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April 23, 2019

The Honorable Kevin McAleenan
Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary McAleenan:

In light of recent reports that the administration is considering once again separating children from their parents,¹ I write to demand that you finally come clean about your role in developing and implementing the cruel policy of family separation.

One year ago today, you signed a memo titled “Increasing Prosecutions of Immigration Violations” in which you appear to have advised then Secretary of Homeland Security Kirstjen Nielsen to pursue a policy of family separation. A redacted version of this memo was made available to the Project on Government Oversight and Open the Government via a Freedom of Information Request.² This memo argues that the Department of Homeland Security could “permissibly direct the separation of parents or legal guardians and minors.”³ In order to facilitate the separation of parents and children, the memo advocated for prosecuting “all amenable adults who cross our border . . . including those presenting with a family unit.”⁴ The Washington Post, which has seen the memo in its entirety, characterized the memo as arguing that “threatening adults with criminal charges and prison time would be the ‘most effective’ way to reverse the steadily rising number of attempted crossings.”⁵

¹ See Nick Miroff, Josh Dawsey, and Rachael Bade, *Trump Administration Considers Revised Version of Family Separation Tactic* Wa. Po. (Apr. 9 2019) https://www.washingtonpost.com/immigration/trump-denies-plan-to-separate-migrant-families-blames-obama-for-cages/2019/04/09/25457caa-5ae7-11e9-a00e-050dc7b82693_story.html?utm_term=.2a818cb83948

² See *April 23, 2018 Memo on Family Separation*, Project on Government Oversight (Sept. 25 2018) <https://www.pogo.org/document/2018/09/april-23-2018-memo-on-family-separation/>

³ *Id.*

⁴ *Id.*

⁵ Maria Sacchetti, *Top Homeland Security Officials Urge Criminal Prosecution of Parents Crossing Border with Children* Wa. Po. (Apr. 26 2018) https://www.washingtonpost.com/local/immigration/top-homeland-security-officials-urge-criminal-prosecution-of-parents-who-cross-border-with-children/2018/04/26/a0bdcee0-4964-11e8-8b5a-3b1697adcc2a_story.html?utm_term=.bc4469591798

I have asked you about this memo on three separate occasions, and each time you have sought to evade taking responsibility for your role in the national travesty of family separation. When you appeared before the Senate Judiciary Committee on December 11, 2018, I asked whether you wrote this memo intending for the government to “systematically separate parents from their children.”⁶ You dodged this question by saying only that you had written the memo to provide a “set of options for how to implement increasing prosecution for immigration enforcement.”⁷ However, this memo appears to indicate that you supported increased prosecution for the purpose of separating parents and children.

Following this December hearing, I submitted written questions for the record asking if you would release an unredacted version of this memo and whether, when you wrote the memo, you intended for our government to systematically separate parents from their children. Despite your responsibility to respond to oversight questions from Congress, you have yet to answer my questions. After you appeared before the Senate Judiciary Committee on March 6, 2019, I again submitted written questions for the record asking for you to release the unredacted memo and to explain your thinking regarding the memo. As of writing, I am yet to receive a response.

This memo is of critical importance given you are now Acting Secretary of Homeland Security. You ascended to this role after a Monday massacre in which President Trump fired anyone who he perceived would be unwilling to go in what he described as a “tougher direction” on immigration.⁸ This suggests President Trump believed that you would be willing to go in a “tougher direction” on immigration, which is itself alarming given the policies he has already implemented. The public deserves to know why President Trump believes you would be willing to pursue the harsh and inhumane immigration policies he favors. Your past support of family separation may provide critical information in this regard.

Given that you appear to have played a role in developing and implementing one of the most shameful chapters in our nation’s history, I can understand your reticence to release the memo and explain your thinking behind it. However, shame is no excuse for dissembling and covering up. I urgently request that you respond to the two questions I have put to you before:

1. Will you release an unredacted version of the April 23, 2018 memo in its entirety? If not, why not?
2. When you wrote this memo, did you intend for our government to systematically separate parents from their children? If so, why did you think that was permissible? If not, what result were you intending when you wrote this memo?


⁶ Senate Judiciary Committee, *Oversight of U.S. Customs and Border Protection* (Dec. 11 2018) <https://www.judiciary.senate.gov/meetings/oversight-of-us-customs-and-border-protection> (at 1:44).

⁷ *Id.*

⁸ See Peter Baker, Maggie Haberman, Nicholas Fandos and Zolan Kanno-Youngs, *Trump Purge Set to Force Out More Top Homeland Security Officials* N.Y. Times (Apr. 8 2019) <https://www.nytimes.com/2019/04/08/us/politics/randolph-alles-secret-service.html>.

May 7, 2019 marks the tragic one year anniversary of the day then-Attorney General Jeff Sessions announced that the Trump Administration would be pursuing a policy of family separation. I ask that you respond to this letter by May 6 so that we can recognize that sad day with a more fulsome understanding of the role that you played in bringing it about.

Sincerely,



RICHARD BLUMENTHAL

United States Senate