

United States Senate

WASHINGTON, DC 20510

February 12, 2018

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

Dear Secretary Nielsen:

We write to express our deep concern that the Department of Homeland Security (DHS) under the Trump Administration is considering a proposal to systematically separate immigrant children from their parents upon arrival in the United States. We condemn such a proposal in the strongest possible terms and urge you to unequivocally reject this cruel measure.

We believe that a systematic and blanket policy to separate a child from a parent would likely violate the constitutional rights of the parents, violate the spirit of the *Flores Agreement*, inflict significant trauma on small children, create additional unnecessary due process obstacles to accessing a meaningful day in court, is contrary to arguments the Department of Justice has made before federal courts in the past, and is grotesquely inhumane.

Further, we are deeply concerned that DHS may already be carrying out such a policy. In one recent case, a one-year-old child was separated from his father.¹ The child was placed in a children's shelter in Texas while the father was detained in an adult facility in San Diego.² Numerous other cases in which parents have been separated from their children have been documented.³ It is unconscionable that the Department would consider tearing these children away from their parents, deliberately agonizing children and parents alike.

Terrorizing children and their parents in an effort to prevent future migration also ignores the horrifying circumstances they have experienced. For many of these children and their parents, fleeing their home country is literally a life-or-death situation. Threatening to separate them and impairing their ability to seek protection is not who we are as a country.

During a recent Senate Judiciary Committee hearing, you failed to repudiate this proposal.⁴ We ask you to refrain from staining America's long-standing role as a human rights leader and to

¹ Caitlin Dickerson & Ron Nixon, *Trump Administration Considers Separating Families to Combat Illegal Immigration*, N.Y. TIMES (Dec. 21, 2017), <https://www.nytimes.com/2017/12/21/us/trump-immigrant-families-separate.html>.

² *Id.*

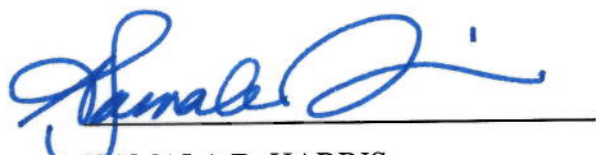
³ *The Separation of Family Members Apprehended by or Found Inadmissible While In U.S. Customs and Border Protection (CBP) Custody at the U.S.-Mexico Border*, AM. IMMIGR. COUNCIL, Dec. 11, 2017, https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/family_separation_complaint.pdf.

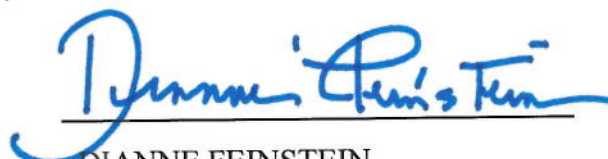
⁴ *Oversight of the U.S. Dep't of Homeland Sec.: Hearing Before the S. Comm. on the Judiciary*, 115th Cong. (2018) (statement of Kirstjen Nielsen, Secretary, Department of Homeland Security).

choose a different path on this issue. In a March 7, 2017 interview with Wolf Blitzer, your predecessor, Mr. John Kelly, said that DHS was considering a policy to separate families at the border, a position he later reversed.⁵ We urge you to do the same. Do not forsake children, Madam Secretary, especially when they have had no say in their present situation.

We ask you to instead employ policies such as alternatives to detention that better protect families and reduce reliance on a costly and inhumane immigrant detention system. America can and should treat children with care when we take them into federal custody. We appreciate your consideration and request a prompt response on this important matter.

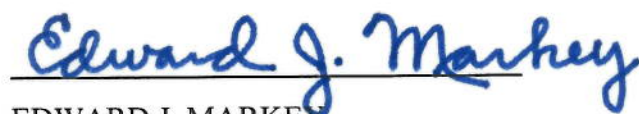
Sincerely,


KAMALA D. HARRIS
United States Senator

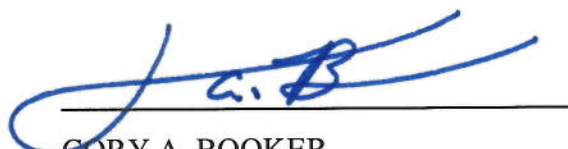

DIANNE FEINSTEIN
United States Senator

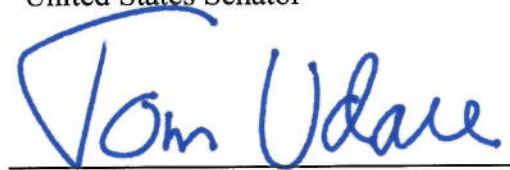

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KIRSTEN GILLIBRAND
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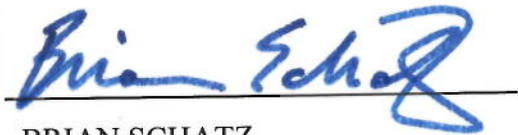

CORY A. BOOKER
United States Senator


TOM UDALL
United States Senator

⁵ Daniella Diaz, *Kelly: DHS is Considering Separating Undocumented Children from their Parents at the Border*, CNN (Mar. 7, 2017), <https://www.cnn.com/2017/03/06/politics/john-kelly-separating-children-from-parents-immigration-border/index.html>.



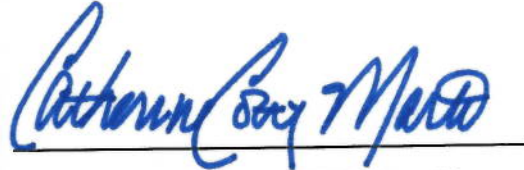
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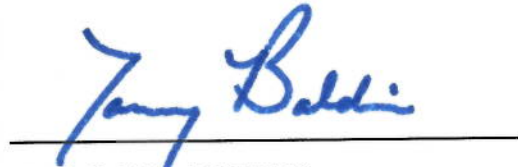
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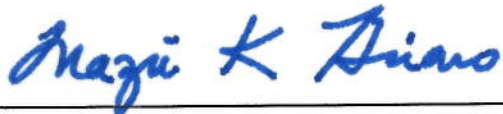
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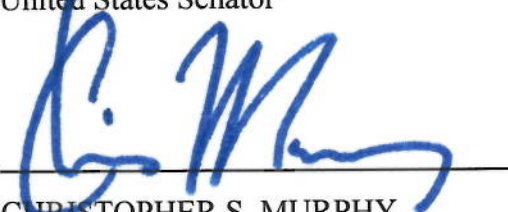
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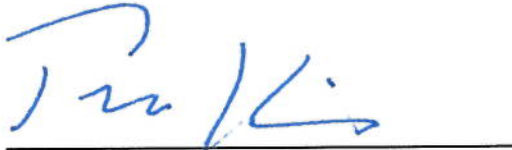
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TIM KAINE
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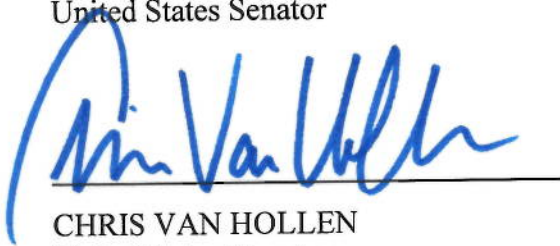
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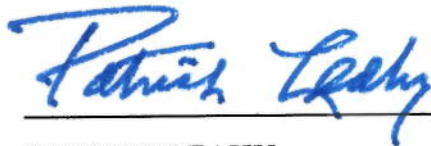
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United States Senator



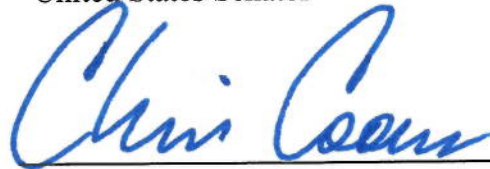
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