November 28, 2018

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

Secretary Alex Azar  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Nielsen and Secretary Azar:

We are 112 civil liberties, civil rights, faith-based, human rights, immigrant rights, privacy, government transparency, and youth welfare and justice organizations. We write regarding your agencies’ recently formalized practice of using information obtained from detained immigrant children to find, arrest, and try to deport their parents and relatives.\(^1\) What your agencies are doing is wrong. It is also illegal.\(^2\) We urge you to reverse these policies immediately.

Children enter your custody uniquely vulnerable. Many have crossed hundreds of miles of desert alone or among strangers; others are forcibly separated from their parents. Many are raped or abused en route. All of them are in physical or mental trauma.

When these children are detained, one of the first questions that Customs and Border Protection and the Office of Refugee Resettlement ask them is whether they have family or friends in the U.S. that might be able to take care of them. As one of the individuals who conducted these interviews has explained,\(^3\) many of these children understand that when they identify their parents or relatives, they put those people at risk for deportation. This guilt affects the children. Despite this, thousands of kids give up this information: they are desperate to be reunited with their families. Even worse, some of the children are misled into believing that no harm will come to their relatives as a result of being identified. Officials from your

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\(^2\) These practices violate binding obligations under court order and federal statute to ensure the prompt release of unaccompanied children. See further discussion below.

\(^3\) Valeria Luiselli, *Tell Me How It Ends: An Essay in Forty Questions* (2017) at 49 (“This guilt weighs on some children noticeably. Many ask during their interviews if their guardians will now be at risk for deportation.”).
agencies reportedly assure the children that they need not worry about the information being used against them.\(^4\)

This is the reality: *Your agencies are taking scared, jailed children who are desperate to see their families, asking them to identify their relatives so that they can be reunited—and then using that data to find, arrest, and deport those families.* Under the new policy:

- A seven-year-old child fled Honduras after his father was murdered and his mother abandoned him. His uncle came forward and took him in. ICE agents came to their home claiming that they were checking on the child. With the child watching, the agents arrested the uncle and subsequently placed him in removal proceedings.\(^5\)

- Two teenage brothers from El Salvador fled to the U.S. to be with their mother after a gang broke into their home and assaulted them. They gave CBP officers their mother’s name and address. Soon afterwards, ICE agents called their mother, visited her home, arrested her, and then deported her to El Salvador.\(^6\)

- A teenager from Guatemala arrived alone at the Arizona border. He told ORR officials to contact his brother, a husband and father of two young children, who was living in New Mexico. ORR officials asked his brother for a range of information, assuring him that it would not be used against him. Soon after the teen arrived in the home, ICE came and arrested his brother. The teen now holds himself responsible for his brother’s arrest.\(^7\)

This practice began in a “surge initiative” from June to August of last year.\(^8\) This spring, your agencies entered into an agreement and sought to issue rules to formalize this practice.\(^9\) These rules require, as a default, that every adult in a


\(^6\) KIND, *Targeting Families*, at 12.

\(^7\) Uriel J. Garcia, “ICE arrests young immigrant’s sponsor months after feds assured him he’d be safe,” *The Santa Fe New Mexican*, Sep. 9, 2017; KIND, *Targeting Families*, at 8-9.

\(^8\) NIJC Complaint at 3-4.

\(^9\) Memorandum of Agreement Among the Office of Refugee Resettlement of the U.S. Department of Health and Human Services and U.S. Immigration and Customs
prospective sponsor’s household provide fingerprints for a criminal and immigration background check. DHS has reserved the right to use this data to find and deport undocumented people that step forward to take care of a child in government custody.\textsuperscript{10} DHS also deposits their personal information—including highly sensitive biometric data—in a criminal history and immigration verification database with virtually no use or sharing restrictions.\textsuperscript{11} Your agencies have taken a process designed to protect children and made it into a tool that uses them to find and deport their families.

For decades, your agencies have had binding obligations, under a federal court-sanctioned settlement and subsequent federal statute, to promptly release unaccompanied children, without delay, into the least restrictive setting possible.\textsuperscript{12} Your policies have the opposite effect, and are therefore illegal. Already, families have become too scared to step forward to sponsor children, and children are already suffering harmful consequences. The government is detaining migrant children for twice as long as this time last year, with reports of children being transferred under cover of night to tent camps where they lack access to schooling and legal services.\textsuperscript{13}

Family separation is a moral and medical catastrophe. The president of the American Bar Association has called systematic family separation "antithetical to our values as a country."\textsuperscript{14} The American Academy of Pediatrics has said that family separation can "cause irreparable harm," carrying “lifelong consequences for..."
children.”\footnote{American Academy of Pediatrics, “AAP Statement Opposing Separation of Children and Parents at the Border,” May 8, 2018; see also National Academies of Sciences, Engineering, and Medicine, “\textit{Statement on Harmful Consequences of Separating Families at the U.S. Border},” June 20, 2018 (noting that separation jeopardizes “the short- and long-term health and well-being” of children).} The Inter-American Commission on Human Rights has said the “emotional and psychological impact of detention” put a separated child’s rights to family life and personal integrity at risk.\footnote{Organization of American States, \textit{IACHR Grants Precautionary Measure to Protect Separated Migrant Children in the United States}, August 20, 2018.} Your policies will only separate more families, for more time.

American history is marked by notorious instances where vulnerable people gave sensitive information in trust to our government—only to have it used against them. In the 1940s, the U.S. government promised Japanese Americans that their Census data would be used only for the Census. It then used that data to find and incarcerate them.\footnote{J.R. Minkel, “Confirmed: The U.S. Census Bureau Gave Up Names of Japanese-Americans in WWII,” \textit{Scientific American}, March 30, 2007.} In the 1970s, LGBT servicemembers turned to military chaplains, physicians, and psychologists for help. Those officials then used that information to “out” them and kick them out of the military.\footnote{See generally Randy Shilts, \textit{Conduct Unbecoming: Gays and Lesbians in the U.S. Military} (1993).} Those actions, too, were justified by specious claims of security. We now understand them to be abuses of vulnerable people.

We urge you to immediately reverse these policies.

Sincerely,

18\text{MillionRising.org}
Advocates for Youth
African American Ministers In Action
American-Arab Anti-Discrimination Committee
American Civil Liberties Union
American Immigration Lawyers Association
American Library Association
America’s Voice
Amnesty International USA

Anti-Defamation League
Arab American Institute
Asian Americans Advancing Justice | AAJC
Athlete Ally
Bend the Arc: Jewish Action
Brennan Center for Justice
Campaign for Youth Justice
Capital Area Immigrants’ Rights (CAIR) Coalition
Catholic Legal Immigration Network, Inc.
Center for American Progress
Center for Constitutional Rights
Center for Democracy & Technology
Center for Law and Social Policy (CLASP)
Center for Media Justice
Center on Privacy & Technology at Georgetown Law
CenterLink: The Community of LGBT Centers
Central American Legal Assistance
Church World Service
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Color of Change
Columbian Center for Advocacy and Outreach
Columbia Law School Immigrants’ Rights Clinic
Concerned Archivists Alliance (CAA)
Conference of Superiors of Men
Congregation of Our Lady of Charity of the Good Shepherd, US Provinces
Constitutional Alliance
Council on American-Islamic Relations
Defending Rights & Dissent
Demand Progress
Densho
Deportation Defense Legal Network
Detention Watch Network
Electronic Frontier Foundation
Electronic Privacy Information Center
Equality California
Equality North Carolina
Faith in Public Life
Florence Immigrant & Refugee Rights Project
FORGE, Inc.
Franciscan Action Network
Fred T. Korematsu Center for Law and Equality
Free Press
Freedom for Immigrants
Freedom Network USA
Government Accountability Project
Government Information Watch
Haitian-Americans United for Progress
Hispanic Federation
Human Rights First
Immigrant Legal Advocacy Project
In Our Own Voice: National Black Women’s Reproductive Justice Agenda
Institute for Women in Migration
Interfaith Worker Justice
International Refugee Assistance Project (IRAP) at the Urban Justice Center
Japanese American Citizens League
Japanese American Service Committee
Justice For Our Neighbors East Texas
Latin America Working Group
Lawyers Committee for Civil Rights Under Law
Leadership Conference of Women Religious
Leadership Conference on Civil and Human Rights
Legal Aid Justice Center
Make the Road New Jersey
Media Mobilizing Project
Migrant Center for Human Rights
Mijente
MomsRising
Muslim Advocates
NAACP
National Advocacy Center of the
Sisters of the Good Shepherd
National Asian Pacific American
Women’s Forum (NAPAWF)
National Association for Bilingual
Education (NABE)
National Association of Social Workers
National Council of Jewish Women
National Hispanic Media Coalition
National Immigrant Justice Center
National Immigration Law Center
National Institute for Reproductive
Health
National Latina Institute for
Reproductive Health
National Partnership for Women &
Families
National Rural Social Work Caucus
National Women’s Health Network
NETWORK Lobby for Catholic Social
Justice
New Dimensions in Wellness
Niskanen Center
Northwest Immigrant Rights Project
Open Technology Institute
Open the Government
Oxfam America
Pangea Legal Services
Pax Christi Florida
Pennsylvania Council of Churches
Progressive Peace Coalition
Project South
Restore the Fourth
Social Action Linking Together
(SALT)
Southern Border Communities
Coalition
Southern Poverty Law Center
T’ruah: The Rabbinic Call for Human
Rights
UnLocal, Inc.
URGE: Unite for Reproductive &
Gender Equity
Women’s Refugee Commission