congress can change the rules so the Flores consent decree will no longer apply, and it can appropriate more money for family shelters at the border. This is an obvious thing to do that would eliminate the tension between enforcing our laws and keeping family units together. The Trump administration is throwing as many resources as it can at the border to expedite the process, and it desperately wants the Flores consent decree reversed. Despite some mixed messages, if the administration had its druthers, family units would be kept together and their cases settled quickly.

The missing piece here is Congress, but little outrage will be directed at it, and probably nothing will be done. And so our perverse system will remain in place and the crisis at the border will rumble on.

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From: OLPRregulations
Sent: Monday, June 11, 2018 9:06 AM
To: OLP-ALL (JMD) (b) (6) >
Subject: Morning Digest

Good morning

Department of Justice
Morning News Digest
June 11, 2018
08:00 AM EST

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NETWORK EVENING NEWS LINEUP: JUNE 10, 2018

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- Over 615 immigrant children have been separated from their parents due to the federal immigration policy that has been implemented in Washington state. [\[CBS\]](#)

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PRINT: "Officials blast Trump policy after visiting detained immigrants," *My Statesman*, Byline: Amy B. Wang, June 11, 2018, 5:00 AM

A group of lawmakers and public officials in Washington state denounced the Trump administration Saturday for its policy of separating immigrant families at the southwestern border, accusing the administration of causing undue trauma to children and parents who might be legally seeking asylum in the United States. [\[Continue Reading\]](#)

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PRINT: "Trump Immigration Policy Traumatizing Children, Democrats Warn," *Newsweek*, Byline: David Brennan, June 11, 2018, 4:43 AM

Despite criticism from the United Nations and legal and human rights charities, Attorney General Jeff Sessions has been unwavering in his support for the stance. Last week, he told conservative radio host Hugh Hewitt, "If people don't want to be separated from their children, they should not bring them with them." [\[Continue Reading\]](#)

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PRINT: [OPINION] “Why Jeff Sessions Won’t Quit,” *Slate Magazine*, Byline: Jamelle Bouie, June 10, 2018, 8:15 PM

We can now see what he meant. To deter migrants, the United States government under Trump is separating families, taking children from parents in a considered system of deliberate cruelty. And advancing that approach is his attorney general, Jeff Sessions. [\[Continue Reading\]](#)

PRINT: [OPINION] “More Than 2,400 Immigrant Family Separations Since Late 2016,” *Reuters*, Byline: Matt Shuham, June 10, 2018, 8:00 PM

In early May, Attorney General Jeff Sessions announced a new policy of prosecuting all illegal border crossers— including those who claim asylum— and separating adults facing criminal penalties from their children, who cannot be held in criminal detention. [\[Continue Reading\]](#)

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US JUSTICE SYSTEM

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A rectangular area at the bottom of the page is redacted with a solid gray fill, located directly beneath the 'US JUSTICE SYSTEM' header.

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PRINT: "Migrant fearing family separation kills himself," *The Bulletin*, Byline: Jeffery C. Mays and Matt Stevens, June 11, 2018, 12:02 AM

A Honduran man who was told he would be separated from his family after he had crossed the U.S. border into Texas with them last month strangled himself in his holding cell, according to Customs and Border Protection officials, public records and media reports. [\[Continue Reading\]](#)

TWITTER: Pramilia Jayapal, @RepJayapal, June 11, 2018, 12:02 AM

ICYMI: [@washingtonpost](#) reports on what I saw and heard when I went into the prison to meet with immigrant women asylum seekers who had been transferred from the southern border & separated from children. [\[Read\]](#)

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Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Tuesday, June 12, 2018 10:21 AM
To: Barnett, Gary E. (OAG) (b) (6); Cutrona, Danielle (OAG) (b) (6); Hamilton, Gene (OAG)
Subject: FW: American Bar Association Letter on Behalf of President Hilarie Bass
Attachments: ABA Letter Family Separation 6-12-18.pdf; ATT00001.htm

From: Hunt, Jody (OLP)
Sent: Tuesday, June 12, 2018 10:13 AM
To: Whitaker, Matthew (OAG) (b) (6) >
Subject: Fwd: American Bar Association Letter on Behalf of President Hilarie Bass

Begin forwarded message:

From: "Pupillo, Cecilia" <(b) (6)>
Date: June 12, 2018 at 10:09:58 AM EDT
To: (b)(6) - DOJ Exec Sec Email Address
Cc: (b)(6) - Mary Blanche Hankey Email Address
(b)(6) - Mary Blanche Hankey Email Address, (b)(6) - Jody Hunt Email Address
(b)(6) - Jody Hunt Email Address, (b)(6) - Stephan Matthews Email Address
<(b)(6) - Stephan Matthews Email Address>
Subject: American Bar Association Letter on Behalf of President Hilarie Bass

June 12, 2018

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

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528

Dear Attorney General Sessions and Secretary Nielsen:

On behalf of the American Bar Association and its more than 400,000 members, I write to express our strong opposition to recent actions by the Department of Justice and the Department of Homeland Security that have resulted in a drastic increase in the separation of children from their parents when arriving at the southern border.

While separation of parents and children has taken place on an incidental basis in the past, it has never been applied uniformly as a strategy to deter migration. Reports had indicated that nearly 700 children – more than 100 of them under the age of four – were separated from adults between October 2017 and April 2018. (“Hundreds of Immigrant Children Have Been Taken from Parents at U.S. Border,” NY Times, April 20, 2018, *available at* <https://www.nytimes.com/2018/04/20/us/immigrant-children-separation-ice.html>.) In the wake of the implementation of the “zero tolerance” policy, requiring referral for criminal prosecution all those apprehended crossing the border between ports of entry, these numbers increased exponentially. Deputy Chief Richard Hudson of the U.S. Border Patrol testified at a recent hearing that, between May 6 and May 19, 2018, 638 parents were separated from 658 children to allow for the prosecution of the adult parents. We are aware of reports from the field that many hundreds more have been separated in recent weeks.

It is apparent from the public comments of several high-ranking Administration officials that a primary purpose of the “zero tolerance” policy is to serve as a deterrent for migrant parents who enter the United States without authorization accompanied by their children. These statements make clear that family separation is not a collateral consequence of regular law enforcement under this policy; it is an explicitly intentional goal. Although the Supreme Court has never addressed a case involving the exact facts presented by the current practice of family separation, existing law suggests the policy violates rights to family integrity and due process. Moreover, the policy appears particularly unfair, inhumane, and, in the end, ineffective.

Please see the attachment for the full letter.

Sincerely,
Hilarie Bass
President, American Bar Association

Tucker, Rachael (OAG)

From: Tucker, Rachael (OAG)
Sent: Tuesday, June 12, 2018 8:09 PM
To: Hamilton, Gene (OAG)
Cc: Whitaker, Matthew (OAG)
Subject: Fwd: Jewish community letter opposing the Justice Department family separation policy
Attachments: image001.gif; ATT00001.htm; image002.gif; ATT00002.htm; image003.gif; ATT00003.htm; image004.gif; ATT00004.htm; image005.gif; ATT00005.htm; image006.gif; ATT00006.htm; image007.gif; ATT00007.htm; image008.gif; ATT00008.htm; image009.gif; ATT00009.htm; image010.gif; ATT00010.htm; image011.jpg; ATT00011.htm; Jewish community coalition letter against Family Separation policy.pdf; ATT00012.htm

Begin forwarded message:

From: "Lieberman, Michael" (b) (6) >
Date: June 12, 2018 at 6:57:21 PM EDT
To: "(b)(6) - Brian Morrissey Email Address"
(b)(6) - Brian Morrissey Email Address >, (b)(6) - Rachael Tucker Email Address (b)(6) - Rachael Tucker Email Address >
Subject: Jewish community letter opposing the Justice Department family separation policy

Please convey the attached letter from 26 Jewish community organizations to Attorney General Sessions.
The letter urges him to rescind the "zero tolerance" policy that includes family separation.

Thanks very much.
Michael

Michael Lieberman
Washington Counsel
Director, Civil Rights Policy Planning Center
Anti-Defamation League
Phone (b) (6) | Fax: (b) (6)
(b) (6)

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Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Friday, June 15, 2018 12:48 PM
To: (b)(6) - Matthew Whitaker Email Address
Subject: Fwd: can you pass this along as a skeleton draft

Begin forwarded message:

From: "Flores, Sarah Isgur (OPA)" (b) (6)
Date: June 15, 2018 at 8:51:27 AM CDT
To: "Whitaker, Matthew (OAG)" (b) (6)
Subject: can you pass this along as a skeleton draft

(b) (5)



xxx

Sarah Isgur Flores
Director of Public Affairs
(b) (6)

Tucker, Rachael (OAG)

From: Tucker, Rachael (OAG)
Sent: Friday, June 15, 2018 12:57 PM
To: Treene, Eric (CRT)
Subject: Fwd: follow up

Let me handle this. I'll be in touch.

Begin forwarded message:

From: "Diament, Nathan" (b) (6)
Date: June 15, 2018 at 12:54:13 PM EDT
To: Eric Treene (b) (6) >
Cc: Rachael Tucker (b) (6)
Subject: follow up

Hello Eric.
I hope you are well.

I had a brief conversation with Rachael yesterday and she mentioned that there will be some meetings in the coming days (?) to discuss the border security issues (parental separation, etc.) with religious community/organizational leaders.
(In case you didn't know, we did raise this issue with the AG behind closed doors prior to his address to us - and he said we should follow up with relevant staff....)
I am writing to ask if you have any further info on exactly when, where and with whom these follow up discussions will occur?

You can email reply or call me on my cell (b) (6).

Thank you,
Nathan

Nathan Diament
Union of Orthodox Jewish Congregations of America

Tucker, Rachael (OAG)

From: Tucker, Rachael (OAG)
Sent: Friday, June 15, 2018 1:58 PM
To: Diament, Nathan; Treene, Eric (CRT)
Subject: RE: follow up

Hi Nathan,

The meetings I mentioned are currently just an idea we had. We have not run it up the chain and have no confirmed day or time. As soon as I get more information, I'll let you know.

Thanks,

Rachael

-----Original Message-----

From: Diament, Nathan (b) (6) >
Sent: Friday, June 15, 2018 12:54 PM
To: Treene, Eric (CRT) (b) (6)
Cc: Tucker, Rachael (OAG) (b) (6)
Subject: follow up

Duplicative Material



AG Sessions Criticized by Open Border Advocates and some Misinformed About Scripture



Attorney General Jeff Sessions has attracted a firestorm of criticism by quoting the Bible in reference to illegal immigration.

He cited Romans 13:1 – a verse about obeying the laws of the land – in supporting the policy of separating parents who are illegally entering the United States from their children at the border.

Critics have come from predictable as well as unexpected places, including some clergy.

While some rebuke comes from people who advocate open borders, some other criticism may be attributed an unfamiliarity with the original Hebrew words of the Bible.

In refuting Attorney General Sessions' Romans 13 comments, some have been

quick to cite Scripture that advises people to welcome “sojourners” into their land.

No one is disputing that “sojourners” should be welcomed into the United States.

Of course they should be welcomed because “*Ger/Toshab*,” the Hebrew words for “sojourner,” translates to ***legal immigrant***, one who has the right to reside in a nation.

The verses that critics of Attorney General Sessions are citing do not dispute his point, they validate it.

No one, especially my personal friend, the kind-hearted Attorney General Jeff Sessions, desires that a mother or father be separated from their children.

The Bible is chock full of God’s design for parents to “***bring up their children in the nurture and admonition of the Lord***” (Ephesians 6:4 KJV, cf. Proverbs 22:6). To achieve such requires parents being with their children.

But vocationally speaking, Jeff Sessions is appointed as the chief enforcer of the laws of our country. His job demands that he be true to the laws that Congress has enacted and presidents have signed into law.

In my Bible study on Immigration ([click here for study](#)), I point out that there are three classifications of people in every country, as was true in ancient Israel in the Old Testament (OT).

Note the three classifications (that are found in the study) below.

DISTINGUISHING VARIOUS PEOPLE IN ANCIENT ISRAEL

DESIGNATION	KNOWN AS	HEBREW WORD
Citizen	Countryman	<i>Ach</i>

Legal Immigrant	Sojourner	<i>Ger/Toashab</i>
Foreigner	Illegal	<i>Nokri/Zar</i>

No government should separate children from their parents who are citizens of the country, herein called countrymen. Nor should the state separate children from their parents who are migrating legally (sojourners). The remaining category listed above are illegal immigrants. Every country today follows these same OT distinctions.

It follows that when someone breaks the law of the land that they should anticipate that one of the consequences of their illegal behavior will be separation from their children.

Such is the case with thieves or murderers who are arrested and put in jail. The passage the Attorney General cited, Romans 13, bespeaks of this: there are and there should be serious, known consequences for breaking the laws of the land — otherwise the law becomes toothless and inconsequential and it is no longer a deterrent to harmful behavior, which is what God designed it to be.

The context of the Attorney General's comments is in regard to illegal immigrants only — not citizens or sojourners; in fact, the Attorney General's comments were informed by these biblical word distinctions. He was speaking only about those who are breaking the law when crossing our borders. He was not speaking about citizens or sojourners.

Every person who is thinking about breaking the law should consider the consequences. In this case, people who are breaking the law will result in their being separated from their children. Such consequences act as a deterrent to crime and curtail illegal immigration.

***Every person is to be in subjection to the governing authorities.
For there is no authority except from God, and those which exist***

are established by God. Therefore whoever resists authority has opposed the ordinance of God; and they who have opposed will receive condemnation upon themselves. For rulers are not a cause of fear for good behavior, but for evil. Do you want to have no fear of authority? Do what is good and you will have praise from the same; for it is a minister of good to you for good. But if you do what is evil, be afraid; for it does not bear the sword for nothing; for it is a minister of God, an avenger who brings wrath on the one who practices evil. Romans 13:1-4 (NASB)



Ralph Drollinger

President and Founder of Capitol Ministries

Hybart, Camden (JMD)

From: Hybart, Camden (JMD) Attorney General Sessions
Sent: Saturday, June 16, 2018 6:01 PM
To: (b) (6) ; (b) (6) ; (b) (6) ; (b) (6) ;
Subject: Fwd: Sorry for the heat

Sent from my iPhone

Begin forwarded message:

From: (b)(6) - Ralph Drollinger Email Address >
Date: June 16, 2018 at 11:15:27 AM EDT
To: "Hybart, Camden (JMD)" (b) (6) > Attorney General Sessions
Subject: Re: Sorry for the heat

Here to serve you 24/7 dear friend.

Make sure you read my immigration Bible Study. Often the secularist will fail to distinguish the Hebrew words and therein biblical differentiations between a countryman, sojourner and illegal as they formulate and argue against you/our laws.

I saw that very thing play out on CNN last night.
It's important for you to know those biblical distinctions when under attack. It will aid you in standing where you and PDT are at in the issue: A sojourner was one who was migrating into Israel legally!

So grateful for you. R

PS. These are the kinds of situations/biblical nuances where Franklin Graham's lack of seminary prep really comes out.

Sent from my iPhone

On Jun 16, 2018, at 08:04, Hybart, Camden (JMD)
<(b) (6)> wrote:

Attorney General Sessions

Thanks. I thought I was at least approximately correct. You are good friends. May call to get theological advice.

Sent from my iPhone

On Jun 15, 2018, at 7:25 PM, Ralph Drollinger

On Jun 15, 2016, at 7:25 PM, Ralph Drommiger

(b) (6) > wrote:

Mr. AG, you have taken the right position; you are upholding our laws; you are biblical.

The most simple solution is what Danielle says: No one is forcing people to come across our borders; if they want to keep their family together, then they shouldn't cross illegally. It is not as if America is forcing folks to come into our country illegally.

Since when does a person who breaks the law: steals or commits murder, for example, complain because he is being separated from his children as a result of his arrest?

Stand strong dear brother. Really proud of you. r

<ralph-sig.jpg>

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Monday, June 18, 2018 10:04 AM
To: Hamilton, Gene (OAG)
Subject: FW: Another candidate

From: Tony Perkins (b) (6)
Sent: Monday, June 18, 2018 8:46 AM
To: Whitaker, Matthew (OAG) (b) (6)
Subject: Another candidate

Matt,

I am interviewing this guy, (b) (6) on the immigration topic this morning. He wrote this below over the weekend.

Attorney General Jeff Sessions' June 14th statement about immigration policy is actually well thought-out and makes sense. The persons who are endangering children are those who are advocating for policies that will encourage massive increases in such attempts across the border. Here is Sessions' statement, which I have reordered somewhat for smoother arrangement, paying special attention to the question of what to do with illegal immigrants who come with children.

First, those who seek to retain the Obama administration's policy of not detaining illegal immigrants with children but releasing them with a court date (1) makes mush of US immigration law and (2) poses a greater danger to children.

(1) "The previous administration wouldn't prosecute illegal aliens who entered the country with children. It was de facto open borders. The results were unsurprising. More and more illegal aliens started showing up at the border with children. To illustrate, in 2013, there were fewer than 15,000 family units apprehended crossing our border illegally between ports of entry. Five years later, it was more than 75,000—a five-fold increase in five years." To this can be added that 80% of those released don't return for their scheduled court date.

(2) "It should be noted the perils to which these parents subject their children." "Importantly, children are far more at risk attempting entry in remote areas." "Hundreds of aliens die every year trying to make it to the border to illegally enter this country. In many cases, children are trafficked, abused, or recruited by criminal gangs. No one should subject their child to this treacherous journey—and yet the open borders lobby encourages it every day.... The open borders, pro-amnesty crowd encouraged that—and they have the gall to attack those of us who want to end this lawlessness and the dangers these children face.... Criminal networks spread the lie that kids could get amnesty. As a result, tens of thousands of vulnerable children made the dangerous journey North—with terrible humanitarian consequences."

"But the Trump administration is ending the Obama-era incentives to bring children here illegally. Last September, the Trump administration ended DACA. And now that DACA is over, the criminals can't spread the lie that kids can get amnesty. Our policies are discouraging people from making children and driving that

the lie that kids can get amnesty. Our policies are discouraging people from making children endure that treacherous journey. Everything the open borders lobby is doing is encouraging that and endangering these children. It's that simple."

Second, separation of children from parent(s) is common for criminal offenses and, in the case of illegal immigration, normally of short duration.

"Our policies that can result in short term separation of families is not unusual or unjustified. American citizens that are jailed do not take their children to jail with them. And non-citizens who cross our borders unlawfully —between our ports of entry—with children are not an exception." "Having children does not give you immunity from arrest and prosecution. It certainly doesn't give immunity to American citizens." In an oral, parenthetical remark to his formal speech, Sessions noted: "Normally the adults are only held in custody for a week or two before they enter a plea of guilty for time served and allowed to go home with their children."

Children can't be, shouldn't be, and aren't jailed with a parent but protected during a parent's short detention period: "We are not sending children to jail with their parents. The law requires that children who cannot be with their parents be placed in custody of the Department of Health and Human Services within 72 hours. We currently spend more than \$1 billion a year in taxpayer dollars taking care of unaccompanied illegal alien minors. Most are in HHS custody. They are provided food, education in their native language, health and dental care, and transported to their destination city—all at taxpayer expense."

"[The parents] are the ones who broke the law, they are the ones who endangered their own children on their trek. The United States on the other hand, goes to extraordinary lengths to protect them while the parents go through a short detention period.... If the adults go to one of our many ports of entry to claim asylum, they are not prosecuted and the family stays intact pending the legal process. The problem is that it became well known that adults with children were not being prosecuted for unlawful entry and the numbers surged."

Third, the Obama administration encouraged abuse of claims of asylum, which now needs to be pulled back.

"Beginning in 2009, the previous Administration released most aliens apprehended at the border who requested asylum into the United States with a document asking them to show up for a hearing at some later date. Word spread quickly that by asserting a fear of returning to one's home country, one could remain in the United States. The results are just what one would expect. The number of illegal entrants has surged. Asylum claims skyrocketed.... The number of these aliens placed in immigration court proceedings went from fewer than 4,000 [in 2009] to more than 73,000 by 2016—nearly a 19-fold increase [in only seven years]."

"We have also returned the asylum process to what Congress intended it to be. If you don't meet the requirements for asylum in this country, then you do not receive asylum here. That should not be a controversial idea." "Under the INA, asylum is available for those who leave their home country because of persecution or fear on account of race, religion, nationality, membership in a particular social group, or political opinion. Asylum was never meant to solve all problems—even all serious problems—that people face every day all over the world."

"You may have heard that I have 'restricted' asylum eligibility or 'denied' asylum eligibility to certain people. But that's not exactly right. I have not made new law—I have simply restated and implemented what Congress has passed: asylum is generally not for those who have suffered a private act of violence. It is for members of groups who are persecuted by the state or whom the state will not protect from persecution. Members of those groups cannot go somewhere else in their home country. Most victims of private crimes can. Think about it. There are victims of crime all over the world—1.2 million violent crimes are committed every year in this country alone. Are all 1.2 million of these victims automatically entitled to asylum in Canada, the United Kingdom, or anywhere else they choose?"

Fourth, US immigration policy is already generous.

"We allow in 1.1 million legal immigrants on a path to citizenship every year. Another 700,000 come here explicitly for jobs. Another half a million come here to attend our universities and colleges." Implication: Opposition to *illegal* immigration is not an anti-immigrant position.

Fifth, illegal immigration has been so out of control for years that US immigration law has become a joke.

"President Obama used his pen and phone to do something he said he couldn't legally do. In July 2012—a few months before he was up for re-election—President Obama announced that he would give legal status to 800,000 illegal aliens—along with work authorization and other benefits, like Social Security. Congress had rejected this proposal on multiple occasions—but President Obama did it anyway. Again, the result was not a surprise: the number of unaccompanied alien children arriving at our border nearly doubled in one year. The next year, it doubled again.... We agree with President Obama: he didn't have the legal authority to give any legal status to illegal aliens without Congress. That's why this unlawful policy is over."

"And then, in 2014, the Obama Administration doubled down and attempted to expand its unlawful amnesty to any illegal alien here since 2010. Towards the end of the last administration, prosecutions for illegal entry and reentry both declined, and sanctuary policies were encouraged, eroding relationships with state and local law enforcement officers that had taken decades to build. Sanctuary policies are when cities or states refuse to cooperate with federal immigration enforcement. If they've got somebody in custody who is wanted for deportation—they release them back into the community. At their root, they are a rejection of all immigration law.... The question is whether cities and states have the right under the Constitution to actively undermine the supreme law of the land—a question that has been settled repeatedly in the negative since 1819....

"Meanwhile in Congress, efforts to end illegal immigration have been blocked at every turn. Any law enforcement policies are attacked by open borders radicals and well-paid lobbyists. Every time something is proposed that would end illegal immigration, it gets blocked. If it works, it gets blocked. If it doesn't work—if it won't end illegal immigration—then the elites and the Washington insiders are all for it."

Sixth, Christians should support the lawful arrest, prosecution, and deportation of persons who enter the United States illegally and don't wait their turn like law-abiding immigrants. The alternative is a disastrous policy of open borders.

"Under the laws of this country, illegal entry is a misdemeanor. Re-entry after having been deported is a felony. Under the law, we are supposed to prosecute these crimes.... If you cross the Southwest border unlawfully, then the Department of Homeland Security will arrest you and the Department of Justice will prosecute you. That is what the law calls for—and that is what we are going to do."

"Illegal entry into the United States is a crime—as it should be. Persons who violate the law of our nation are subject to prosecution. I would cite you to the Apostle Paul and his clear and wise command in Romans 13, to obey the laws of the government because God has ordained them for the purpose of order. Orderly and lawful processes are good in themselves and protect the weak and lawful."

"I have given the idea of immigration much thought and have considered the arguments of our Church leaders. I do not believe scripture or church history or reason condemns a secular nation state for having reasonable immigration laws. If we have them, then they should be enforced. A mere desire to benefit from entry to the nation does not justify illegal entry."

"We have to make a choice: do we continue to allow the word to spread that you can come here illegally and there will be no consequences—or do we finally send the message that we enforce our laws? In the Trump administration, we enforce the law. There is no right or entitlement—legal or moral—to come to this country. Immigration is a privilege that the American people have chosen to grant in certain cases."

"We've got a choice here. We either have open borders or we have laws. It's one or the other. Some people

in the media have chosen to attack us for enforcing the law. That doesn't surprise me. But I'm not ashamed of the United States of America. I am not going to apologize for carrying out our laws. That is my duty."

"President Trump made a generous offer to the Democrats in Congress. He offered to give DACA recipients true legal status if we can build a wall, close the loopholes, and switch from chain migration and the visa lottery to a merit-based system. The Democrats' refusal of this offer is baffling. He simply asked that they agree to a permanent solution to the problem. Why wouldn't you want to end the illegality?

"Our goal is not radical. What is radical is the open borders policies that have been pushed on us time and again by the elites and the Washington insiders. Our goal is that immigrants should apply, wait their turn, and that people stop making that dangerous trek across the desert rather than coming here unlawfully. If they meet the standards, then they can be admitted—and those standards should advance the national interest. If we succeed in this—if we finally get a system we can be proud of—then we will start a virtuous cycle of lawfulness, safety, and prosperity. The American people have been patient. We have been waiting for 30 years. They want us to seize this opportunity that we have right now. It's time that we finally deliver a lawful system of immigration that benefits them.

Tony Perkins

President, Family Research Council

President, Council for National Policy

"FAMILY RESEARCH COUNCIL'S MISSION IS TO ADVANCE FAITH, FAMILY AND FREEDOM IN PUBLIC POLICY AND THE CULTURE FROM A CHRISTIAN WORLDVIEW."

Not Responsive Records

From: "Davis, Valorie A (OLP)" <(b) (6)>

Date: June 18, 2018 at 5:09:23 AM PDT

To: "OLP-ALL (JMD)" <(b) (6)>

Subject: Morning Digest

Good morning,

**Department of Justice
Morning News Digest
June 18, 2018
08:00 AM EDT**

Not Responsive Records

Not Responsive Records



- Analysis on separating children from their parents policy and the proposal on new immigration policy. [\[CBS\]](#)

Not Responsive Records



MORNING HEADLINES

- "Leading Republicans Join Democrats in Pushing Trump to Halt Family Separations"
[\[NYT\]](#)

Not Responsive Records



- "Trump Policy of Separating Migrant Families Threatens to Engulf Immigration Talks"
[\[WSJ\]](#)

Not Responsive Records



Not Responsive Records

DEPARTMENT OF JUSTICE

TWITTER: Hakeem Jeffries | rtch , **@RepJeffries**, June 18, 2019, 7:19 AM

You are a stone cold liar.

[@SecNielsen: We do not have a policy of separating families at the border. Period.*]

[\[Read\]](#)

Not Responsive Records

TWITTER: Eric Tucker | rtch , **@etuckerAP**, June 18, 2018, 6:54: AM

Family separation policy starts dividing Republicans (from [@AP](#)). [\[Read\]](#)

Not Responsive Records

PRINT: "Family Separation Policy Starts Dividing Republicans", New York Times, Byline: Associated Press, June 18, 2018, 4:44 AM

The emotional policy of separating children from their parents is also starting to divide Republicans and their allies as Democrats turn up the pressure. [\[Continue reading\]](#)

Not Responsive Records

PRINT: "Melania Trump speaks out against child separations at border: 'Hate to see it,'" The Guardian, Byline: Lois Beckett, June 18, 2018, 3:39 AM

Melania Trump's spokeswoman has said the first lady "hates to see children separated from their families", in a rare public statement at odds with her husband's policy of separating children from their parents at the Mexico border. [\[Continue Reading\]](#)

TV: Meet the Press, WCAU-PHI (NBC) (Philadelphia, PA), June 18, 2018, 3:24 AM

Analysis on family separation policy between panelists Al Cardenas, Helene Cooper, Bret Stephens and Carol Lee. [\[Watch\]](#)

TV: NM Meet the Press, KOB-ABQ (NBC) (Albuquerque, NM), June 18, 2018, 2:16 AM

Counselor to President Trump, Kellyanne Conway, explains the new immigration family separation policy. [\[Watch\]](#)

Not Responsive Records

Not Responsive Records

PRINT: "John Oliver Exposes Trump's Lies About His Border Child Separation Policy," *The Daily Beast*, Byline: Marlow Stern, June 17, 2018, 11:49 PM

On Sunday's edition of Last Week Tonight, host John Oliver directed much of his ire toward the Trump administration's unspeakably cruel policy of separating children from their families at the border and housing them in prison-like facilities. [\[Continue Reading\]](#)

Not Responsive Records

Not Responsive Records

US JUSTICE SYSTEM

Not Responsive Records

PRINT: "DHS Secretary Says There's No Family Separation Policy 'Period',"
***Huffington Post*, Byline: Nick Visser, June 18, 2018, 2:28 AM**

Department of Homeland Security Secretary Kirstjen Nielsen defended her agency's role at the U.S. border with Mexico on Sunday, saying there was no family separation policy.
[\[Continue reading\]](#)

PRINT: "DHS: Almost 2,000 children separated from parents at border since April,"

KVOA, Byline: Eric Fink, June 18, 2018, 12:53 AM

Immigration has been President Donald Trump's go-to issue since he began his candidacy for the White House three years ago. Attorney General Jeff Sessions has quoted the bible to justify a zero-tolerance policy the Department of Justice started this spring that's resulted in children being separated from their parents at the border. [\[Continue reading\]](#)

Not Responsive Records

PRINT: "Laura Bush says immigration policy 'cruel'," Associated Press, Byline: Unattributed, June 17, 2018, 11:45 PM

Former first lady Laura Bush says the policy of separating immigrant parents and children along the nation's southern border is "cruel," "immoral" and "it breaks my heart." [\[Continue reading\]](#)

Not Responsive Records

Not Responsive Records

PRINT: "DHS Secretary Kirstjen Nielsen Denies Existence of Trump Policy Separating Families at Border," *Medialte*, Byline: Aidan McLaughlin, June 17, 2018, 7:32 PM

You know the Trump administration's policy of separating families at the border, that the president himself blamed on Democrats? Department of Homeland Security Secretary Kirstjen Nielsen declared on Sunday that policy does not exist. [\[Continue reading\]](#)

Not Responsive Records

PRINT: "Protections for immigrants erode under Trump since inaugural," *Associated Press*, Byline: Amy Taxin, June 17, 2018, 6:28 PM

The Trump administration's move to separate immigrant parents from their children on the U.S.-Mexico border has grabbed attention around the world, drawn scorn from human-rights organizations and overtaken the immigration debate in Congress. [\[Continue reading\]](#)

Not Responsive Records

PRINT: "Avenatti offers legal services to migrant parents who have been

separated from their children,” *The Hill*, Byline: Julia Manchester, June 17, 2018, 5:43 PM

Michael Avenatti on Sunday offered legal services to migrant parents who have been separated from their children at the U.S. southern border. [\[Continue reading\]](#)

Not Responsive Records

PRINT: “Chief Acevedo and other law enforcement slam Trump's family separation policy,” *Chron*, Byline: St. John Bared-Smith, June 17, 2018, 5:33 PM

Law enforcement leaders in Houston and elsewhere joined in Sunday on condemning President Donald Trump's 'zero-tolerance' immigration policy, which is leading to the separation of thousands of young children from their parents in recent weeks. [\[Continue reading\]](#)

TV: CBS Weekend News, CBS News, June 17, 2018, 5:31 PM

Analysis on separating children from their parents policy and the proposal on new immigration policy. [\[Watch\]](#)

Not Responsive Records

RENDON Media News Alert Notice:

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Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Monday, June 18, 2018 3:55 PM
To: Hamilton, Gene (OAG) (b) (6)
Subject: FW: SHORT FUSE FOR REVIEW: Inaction on Family Separation
Attachments: Congressional Democrats Inaction On Family Separation.docx

From: Staff Secretary (b) (6) >
Sent: Monday, June 18, 2018 3:52 PM
To: (b)(6) per DHS (b)(6) per DHS ; (b)(6) per DHS ; Whitaker, Matthew (OAG) (b) (6) ; Yeager, Demi (OAG) (b) (6) ; (b)(6) per State (b)(6) per State (b)(6) per State ; Kenna, Lisa EOP (b)(6) per State (b)(6) per State
Cc: Staff Secretary (b) (6)
Subject: SHORT FUSE FOR REVIEW: Inaction on Family Separation

Attached please find a factsheet for release as soon as possible.

A factual review only is requested from: **DHS, DOJ and DOS**. All other components are invited to comment, but affirmative clearance is not required.

Please send comments to Staff Sec by **4:30 today**. If unable to make this deadline and you anticipate having critical non-concur edits please advise by 4:30pm.

Thank you,

Staff Sec

-
NOTE: HATCH ACT RESTRICTIONS APPLY. Accordingly, per instruction from the White House Counsel's Office, review for issues beyond accuracy (such as for political consistency or effective messaging) should not be performed by noncommissioned officers or using official equipment and office space. Commissioned officers should not use official equipment to review for issues beyond accuracy (such as for political consistency or effective messaging). If you have any questions pertaining to Hatch Act restrictions with respect to review of these remarks, please be sure to consult with your designated ethics officer.

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Monday, June 18, 2018 4:22 PM
To: Hamilton, Gene (OAG) (b) (6)
Subject: FW: SHORT FUSE FOR REVIEW: Inaction on Family Separation
Attachments: Congressional Democrats Inaction On Family Separation.docx

From: Staff Secretary (b) (6)
Sent: Monday, June 18, 2018 4:14 PM
To: Staff Secretary (b) (6); (b)(6) per DHS;
(b)(6) per DHS; (b)(6) per DHS; Whitaker, Matthew (OAG)
(b) (6); Yeager, Demi (OAG) (b) (6); (b)(6) per State
(b)(6) per State; (b)(6) per State; Kenna, Lisa EOP (b)(6) per State; (b)(6) per State
Subject: RE: SHORT FUSE FOR REVIEW: Inaction on Family Separation

Update: this distribution is not subject to the Hatch Act. Please provide a full a full review of the attached document. Updated deadline is 4:45 and please advise if unable to meet that deadline.

From: Staff Secretary
Sent: Monday, June 18, 2018 3:52 PM
To: (b)(6) per DHS; (b)(6) per DHS; (b)(6) per DHS
(b)(6) - Matthew Whitaker Email Address; (b)(6) - Demi Yeager Email Address; (b)(6) per State; (b)(6) per State;
(b)(6) per State; Kenna, Lisa EOP (b)(6) per State; (b)(6) per State
Cc: Staff Secretary (b) (6)
Subject: SHORT FUSE FOR REVIEW: Inaction on Family Separation

Duplicative Material



Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Wednesday, June 20, 2018 6:41 PM
To: Bryant, Errical (OAG)
Cc: Hamilton, Gene (OAG); McKinney, Suzanna (OAG)
Subject: Fwd: Call Request Tonight from Secretary Nielsen

Begin forwarded message:

From: "Taylor, Miles" (b)(6) per DHS
Date: June 20, 2018 at 6:33:23 PM EDT
To: "Peter.Urbanowicz@hhs.gov"
<Peter.Urbanowicz@hhs.gov>, (b)(6) - Matthew Whitaker Email Address
(b)(6) - Matthew Whitaker Email Address>, "kevin.sweeney" (b)(6) per DOD
<kevin.sweeney (b)(6) per DOD>, "john.m.mulvaney" (b)(6) per OMB
(b)(6) per OMB>, Kathleen.L.Kraninger (b)(6) per OMB
(b)(6) per OMB
Cc: (b)(6) per DHS>, "Wolf, Chad"
(b)(6) per DHS, "Lim, Evelyn" (b)(6) per DHS>, "Grady, Claire"
(b)(6) per DHS>
Subject: Call Request Tonight from Secretary Nielsen

All,

Your front offices should be receiving a request soon for a call this evening around 8pm between DHS, DOJ, HHS, DOD, OMB, WH Counsel, et al to discuss operationalizing the President's Executive Order on addressing family separation. The Secretary will be leading from DHS along with several key DHS leaders and requests senior representation from your departments / agencies.

For convenience, the EO text is pasted below.

M

Miles Taylor
Deputy Chief of Staff
U.S. Department of Homeland Security
M: (b)(6) per DHS

THE WHITE HOUSE
Office of the Press Secretary

FOR IMMEDIATE RELEASE

June 20, 2018

EXECUTIVE ORDER

AFFORDING CONGRESS AN OPPORTUNITY TO ADDRESS FAMILY SEPARATION

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, it is hereby ordered as follows:

Section 1. Policy. It is the policy of this Administration to rigorously enforce our immigration laws. Under our laws, the only legal way for an alien to enter this country is at a designated port of entry at an appropriate time. When an alien enters or attempts to enter the country anywhere else, that alien has committed at least the crime of improper entry and is subject to a fine or imprisonment under section 1325(a) of title 8, United States Code. This Administration will initiate proceedings to enforce this and other criminal provisions of the INA until and unless Congress directs otherwise. It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources. It is unfortunate that Congress's failure to act and court orders have put the Administration in the position of separating alien families to effectively enforce the law.

Sec. 2. Definitions. For purposes of this order, the following definitions apply:

(a) "Alien family" means

(i) any person not a citizen or national of the United States who has not been admitted into, or is not authorized to enter or remain in, the United States, who entered this country with an alien child or alien children at or between designated ports of entry and who was detained; and

(ii) that person's alien child or alien children.

(b) "Alien child" means any person not a citizen or national of the United States who

(i) has not been admitted into, or is not authorized to enter or remain in, the United States;

(ii) is under the age of 18; and

(iii) has a legal parent-child relationship to an alien who entered the United States with the alien child at or between designated ports of entry and who was detained.

Sec. 3. Temporary Detention Policy for Families Entering this Country Illegally. (a) The Secretary of Homeland Security (Secretary), shall, to the extent permitted by law and subject to the availability of appropriations, maintain custody of alien families during the

pendency of any criminal improper entry or immigration proceedings involving their members.

(b) The Secretary shall not, however, detain an alien family together when there is a concern that detention of an alien child with the child's alien parent would pose a risk to the child's welfare.

(c) The Secretary of Defense shall take all legally available measures to provide to the Secretary, upon request, any existing facilities available for the housing and care of alien families, and shall construct such facilities if necessary and consistent with law. The Secretary, to the extent permitted by law, shall be responsible for reimbursement for the use of these facilities.

(d) Heads of executive departments and agencies shall, to the extent consistent with law, make available to the Secretary, for the housing and care of alien families pending court proceedings for improper entry, any facilities that are appropriate for such purposes. The Secretary, to the extent permitted by law, shall be responsible for reimbursement for the use of these facilities.

(e) The Attorney General shall promptly file a request with the U.S. District Court for the Central District of California to modify the Settlement Agreement in *Flores v. Sessions*, CV 85-4544 ("*Flores* settlement"), in a manner that would permit the Secretary, under present resource constraints, to detain alien families together throughout the pendency of criminal proceedings for improper entry or any removal or other immigration proceedings.

Sec. 4. Prioritization of Immigration Proceedings Involving Alien Families. The Attorney General shall, to the extent practicable, prioritize the adjudication of cases involving detained families.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
June 20, 2018.

.....

###

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Wednesday, June 20, 2018 7:19 PM
To: Taylor, Miles
Subject: Re: Call Request Tonight from Secretary Nielsen

Miles: both the AG and me will be on the call. MW

On Jun 20, 2018, at 6:33 PM, Taylor, Miles <(b)(6) per DHS> wrote:

Duplicative Material



Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Wednesday, June 20, 2018 7:50 PM
To: Hybart, Camden (JMD) Attorney General Sessions
Subject: Fwd: Call Request Tonight from Secretary Nielsen

Call canceled.

Begin forwarded message:

From: "Taylor, Miles" (b)(6) per DHS >
Date: June 20, 2018 at 7:44:02 PM EDT
To: "Peter.Urbanowicz@hhs.gov"
<Peter.Urbanowicz@hhs.gov>, (b)(6) - Matthew Whitaker Email Address
(b)(6) - Matthew Whitaker Email Address "kevin.sweeney" (b)(6) per DOD
<kevin.sweeney (b)(6) per DOD>, "john.m.mulvaney" (b)(6) per OMB
(b)(6) per OMB, Kathleen.L.Kraninger (b)(6) per OMB
(b)(6) per OMB >
Cc: (b)(6) per DHS >, "Wolf, Chad"
(b)(6) per DHS "Lim, Evelyn" (b)(6) per DHS >, "Grady, Claire"
(b)(6) per DHS >
Subject: Re: Call Request Tonight from Secretary Nielsen

Hi all,

Apologies we are going to need to postpone. We anticipate putting something back on potentially tomorrow as we sort through the key policy issues we will need to confer on.

Thank you for your patience.

M

Miles Taylor
Deputy Chief of Staff
U.S. Department of Homeland Security
M: (b)(6) per DHS

On Jun 20, 2018, at 6:33 PM, Taylor, Miles (b)(6) per DHS > wrote:

Duplicative Material



Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Thursday, June 21, 2018 1:27 PM
To: Flores, Sarah Isgur (OPA)
Subject: Re: Draft quote

I support what you want

On Jun 21, 2018, at 1:23 PM, Flores, Sarah Isgur (OPA) (b) (6) > wrote:

(b) (5)

(b) (5)

Given that, do yall have objections to below>?

xxx

Sarah Isgur Flores
Director of Public Affairs
(b) (6)

From: Flores, Sarah Isgur (OPA)
Sent: Thursday, June 21, 2018 1:14 PM
To: 'Gidley, Hogan H. EOP/WHO' (b) (6)
Cc: Sanders, Sarah H. EOP/WHO <(b) (6)> Shah, Raj S. EOP/WHO
(b) (6) >; (b)(6) per DHS; (b)(6) per DHS Schlapp,
Mercedes V. EOP/WHO <(b) (6)>
Subject: RE: Draft quote

(b) (5)

xxx

Sarah Isgur Flores
Director of Public Affairs
(b) (6)

From: Gidley, Hogan H. EOP/WHO (b) (6)
Sent: Thursday, June 21, 2018 1:09 PM
To: Flores, Sarah Isgur (OPA) (b) (6) >
Cc: Sanders, Sarah H. EOP/WHO <(b) (6)> Shah, Raj S. EOP/WHO
(b) (6) (b)(6) per DHS (b)(6) per DHS; Schlapp,
Mercedes V. EOP/WHO <(b) (6)>
Subject: Re: Draft quote

(b) (5)

(b) (5)



Sent from my iPhone

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Friday, June 22, 2018 8:43 AM
To: Rosenstein, Rod (ODAG); Engel, Steven A. (OLC)
Subject: No subject

Twitter: Charlie Savage @charlie_savage, June 21, 2018, 4:09 PM

DOJ court filing makes clear Trump admin doesn't think it can hold families together for more than 20 days. Since the admin is determined to detain adults during immigration proceedings, if court or Congress doesn't act in interim, seems likely separations resume in 19 days. Which means Trump didn't really back down or retreat or get out-maneuvered at all. Rather, he used the separations to pressure Judge Gee (or Congress) to expand executive power to indefinitely detain entire families. If they don't, he can blame them when separations resume.

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Friday, June 22, 2018 3:00 PM
To: (b)(6) - Matt Whitaker Email Address
Subject: Fwd: fyi

Begin forwarded message:

From: "Cutrona, Danielle (OAG)" (b)(6)
Date: June 22, 2018 at 2:41:34 PM EDT
To: "Flores, Sarah Isgur (OPA)" (b)(6) >, "Devin M. O'Malley" (b)(6) >, "Hamilton, Gene (OAG)" (b)(6) >, "Whitaker, Matthew (OAG)" (b)(6) >
Subject: fyi

This is the NYT by the way.

Patricia Mazzei  **Verified account** @PatriciaMazzei
Follow Follow @PatriciaMazzei

More

Just toured the temporary shelter for unaccompanied children in Homestead, Fla. This is the second largest shelter in the country, after the one in Tornillo, Texas. No photo or video was allowed. Or interviews of kids. A few observations:

9:08 AM - 22 Jun 2018



1. **Patricia Mazzei**  **Verified account** @PatriciaMazzei 2h2 hours ago

Reporters were not shown anything that resembled cages or kennels for children. "We just don't operate that way," the director said. This is a former Department of Labor Job Corps site. It has fully equipped dorm buildings.



2. **Patricia Mazzei**  **Verified account** @PatriciaMazzei 2h2 hours ago

More
Children are separated by age and gender, in groups of 12. They move around the large site

in lines with a staff member. They wear badges that are scanned every time they go into a building. There are many more boys (792) than girls (387).

— @PatriciaMazzei



3. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

More 70 children have been separated from their parents, the director estimated. (It was 94 earlier this week, per Department of Health and Human Services.) The rest arrived to the U.S. by themselves. Only teenagers ages 13-17 are taken in at this shelter. It has room for 1,350.

— @PatriciaMazzei



4. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

More The vast majority of the children are from El Salvador, Guatemala and Honduras, the director said. Posters and instructions are written in English and Spanish. Most of the staff appeared to be bilingual.

— @PatriciaMazzei



5. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

More The shelter was reopened on March 29 to cope with an influx of children arriving into the country. It had closed down last year after the number of arrivals dwindled. HHS scouted out the site in 2015 and opened the shelter in 2016.

— @PatriciaMazzei



6. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

When they arrive, children are given five days' worth of clothes and a hygiene kit, and assigned a bunk bed. The average stay is 25 days, the director said. Most children are eventually placed with a sponsor in the U.S., often a parent, relative, or family friend.

— @PatriciaMazzei



7. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

More At the shelter, children follow a schedule that includes time for reading, English classes, math and other schooling, meals, sports and counseling. They get two 10-minute phone calls a week. To promote good behavior, they let children watch movies or sporting events on weekends.

— @PatriciaMazzei




8. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

More The World Cup is in high demand at the shelter, the director said. A match will be shown Friday night (not live). Several classrooms they showed us had posters on the wall with students' World Cup predictions.



— @PatriciaMazzei



9.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
We saw boys playing soccer and basketball, and girls moving from classrooms to the dining hall. The director said one boy tried to escape since March. He ran around the campus before staff reached him. He was "anxious," the director said, and later calmed down.


10.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
Several of the kids said "Good morning" or "Buenos días" to the visiting reporters. Some carried workbooks. The walls are decorated with art made by the children, as well as posters about American civics. There are signs posted for how to report harassment or sexual abuse.



11.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
Florida Sen. Bill Nelson and Rep. Debbie Wasserman Schultz were denied access to this shelter earlier this week. Nelson decried a "coverup." They will now be touring it on Saturday, along with other lawmakers. Another tour will take place today, including for Sen. Marco Rubio.


12.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
He said it needed time to set up tours that wouldn't interfere with shelter operations.


13.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
The director insisted that the shelter is "not a detention facility," but of course, children aren't free to roam or leave.


14.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
Another interesting nugget: The children are not used to air conditioning, the director said, which explains why we saw so many of them carrying sweaters.


15.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
The facility, by the way, is expecting more children to arrive in the coming days.


16.  **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago
To tackle a few questions: The teachers at the facility are not provided by the local school district. They have been hired directly by the contractor operating the shelter. Not all of them

are certified.

—



17. **Patricia Mazzei** [Verified account](#) @PatriciaMazzei 2h2 hours ago

There are guards across the facility. They did not appear to be armed. The facility is surrounded by chain-link fence.

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Tuesday, June 26, 2018 12:08 AM
To: Hamilton, Gene (OAG)
Subject: Fwd: FOR REVIEW: Family Reunification Process Factsheet
Attachments: Family Reunifaction Process Factsheet V.7 SS WHCO.docx; ATT00001.htm

Begin forwarded message:

From: Staff Secretary (b) (6)
Date: June 25, 2018 at 5:48:47 PM PDT
To: Staff Secretary (b) (6), "Davis, May M. EOP/WHO"
(b) (6), "Miller, Stephen EOP/WHO"
(b) (6), "Collins, Rachel E. EOP/WHO"
(b) (6), "Williams, Erkia D. EOP/NSC"
(b) (6), >, DL NSC WWD (b) (6), "DL NSC
PaperDeputies" <(b) (6)>, "Mizelle, Chad R. EOP/WHO"
(b) (6), "Donaldson, Annie M. EOP/WHO"
(b) (6), "Eisenberg, John A. EOP/NSC"
(b) (6), >, "Amin, Stacy C. EOP/WHO"
(b) (6), >, "Stecker, Judy (OS/ASPA)"
<Judy.Stecker@hhs.gov>, "Brennan, Patrick (OS/ASPA)"
<Patrick.Brennan@hhs.gov>, "Bobb, Christina" (b)(6) per DHS, "Hahn, Julia
A. EOP/WHO" (b) (6), (b)(6) - Matthew Whitaker Email Address"
(b)(6) - Matthew Whitaker Email Address>, (b)(6) - Demi Yeager Email Address
(b)(6) - Demi Yeager Email Address>, "Sanders, Sarah H. EOP/WHO"
(b) (6), >, "Schlapp, Mercedes V. EOP/WHO"
(b) (6), "Conway, Kellyanne E. EOP/WHO"
(b) (6), >, "Hudson, Renee R. EOP/WHO"
(b) (6), "Radford, Julie T. EOP/WHO"
(b) (6) >
Subject: RE: FOR REVIEW: Family Reunification Process Factsheet

Attached is the updated version. Please send edits by 8:15 AM tomorrow, 6/26.

(b) (5)

STAFF SEC

From: Salvi, Mary E. EOP/WHO
Sent: Monday, June 25, 2018 7:35 PM
To: Staff Secretary (b) (6); Davis, May M. EOP/WHO
(b) (6), >, Miller, Stephen EOP/WHO (b) (6)
Collins, Rachel E. EOP/WHO (b) (6), Williams, Erkia D. EOP/NSC

(b) (6)
(b) (6) >; DL NSC WWD <(b) (6)>; DL NSC PaperDeputies
(b) (6) Mizelle, Chad R. EOP/WHO (b) (6)
Donaldson, Annie M. EOP/WHO (b) (6); Eisenberg, John A.
EOP/NSC (b) (6); Amin, Stacy C. EOP/WHO
(b) (6) >; Stecker, Judy (OS/ASPA) <Judy.Stecker@hhs.gov>; Brennan,
Patrick (OS/ASPA) <Patrick.Brennan@hhs.gov>; Bobb, Christina (b)(6) per DHS >;
Hahn, Julia A. EOP/WHO (b) (6); (b)(6) - Matthew Whitaker Email Address
(b)(6) - Demi Yeager Email Address Sanders, Sarah H. EOP/WHO <(b) (6)>
Schlapp, Mercedes V. EOP/WHO <(b) (6)>
Subject: RE: FOR REVIEW: Family Reunification Process Factsheet

Please hold on review.

From: Staff Secretary
Sent: Monday, June 25, 2018 7:22 PM
To: Davis, May M. EOP/WHO (b) (6) >; Miller, Stephen EOP/WHO
(b) (6); Collins, Rachel E. EOP/WHO
(b) (6); Williams, Erkia D. EOP/NSC (b) (6);
DL NSC WWD (b) (6); DL NSC PaperDeputies (b) (6) >;
Mizelle, Chad R. EOP/WHO (b) (6) Donaldson, Annie M. EOP/WHO
(b) (6); Eisenberg, John A. EOP/NSC
(b) (6) >; Amin, Stacy C. EOP/WHO (b) (6)
Stecker, Judy (OS/ASPA) <Judy.Stecker@hhs.gov>; Brennan, Patrick (OS/ASPA)
<Patrick.Brennan@hhs.gov>; Bobb, Christina (b)(6) per DHS >; Hahn, Julia A.
EOP/WHO (b) (6) >; (b)(6) - Matthew Whitaker Email Address
(b)(6) - Demi Yeager Email Address; Sanders, Sarah H. EOP/WHO (b) (6)
Schlapp, Mercedes V. EOP/WHO (b) (6)
Cc: Staff Secretary (b) (6)
Subject: RE: FOR REVIEW: Family Reunification Process Factsheet

Attached is the revised family reunification factsheet. Please send any clear error edits by the end of the day today.

(b) (5)

Thank you.

STAFF SEC

From: Salvi, Mary E. EOP/WHO
Sent: Sunday, June 24, 2018 2:50 PM
To: Miller, Stephen EOP/WHO (b) (6) >; Bremberg, Andrew P.
EOP/WHO (b) (6) >; Donaldson, Annie M. EOP/WHO
(b) (6) >; Eisenberg, John A. EOP/NSC
(b) (6) >; DL NSC PaperDeputies (b) (6) >;
Greenwood, Daniel Q. EOP/WHO <(b) (6)> Pinkos, Stephen M.
EOP/OVP <(b) (6)>; Sanders, Sarah H. EOP/WHO
(b) (6); Schlapp, Mercedes V. EOP/WHO
(b) (6) (b)(6) per DHS >;
(b)(6) - Matthew Whitaker Email Address whitehouseclearances@state.gov; Ann.Agnew@hhs.gov;
Hoelscher, Douglas L. EOP/WHO (b) (6) >; McGinley, William J.

EOP/WHO (b) (6) >; Clark, Justin R. EOP/WHO
(b) (6); DeStefano, John J. EOP/WHO (b) (6)
Conway, Kellyanne E. EOP/WHO (b) (6); Liddell, Christopher P.
EOP/WHO < (b) (6) Radford, Julie T. EOP/WHO
(b) (6) Davis, May M. EOP/WHO (b) (6)
Cc: Staff Secretary (b) (6) Policy Coordinator
(b) (6)
Subject: FOR REVIEW: Family Reunification Process Factsheet

Attached is a factsheet on the process for family reunification.

Affirmative clearance requested from **DHS, HHS, DPC, NSC, and WHCO**. Please send edits and comments by **9 AM tomorrow, 6/25**.

STAFF SEC

Williams, Beth A (OLP)

From: Williams, Beth A (OLP)
Sent: Tuesday, June 26, 2018 11:03 PM
To: Edlow, Joseph E. (OLP)
Subject: Re: House Bill

Thanks, Joe. I just landed back in DC. Let's discuss tomorrow. I will forward you more of the discussion that came in.

Sent from my iPhone

On Jun 26, 2018, at 9:41 PM, Edlow, Joseph E. (OLP) (b) (6) > wrote:

(b) (5)



Sent from my iPhone

On Jun 26, 2018, at 8:49 PM, Williams, Beth A (OLP) (b) (6) > wrote:

Joe, see the discussion below. Do you have thoughts on the DAG's question?
Thanks

Sent from my iPhone

Begin forwarded message:

From: "Rosenstein, Rod (ODAG)" <(b) (6)>
Date: June 26, 2018 at 8:36:21 PM EDT
To: "Wetmore, David H. (ODAG)"
(b) (6) >, "Hamilton, Gene (OAG)"
(b) (6) >, "Lan, Iris (ODAG)"
(b) (6)

(b) (6)

Cc: "Bolitho, Zachary (ODAG)"

(b) (6)

"O'Callaghan, Edward C. (ODAG)"

(b) (6)

>, "Williams, Beth A (OLP)"

(b) (6)

>, "Cutrona, Danielle (OAG)"

(b) (6)

Subject: FW: House Bill

(b) (5)

?

From: Miller, Stephen EOP/WHO (b) (6)

Sent: Tuesday, June 26, 2018 8:26 PM

To: Wolf, Chad <(b)(6) per DHS>; S1KMN

(b)(6) per DHS; Rosenstein, Rod (ODAG)

(b) (6)

Subject: RE: House Bill

(b) (5)

From: Wolf, Chad (b)(6) per DHS >

Sent: Tuesday, June 26, 2018 8:16 PM

To: Miller, Stephen EOP/WHO (b) (6) >;

S1KMN (b)(6) per DHS (b)(6) - Rod Rosenstein Email Address

Cc: Wolf, Chad <(b)(6) per DHS>

Subject: RE: House Bill

(b)(5) per DHS

Chad F. Wolf
Chief of Staff
Department of Homeland Security
T(b)(6) per DHS
C

From: Miller, Stephen EOP/WHO (b) (6)

Sent: Tuesday, June 26, 2018 8:09 PM

To: S1KMN (b)(6) per DHS >; Wolf, Chad

(b)(6) per DHS > (b) (6)

Subject: House Bill

The most recent version of the House bill says DHS "SHALL" house all inmates charged with illegal entry who have children in a family detention center — (b) (5)

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Wednesday, June 27, 2018 10:38 AM
To: Bolitho, Zachary (ODAG)
Subject: FW: Time-Sensitive Request

Can you handle this inquiry?

-----Original Message-----

From: Taylor, Miles (b)(6) per DHS >
Sent: Wednesday, June 27, 2018 10:23 AM
To: Whitaker, Matthew (OAG) (b) (6)
Cc: Nichols, Kate (b)(6) per DHS >; Wolf, Chad (b)(6) per DHS
(b)(6) - May Davis Email Address
Subject: Time-Sensitive Request

Matt,

Our Acting Deputy Secretary is working to get a time-sensitive meeting on the calendar with the DAG today. We're hearing DAG's office would prefer Friday. We just met with COS Kelly and need to drive this forward today. May Davis (CC'd) from COS Kelly's office would join. Can you help us get this on the books?

Goal would be to (b)(5) per DHS

[REDACTED]

M

Miles Taylor
Deputy Chief of Staff
U.S. Department of Homeland Security
M: (b)(6) per DHS



Ted Hesson ✓

@tedhesson

Follow



.@elianayjohnson explains how Stephen Miller's back-channel immigration meetings with fellow former Sessions staffers Gene Hamilton and Danielle Cutrona tied into family separations at the border
politico.com/story/2018/06/ ...

The back-channel immigration meetings include several alumni from the office of former Sen. Jeff Sessions, who was for years the leading immigration hawk on Capitol Hill before becoming attorney general. Miller is the most prominent, but others include Gene Hamilton and Danielle Cutrona, now senior advisers to Sessions at the Department of Justice, and John Walk, a lawyer in the White House counsel's office and Sessions' son-in-law. Julia Hahn, a junior White House communications aide who previously worked for Bannon at Breitbart, also attends.

8:00 PM - 26 Jun 2018

1 14 9



Tweet your reply



Ben Wiles @_BenWiles · 12h

Replying to @tedhesson @joshgerstein @elianayjohnson

May all their meals be disrupted

1



Not Responsive Records

From: Davis, Valorie A (OLP)
Sent: Friday, July 6, 2018 4:02 PM
To: OLP-ALL (JMD) (b) (6)
Subject: : Afternoon Digest

Good afternoon,

**Department of Justice
Afternoon News Digest
July 06, 2018
04:00 PM EDT**

Not Responsive Records

AFTERNOON HEADLINES

Not Responsive Records

- "U.S. says it needs more time to reunite families separated at border" [[LAT](#), [WaPo](#)]

Not Responsive Records

Not Responsive Records

IMMIGRATION

Twitter: Julia E. Ainsley, @JuliaEAinsley, July 6, 2018, 3:25 PM

UPDATE: Govt tells judge only half of the ~100 children under 5 separated from their parents will be reunified by July 10 deadline. 20 pct of parents have been released and their whereabouts largely unknown. [\[Read\]](#)

Not Responsive Records

AP: "Deadline to reunite immigrant families rapidly approaching," Colleen Long, July 6, 2018, 11:40 AM

This spring, the Trump administration began a "zero tolerance" policy to criminally prosecute anyone caught crossing the border illegally. Because children can't be in jail with their parents, more than 2,300 families caught by Border Patrol were separated. The move prompted mass outrage in the United States and internationally. After first blaming the practice on the Democrats, Trump on June 20 signed an executive order that stopped the separation of families. A June 26 court order by a federal judge set

a hard deadline to reunite the families, and that deadline is fast approaching. [\[Continue Reading\]](#)

Not Responsive Records

NBC: "Trump admin asks for more time to reunite kids and parents separated at border," Julia Ainsley, July 6, 2018, 10:41 AM

The Justice Department asked a federal judge Friday to extend the court mandated deadlines for reuniting nearly 3,000 migrant children who were separated from their parents while crossing the U.S.-Mexico border. [\[Continue Reading\]](#) **See also:** [ABC](#), [AP](#), [CNN](#), [The Hill](#), [LAT](#), [Newsweek](#), [NY Daily News](#), [Politico](#), [USA Today](#), [WSJ](#), [Washington Examiner](#), [WaPo](#)

Twitter: Zoe Tillman, @ZoeTillman, July 6, 2018, 10:15 AM

From last night: Plaintiffs in one of the family separation lawsuits say they've gotten no information from the govt yet on reunification plans, and are asking the judge to step in [\[Embedded Document\]](#) [\[Read\]](#)

Not Responsive Records

Reuters: "U.S. Seeks Court Guidance on Deadlines to Reunite Migrant Families," Unattributed, July 6, 2018, 9:09 AM

The U.S. government is seeking guidance from a federal court over its efforts to reunite migrant parents and their children before court-imposed deadlines, after the administration separated the families for crossing the U.S.-Mexico border illegally. [\[Continue Reading\]](#)

Not Responsive Records

END

RENDON Media News Alert Notice:

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Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Thursday, July 12, 2018 4:15 PM
To: Flores, Sarah Isgur (OPA)
Subject: Re: (b) (5)

Roger

On Jul 12, 2018, at 4:09 PM, Flores, Sarah Isgur (OPA) (b) (6) wrote:

Called for the AG to be fired in the last month re not being tough enough on separating families/immigration

Sarah Isgur Flores
Director of Public Affairs
(b) (6)



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 13, 2018

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE OFFICE OF THE DEPUTY ATTORNEY GENERAL

FROM: Stephen E. Boyd, Assistant Attorney General

SUBJECT: Weekly Report for July 16 through July 20, 2018

The House and Senate are in session this week.

The following is a summary of our current Congressional activities:

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C. Briefings

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2. **Zero Tolerance Policy.** On Tuesday, July 17, 2018, at 11:30 a.m., the Director of the Executive Office of Immigration Review, James McHenry, and the Office of Legal Policy's Joe Edlow are supporting the Department of Homeland Security in a member briefing on the zero tolerance policy and family separations and reunifications.

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From: Davis, Valorie A (OLP)
Sent: Wednesday, July 18, 2018 8:03 AM
To: OLP-ALL (JMD) <OLP-ALL@jmd.usdoj.gov>
Subject: Morning Digest

Good morning,

**Department of Justice
Morning News Digest
July 18 2018
08:00 AM EDT**

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IMMIGRATION

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Twitter: Rep. Pramila Jayapal, @PramilaJayapal, July 17, 2018, 9:12 PM

The federal court ordered a temp. halt to Zero-Tolerance deportations. I'm continuing to demand the release of every asylum-seeker separated from their children. This doesn't end until Trump's cruel & lawless conduct is stopped. [\[Read\]](#)

Twitter: Senator Kamala Harris, @KamalaHarris, July 17, 2018, 9:06 PM

The REUNITE Act: Requires immediate reunification of children who remain separated. Ensures parents will not be charged outrageous fees to reunite with their children. Requires DHS & HHS to publish guidance describing how they will reunify families. [\[Read\]](#)

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CNN: "With a deadline looming, the US can't find parents of 71 children it may have separated," Holly Yan, July 17, 2018, 6:08 PM

We've seen a flurry of recent activity in efforts to reunite migrant children removed from their parents. But with all the legal and political wranglings, the latest developments can be difficult to follow. Here's a quick look at what's new and what's next. [\[Continue Reading\]](#)

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