

Engel, Steven A. (OLC)

From: Engel, Steven A. (OLC)
Sent: Friday, February 22, 2019 5:27 PM
To: Lasseter, David F. (OLA); O'Callaghan, Edward C. (ODAG)
Cc: Boyd, Stephen E. (OLA); Weinsheimer, Bradley (ODAG)
Subject: RE: Nadler letter draft response
Attachments: 2.13.2019_Nadler Letter_Response v2 + edit.docx

WHCO had one edit. They suggested (b)(5) per OLC
[REDACTED]
[REDACTED]. That makes sense to me. otherwise, they are good.

From: Lasseter, David F. (OLA) <(b) (6)>
Sent: Friday, February 22, 2019 4:23 PM
To: Engel, Steven A. (OLC) <(b)(6) per OLC >; O'Callaghan, Edward C. (ODAG) <(b) (6)>
Cc: Boyd, Stephen E. (OLA) <(b) (6)> Weinsheimer, Bradley (ODAG) <(b) (6)>
Subject: RE: Nadler letter draft response

Attached is the current version of the draft.

From: Engel, Steven A. (OLC) (b)(6) per OLC
Sent: Friday, February 22, 2019 4:21 PM
To: Lasseter, David F. (OLA) (b) (6) O'Callaghan, Edward C. (ODAG) (b) (6)
Cc: Boyd, Stephen E. (OLA) (b) (6); Weinsheimer, Bradley (ODAG) (b) (6)
Subject: RE: Nadler letter draft response

I spoke with WHCO. (b)(5) per OLC but they should let us know shortly.

From: Lasseter, David F. (OLA) <(b) (6)>
Sent: Friday, February 22, 2019 4:19 PM
To: O'Callaghan, Edward C. (ODAG) (b) (6) >
Cc: Boyd, Stephen E. (OLA) (b) (6) Weinsheimer, Bradley (ODAG) <(b) (6)> Engel, Steven A. (OLC) <(b)(6) per OLC >
Subject: RE: Nadler letter draft response

Rgr thanks

From: O'Callaghan, Edward C. (ODAG) (b) (6)
Sent: Friday, February 22, 2019 4:15 PM
To: Lasseter, David F. (OLA) <(b) (6)>
Cc: Boyd, Stephen E. (OLA) [REDACTED]; Weinsheimer, Bradley (ODAG) [REDACTED]

cc: Boyd, Stephen E. (OLA) (b) (6) >; weinsheimer, bradley (ODAG)
(b) (6) <(b) (6)> Engel, Steven A. (OLC) (b)(6) per OLC >
Subject: Re: Nadler letter draft response

Engel is going to check with WHco on one response

Edward C. O'Callaghan
(b) (6)

On Feb 22, 2019, at 4:13 PM, Lasseter, David F. (OLA) (b) (6) wrote:

Okay as in you are good with this draft?

From: O'Callaghan, Edward C. (ODAG) (b) (6)
Sent: Friday, February 22, 2019 3:22 PM
To: Lasseter, David F. (OLA) (b) (6)
Cc: Boyd, Stephen E. (OLA) (b) (6); Weinsheimer, Bradley (ODAG)
(b) (6)
Subject: Re: Nadler letter draft response

Ok

Edward C. O'Callaghan
(b) (6)

On Feb 22, 2019, at 1:17 PM, Lasseter, David F. (OLA) (b) (6) wrote:

Please see attached. We would like to get this out today.

From: Engel, Steven A. (OLC) (b)(6) per OLC >
Sent: Friday, February 22, 2019 12:53 PM
To: Lasseter, David F. (OLA) (b) (6); Gannon, Curtis E. (OLC)
(b)(6) per OLC >; Colborn, Paul P (OLC) (b)(6) per OLC >; de
la Torre, Lindsey (OAG) (b) (6)
Subject: RE: Nadler letter draft response

David: Attached is the draft letter with OLC's edits/additions. I left it in redline, although most of the stuff is new. The letter has been run by, and approved by, Matt W. Best, Steve

Steven A. Engel
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Office: (b)(6) per OLC
(b)(6) per OLC

From: Lasseter, David F. (OLA) (b) (6)
Sent: Friday, February 22, 2019 11:38 AM

sent: Friday, February 22, 2019 11:38 AM

To: Engel, Steven A. (OLC) <(b)(6) per OLC>; Gannon, Curtis E. (OLC) <(b)(6) per OLC>; Colborn, Paul P (OLC) <(b)(6) per OLC>; de la Torre, Lindsey (OAG) <(b) (6)>
Subject: RE: Nadler letter draft response

Good morning. Wondering about a status check here. Want to be able to run this through review in order to get it out today.

Thanks,
David

From: Engel, Steven A. (OLC) <(b)(6) per OLC>
Sent: Thursday, February 21, 2019 3:04 PM
To: Lasseter, David F. (OLA) <(b) (6)>; Gannon, Curtis E. (OLC) <(b)(6) per OLC>; Colborn, Paul P (OLC) <(b)(6) per OLC>; de la Torre, Lindsey (OAG) <(b) (6)>
Subject: RE: Nadler letter draft response

Great. I'm meeting with Matt in the am, and we should be able to get the draft out to you in the late am.

From: Lasseter, David F. (OLA) <(b) (6)>
Sent: Thursday, February 21, 2019 3:03 PM
To: Engel, Steven A. (OLC) <(b)(6) per OLC>; Gannon, Curtis E. (OLC) <(b)(6) per OLC>; Colborn, Paul P (OLC) <(b)(6) per OLC>; de la Torre, Lindsey (OAG) <(b) (6)>
Subject: Nadler letter draft response

All—please find attached. Shoot draft back once you have it so we can try to get this out tomorrow.

Thanks,
dfi

David F. Lasseter
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
(b) (6)

<2.13.2019_Nadler Letter_Response v1 + olc.docx>



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 22, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

This responds to your letter to then-Acting Attorney General Matthew Whitaker dated February 13, 2019, seeking clarification and additional information concerning certain portions of his testimony before the House Judiciary Committee on February 8, 2019.

In appearing before the Committee, the Acting Attorney General answered the questions as presented to him, and he stands by the completeness and accuracy of his testimony. Your February 13 letter raises questions about some of his testimony, and the Department appreciates the opportunity to respond further and clear up any misconceptions. In addition, your letter requests certain assurances concerning the availability of legal representation for asylum seekers and about protections against discrimination for LGBTQ individuals and religious minorities, and we address those subjects as well.

Michael Cohen Case

Your letter seeks clarification about the Acting Attorney General's communications with President Trump concerning the Michael Cohen case pending in the Southern District of New York. As you know, consistent with long-standing Executive Branch confidentiality interests, there are limits to what the former Acting Attorney General may say about his communications with the President. In an effort to address the Committee's oversight interests, however, the Acting Attorney General explained that at no time did the President ask for any promises or commitments in connection with the Department's handling of the Cohen case (or any other case). The Department has, and will continue, to handle the Cohen case (and all other cases), consistent with established Department policies and free of any improper interference.

With respect to the Committee's specific questions, Mr. Whitaker stands by his prior testimony. At the hearing, he testified that neither the President, nor anyone acting on his behalf, ever "lashed out" or otherwise expressed dissatisfaction to the Acting Attorney General over the Department's handling of the Michael Cohen case. When asked whether the President had ever

“talked at all” about the Michael Cohen case, the Acting Attorney General declined to answer, since the answer would implicate his private conversations with the President. In so doing, the Acting Attorney General balanced the Committee’s interests in confirming that the President did not engage in any improper actions with respect to a pending criminal case against the need of all Presidents to have confidential communications with their Attorney General.

White House Interview for the Position of Special Counsel and Assistant to the President

Your letter also seeks clarification concerning Mr. Whitaker’s conversations with the White House when, as a lawyer in private practice in July 2017, he interviewed for the position of Special Counsel and Assistant to the President. As the Acting Attorney General testified, he received a preliminary interview at the White House, and was not interviewed by Donald McGahn, then-Counsel to the President, or by President Trump. The White House personnel with whom he met did not want to talk about the substance of the Special Counsel’s investigation, and Mr. Whitaker believed that one reason the White House was seeking to hire an attorney from the outside was that the officials who had worked for the campaign were potential witnesses in the Special Counsel’s investigation. Whatever their reasons, the interview focused solely upon Mr. Whitaker’s background in private practice and as a United States Attorney, and he was not asked about and did not discuss any of his opinions concerning the Special Counsel’s investigation. The Acting Attorney General did not receive any further interviews, and ultimately, the President appointed Ty Cobb to the position.

Legal Representation for Asylum Seekers

Your letter also asks for the Department to provide its assurance that asylum seekers will receive access to legal counsel as required by law. We assure you that the Department will comply with all statutory provisions and will not deprive any asylum seeker of any right provided by law. As you know, the Department does not play a role in the initial asylum applications and credible-fear screenings, which are handled by the Department of Homeland Security (DHS). Under section 235(b)(2)(C) of the Immigration and Nationality Act (INA), Congress has provided that asylum applicants arriving through our southern border may be returned to Mexico pending their asylum hearing. The enforcement of that provision likewise falls within the discretion of DHS.

With respect to access to legal counsel, Congress has provided in the INA that aliens have the privilege of legal representation, at no expense to the Government, by qualified counsel of the alien’s choosing. Congress has also provided in the INA that, at the time of filing an asylum application, an alien must be advised of the privilege of being represented by counsel and provided a list of pro bono attorneys who may represent aliens with asylum applications. All aliens in removal proceedings receive a list of low cost or pro bono attorneys who may be willing to provide representation to them and are informed of their privilege to obtain representation, including their right to obtain counsel not on the pro bono list. The Department also operates a Legal Orientation Program for detained aliens in which they may be referred, in certain circumstances, for pro bono legal services. In short, the Department adheres to the applicable law regarding legal representation of aliens, and it will continue to do so.

Discrimination Protections for LGBTQ Individuals and Religious Groups

In his testimony before the Senate Judiciary Committee, Attorney General Barr emphasized that he would make the prosecution of hate crimes a priority during his tenure at the Department. We can assure you that the Department is, and remains, firmly committed to combatting hate crimes and discrimination against individuals based on actual or perceived race, color, national origin, gender, gender identity, religion, sexual orientation, disability, or similar factors. The perpetrators design hate crimes to intimidate and terrorize communities and groups of people. No one should live in fear that they may be targeted simply because of who they are, what they believe, or how they worship.

The Department currently engages in multiple efforts to support state and local communities in addressing root causes of hate through education and outreach. For example, the Civil Rights Division, U.S. Attorney's Offices, and the Community Relations Service regularly engage with communities on hate crime issues through meetings, town halls, conferences, and similar events. The Federal Bureau of Investigation likewise offers a wide range of educational and training resources to communities, including trainings on civil rights issues to state local, and tribal law enforcement partners, non-governmental organizations, and community groups.

The Department has also devoted considerable attention and resources to the prevention, investigation, and prosecution of threats and acts of anti-Semitism, including interfaith community forums and trainings for federal, state, and local law enforcement and community organizations. The Department is continuously evaluating additional ways to effectively combat hate crimes, and we are committed to continuing our work on these important issues.

We hope that you find this information helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Kupec, Kerri (OPA)

From: Kupec, Kerri (OPA)
Sent: Friday, January 18, 2019 7:40 PM
To: (b)(6): Hogan Gidley email (b)(6): Sarah Sanders email
Subject: Special Counsel statement on BuzzFeed article

Sent from my iPhone

Begin forwarded message:

From: SpecialCounselPress <SpecialCounselPress@jmd.usdoj.gov>
Date: January 18, 2019 at 7:38:33 PM EST
To: "Kupec, Kerri (OPA) (b) (6)" "Hornbuckle, Wyn (OPA)"
(b) (6), (b)(6) per EOUSA (USANYS) [Contractor]"
(b) (6) >
Subject: FW: Statement on BuzzFeed article

FYI

From: SpecialCounselPress <SpecialCounselPress@jmd.usdoj.gov>
Sent: Friday, January 18, 2019 7:36 PM
To: SpecialCounselPress <SpecialCounselPress@jmd.usdoj.gov>
Subject: Statement on BuzzFeed article

You may attribute the following to me:

"BuzzFeed's description of specific statements to the Special Counsel's Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen's Congressional testimony are not accurate."

Best,
Peter Carr
Spokesman
Special Counsel's Office

Busch, Alexandra C. EOP/NSC

From: Busch, Alexandra C. EOP/NSC
Sent: Monday, November 27, 2017 3:11 PM
To: Whitaker, Matthew (OAG); Rybicki, James E. (DO) (FBI)
Cc: Tucker, Rachael (OAG); Joyce, Robert E. EOP/NSC
Subject: RE: Call w/ APHSCT Bossert r (b) (5)
Attachments: 2017 Report of the Manhattan District Attorney's Office on Smartphone En....pdf

Mr. Bossert asked that I pass along the NYC District Attorney's 2017 encryption repo (b) (5)
(b) (5) Thank you.

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

From: Busch, Alexandra C. EOP/NSC
Sent: Monday, November 27, 2017 9:30 AM
To: Hunt, Jody (OA (b) (6)); Rybicki, James E. (DO) (FB (b)(7)(E) per FBI
Cc: 'Rosenstein, Rod (ODAG (b) (6)); 'McCabe, Andrew G. (DO) (FBI (b)(7)(E) per FBI); Joyce, Robert E. EOP/NS (b) (6)
Subject: Call w/ APHSCT Bossert r (b) (5)

Good Morning,

Mr. Bossert would like to hold a call this week if possible with AG Sessions, Director Wray, DAG Rosenstein, and DDFBI McCabe to (b) (5)
(b) (5)

Please feel free to forward to the appropriate scheduling contacts and I will go from there.

Thank you very much,
Alexandra



THIRD REPORT OF THE
MANHATTAN DISTRICT ATTORNEY'S
OFFICE ON

SMARTPHONE
ENCRYPTION
AND PUBLIC
SAFETY

November 2017

CONTENTS

Introduction

- I. In the Absence of Legislation, the Public/Private “Arms Race” Over Encryption Has Intensified
 - A. Investigators Are Increasingly Forced to Rely on Expensive “Lawful Hacking” Alternatives
 - B. Technology Companies Continue to Make Encryption Decisions Based on Their Own Private Business Interests
- II. Recent Developments Have Continued to Show that Temporary Workarounds are Not a Solution
- III. Court Decisions Again Demonstrate a Judicial Remedy is Not Realistic
- IV. Other Countries are Making Efforts to Strike the Balance Between Privacy and Public Safety
- V. Federal Legislation Remains the Only Effective Option

Introduction

In November 2015, this office issued a white paper titled *Report of the Manhattan District Attorney's Office on Smartphone Encryption and Public Safety* (“the 2015 Report”).¹ The focus was an announcement a year earlier by Apple Inc. that its latest operating system for smartphones and tablets would employ, by default, what is commonly referred to as “full-disk encryption,” making data on its devices completely inaccessible without a passcode, even to Apple, and even in the face of a judicially-issued search warrant. As discussed in the 2015 Report, Apple’s decision was almost immediately followed by Google.²

The 2015 Report detailed the devastating impact of this business decision on criminal investigations, big and small, across the country. These days, such investigations almost always rely to some degree on evidence contained on smartphones and other devices, and criminals of all sorts responded with enthusiasm to the news that they could now conduct business on such devices without fear that their correspondence would become the stuff of criminal prosecution. The 2015 Report described the particular value of data stored on smartphones, and the real-world consequences of full-disk encryption to public safety. It explained that, prior to Apple’s encryption decision, there was no evidence that Apple devices were particularly susceptible to hacking, and that law enforcement’s reliance on judicially-issued search warrants protected personal privacy interests, as search warrants have done in other contexts for over two hundred years. Finally, the 2015 Report predicted that the decisions by Apple and Google would yield a counterproductive “arms race” between the companies and law enforcement unless legislation was enacted.

In November 2016, this office issued an update to the 2015 Report (“the 2016 Report”), which described the unfolding public-safety impact of the Apple and Google encryption schemes, and the gathering debate on how the public and private sectors should respond to the competing challenges of protecting the public in criminal inquiries while ensuring that individual privacy interests were not compromised.³ In particular, the 2016 Report discussed examples, including the recent San Bernardino massacre, to demonstrate that the public safety issues created by full-disk encryption were growing. The 2016 Report also emphasized that the dichotomy between privacy and security in the encryption debate is illusory, since lawful searches can be performed while still maintaining security and safeguarding users’ privacy rights. Finally, it detailed the efforts of our nation’s courts to adjudicate legal issues arising as a result of full-disk encryption, and concluded that litigation is an ineffective means of solving this problem.

¹ *Report of the Manhattan District Attorney's Office on Smartphone Encryption and Public Safety*, November 18, 2015, available at <http://manhattanda.org/sites/default/files/11.18.15%20Report%20on%20Smartphone%20Encryption%20and%20Public%20Safety.pdf>.

² *Id.* at i.

³ *Report of the Manhattan District Attorney's Office on Smartphone Encryption and Public Safety: An update to the November 2015 Report*, November 17, 2016, available at <http://manhattanda.org/sites/default/files/Report%20on%20Smartphone%20Encryption%20and%20Public%20Safety:%20An%20Update.pdf>.

This is our office’s third annual Report, which provides a further update on the ongoing debate, and how these encryption policies - enacted by companies for their own commercial reasons - continue to frustrate efforts to solve crimes and protect the public on a daily basis. Unfortunately, the news is not good: although law enforcement has had some success using workarounds (*see* Section II, *infra*), those methods are costly and unavailable to the vast majority of prosecutors and investigators. As technology companies continue to roll out new devices, workarounds become less available and more expensive, creating a landscape in which solving crime depends largely on a law enforcement agency’s ability to spend money on private-sector solutions. This “privatization” of crime fighting is exactly the “arms race” predicted in the 2015 Report, which will result in greater and greater expenditures on the part of federal, state, and local governments. More problematic, it will result in unequal access to justice for crime victims across the country.

By way of overview, this report addresses the following issues:

- Section I summarizes the issue as it stands in 2017, noting that the “arms race” predicted in 2015 has intensified. The number of investigations that involve full-disk encrypted smartphones continues to balloon, in cases ranging from white collar crime to homicides. To solve these crimes, law enforcement is increasingly relying on expensive “workarounds” developed by third parties, while providers work to thwart even lawful access to smartphone data. Apple’s compliance with recent policy directives in China demonstrates that technology companies can only be relied upon to provide assistance to law enforcement when there is a legislative requirement or a clear business reason to do so.
- Section II deals with the emerging argument that encryption “workarounds” are the solution to the problem. The term “workarounds” refers generally to any means by which law enforcement can access the plaintext (i.e., unencrypted) data on a device without assistance from the end user or the software manufacturer. While workarounds like “lawful hacking” have been used by law enforcement with some success over the past year, they are not a realistic solution to the problem going forward – they are time-consuming and costly, and become obsolete when new devices and operating systems are released, creating an endless cat-and-mouse system that strains resources and undermines public safety.
- Section III provides an overview of recent judicial developments. Law enforcement officials have, in some instances, sought orders to compel users to provide plaintext copies of their data, and such requests have on occasion been granted requiring users to unlock their devices using the fingerprint sensor technology. But judicial authority on the Fourth and Fifth Amendment implications of these orders remains divided, and Apple’s recent iOS features make it unlikely that such orders will be a viable path forward. More importantly, orders compelling this type of assistance, even when granted, can be of limited practical utility.

- Section IV provides an overview of international efforts to address this issue. Recognizing the public safety implications of default device encryption, and the need for a legislative solution, nations including Germany, France, and the United Kingdom have proposed laws that would require providers to render reasonable assistance when presented with a lawfully-issued order.
- Section V concludes by reiterating that a legislative solution that compels compliance with court-ordered production of plaintext data is necessary to ensure that justice is served in criminal cases, without regard to where crimes occur or the third-party resources available.

I. In the Absence of Legislation, the Public/Private “Arms Race” Over Encryption Has Intensified

As the era of default device encryption enters its fourth year, the inaccessibility of smartphone data remains, in more and more cases, an insurmountable obstacle for law enforcement and victims of crime. In one recent and tragic example, federal law enforcement officials investigating the mass shooting at First Baptist Church in Sutherland Springs, Texas on November 5, 2017 – the deadliest shooting in Texas history – publicly acknowledged that they have been unable to extract evidence from a smartphone linked to the assailant.⁴ Of course, investigators confront this problem daily in less publicized cases. Criminals, like everyone else, operate increasingly in the digital realm. Traditional investigative techniques – searches of targets’ homes, physical surveillance, wiretaps on telephones – often fall short when it comes to gathering enough evidence to solve and prosecute today’s criminal activity. Unfortunately, much of today’s evidence exists in a space that, prior to 2014, was largely unheard-of: warrant-proof smartphones that have been designed to keep law enforcement out.⁵

⁴ Simon Romero et al., *Texas Gunman Once Escaped From Mental Health Facility*, N.Y. Times, Nov. 7, 2017, available at <https://www.nytimes.com/2017/11/07/us/texas-shooting-church.html? r=0> (quoting Special Agent in Charge Christopher H. Combs: “Unfortunately, at this point in time, we are unable to get into that phone,” and refusing to name the brand of phone so as not to encourage other criminals to seek out that make and model). For its part, Apple has suggested that if law enforcement had requested assistance within 48 hours of the shooting, Apple may have been able to offer suggestions for accessing the phone’s contents (presumably by using the TouchID unlock feature). See Karma Allen, *Apple Says it Reached out to FBI to Assist with Texas Shooter’s Phone*, ABC News, Nov. 9, 2017, available at <http://abcnews.go.com/US/apple-reached-fbi-assist-texas-shooters-phone/story?id=51033326>.

⁵ Although encryption is used today to shield numerous categories of data, this Report focuses (as the previous Reports did) specifically on default, warrant proof smartphone encryption. This technology, referred to herein as “default device encryption,” pertains exclusively to data at rest (the data stored on a user’s phone); the report does not discuss encryption of data in motion (or “end to end” encryption), which applies to information that is transmitted from one user to another. Nor does it discuss “off the shelf” encryption software that is widely available to users of electronic storage and communication devices. Instead, the report is limited to the technology that, by default, renders data on a smartphone impenetrable to law enforcement, regardless of judicial authorization to search the device. This technology poses a particular threat to public safety because it operates by default, on the devices that are now ubiquitous in our culture.

As Deputy Attorney General Rod Rosenstein recently observed:

Encrypted communications and devices pose the greatest threat to public safety when they are part of mass-market consumer devices and services that enable warrant-proof encryption by default. No solution will be perfect. If only major providers refrain from making their products safe for terrorists and criminals, some sophisticated criminals may migrate to less-used platforms. But any progress in preserving access to communications methods used by most criminals and terrorists would still be a major step forward. The approach taken in the recent past — negotiating with technology companies and hoping that they eventually will assist law enforcement out of a sense of civic duty — is unlikely to work. Technology companies operate in a highly competitive environment. Even companies that really want to help must consider the consequences. Competitors will always try to attract customers by promising stronger encryption.⁶

A. Investigators Are Increasingly Forced to Reply on Expensive “Lawful Hacking” Alternatives

As this office and other observers predicted when iOS 8 was announced, the encryption decisions by Apple and other technology companies have resulted in a costly cycle in which law enforcement has expended significant resources attempting to obtain lawful access to smartphones, while the technology sector has expended far greater resources to prevent such access. We are in the midst of the “untenable arms race” discussed in the 2016 Report, “in which private industry makes devices that are more and more inaccessible, and the government chases after industry, straining to find more and more sophisticated ways to hack lawfully into the devices.”⁷

While law enforcement has had some success (with the aid of paid outside vendors) accessing encrypted smartphones once a warrant is obtained, these efforts come with a hefty price tag (for example, it was widely reported that the FBI’s efforts to unlock the phone belonging to one of the San Bernardino shooters resulted in an expenditure of around \$1 million⁸). This creates a vicious cycle: each time a new device or operating system is released, “lawful hacking” companies spend months or years searching for vulnerabilities to exploit; in response, the tech industry spends time and money to “patch” every vulnerability that law enforcement exposes. Putting aside the costs incurred, in many cases the access to smartphone data comes too late, after statutes of limitations or speedy trial requirements have run out. Of

⁶ Deputy Attorney General Rod J. Rosenstein Delivers Remarks on Encryption at the United States Naval Academy, Oct. 11, 2017, *available at* <https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-delivers-remarks-encryption-united-states-naval>.

⁷ *Report of the Manhattan District Attorney’s Office on Smartphone Encryption and Public Safety: An update to the November 2015 Report*, *supra* note 3, at 7, 30.

⁸ *See, e.g.*, Mark Hosenball, *FBI Paid Under \$1 Million to Unlock San Bernardino Phone: Sources*, Reuters, Apr. 28, 2016, *available at* <https://www.reuters.com/article/us-apple-encryption/fbi-paid-under-1-million-to-unlock-san-bernardino-iphone-sources-idUSKCN0XQ032>.

course, most state and local law enforcement agencies do not have the resources of the federal government or this office, and cannot afford to rely on expensive lawful hacking solutions in everyday investigations (and, of course, the overwhelming majority of criminal cases in this country are handled by state and local agencies).⁹

None of this is likely to subside anytime soon. For example, this office has recovered (and obtained court-ordered warrants or consent to search) 1,200 devices in the first ten months of 2017. Of those, over 700 were locked using full-disc encryption. Over half of all devices received by our digital forensics unit are locked when we receive them; 72% of Apple devices, and 37% of Android devices. As the following table depicts, these numbers have increased steadily since 2014:

SMARTPHONE ENCRYPTION STATISTICS

October 1, 2014 – October 31, 2017

	2014	2015	2016	2017	Grand Total
iOS					
Unlocked	40	145	171	199	555
Locked	59	382	538	466	1445
iOS Total	99	527	709	665	2000
ANDROID					
Unlocked	103	324	371	382	1180
Locked	19	188	259	236	702
ANDROID Total	122	512	630	618	1882
Grand Total	221	1039	1339	1283	3882

On the federal side, the FBI reports that approximately 7,000 devices – more than half of those seized this fiscal year – remain inaccessible due to default encryption.¹⁰ At the state

⁹ See Bureau of Justice Statistics, *Felony Sentences in State Courts, 2004*, July 1, 2007, available at <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=909> (94% of felony convictions occurred in state court, the remaining 6% in federal court).

¹⁰ Michael Balsamo, *FBI Couldn't Access Nearly 7K Devices Because of Encryption*, Oct. 23, 2017, Forensic Mag, available at https://www.forensicmag.com/news/2017/10/fbi-couldnt-access-nearly-7k-devices-because-encryption?et_cid=6147116&et_rid=454847037&location=top&et_cid=6147116&et_rid=454847037&linkid

level, as discussed in the 2016 Report,¹¹ an initiative launched by state and local law enforcement entities, in partnership with National Domestic Communications Assistance Center (NDCAC), has been collecting data from across the country about impenetrable mobile devices seized by law enforcement. So far, 238 state and local agencies have signed onto the initiative, and 160 have begun to keep track of their locked devices (these 160 agencies come from 37 states). The total number of locked devices so far is in the thousands, and is growing every day.

B. Technology Companies Continue to Make Encryption Decisions Based on Their Own Private Business Interests

Like all businesses, technology firms make decisions based on commercial interests, not public policy concerns. Without legislative action, these corporations will “continue to focus on customer and shareholder value,” while government entities will “try to demonstrate the critical public safety price they (meaning we) pay for ‘warrant-proof’ platforms.”¹² In this regard, Apple’s refusal in recent years to accede to court orders and legitimate requests from law enforcement¹³ stands in stark contrast to its conduct in China. There – to the dismay of privacy advocates and others¹⁴ – Apple has recently complied with the government’s directives that businesses locate their servers within mainland China, and has taken other steps that pose threats to customer privacy.¹⁵ (Not surprisingly, China is Apple’s second-largest market.)

=<https://www.forensicmag.com/news/2017/10/fbi-couldnt-access-nearly-7k-devices-because-encryption/>

¹¹ *Report of the Manhattan District Attorney’s Office on Smartphone Encryption and Public Safety: An update to the November 2015 Report*, *supra* note 3, at 10.

¹² Daniel Richman, *Getting Encryption onto the Front Burner*, Lawfare, Oct. 26, 2017, available at <https://www.lawfareblog.com/getting-encryption-front-burner>.

¹³ For example, in response to a court order requiring Apple to assist the F.B.I. in the wake of the 2015 San Bernardino attack, CEO Tim Cook asserted that helping the government unlock the terrorist’s phone would set “a dangerous precedent” that would “undermine the very freedoms and liberty our government is meant to protect.” Tim Cook, *A Message to Our Customers*, Apple, Feb. 16, 2016, available at <https://www.apple.com/customer-letter>.

¹⁴ See Cory Bennett and Katie Bo Williams, *Apple Defends China Moves Amid FBI spat*, The Hill, Mar. 20, 2016, available at <http://thehill.com/policy/cybersecurity/273629-apple-defends-china-moves-amid-fbi-spat>; Stewart Baker, *Deposing Tim Cook*, Wash. Post, Feb. 25, 2016, available at https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/02/25/deposing-tim-cook/?utm_term=.b6c590a5c967; Amul Kalia and Eva Galperin, Electronic Frontier Foundation, *Deciphering China’s VPN Ban*, Aug. 2, 2017, available at <https://www.eff.org/deeplinks/2017/08/deciphering-chinas-vpn-ban> (“Apple took a dispiriting step in the policing of its Chinese mainland App store ... the company has once again aided the Chinese government in its censorship campaign against its own citizens”).

¹⁵ Apple has made other concessions to the Chinese government in recent years, including: removing Virtual Private Network (VPN) apps from the China App Store, removing news apps created by The New York Times, and submitting new iPhone models to “security audits” before they can be sold in China. See generally Farhad Manjoo, *Apple’s Silence in China Sets a Dangerous Precedent*, N.Y. Times, July 31, 2017, available at <https://www.nytimes.com/2017/07/31/technology/apple-vpn-china-dangerous-precedent.html?r=1>; *Apple and Other Tech Titans Should Tread Carefully in China*, Wash. Post, July 22, 2017, available at https://www.washingtonpost.com/opinions/apple-and-other-tech-titans-should-tread-carefully-in-china/2017/07/22/1734eaca-6b1e-11e7-9c15-177740635e83_story.html?utm_term=.07d8823b2d1a.

Notably, the Chinese government imposed these new requirements through legislation, not by seeking court orders, and Apple’s CEO Tim Cook, in defending Apple’s decisions in China, stated simply, “we follow the law wherever we do business.”¹⁶ In other words, the only way to resolve the encryption dilemma in the United States will be through legislation too.

In growing recognition of this reality, lawmakers on both sides of the aisle are acknowledging that companies in the technology sector will necessarily act in their own self-interests absent regulatory oversight, even if the result is contrary to the interests of public policy or public safety. Revelations about Google, Facebook, and Twitter profiting from the proliferation of “fake news” advertisements in the run-up to the 2016 election have drawn scrutiny from Congress, with some senators supporting disclosure requirements for political advertisements.¹⁷ Targeted advertising based on hate speech has also drawn ire.¹⁸ Facebook and Google recently lobbied to prevent the passage of a bipartisan bill that would enable the prosecution of companies that facilitate sex trafficking on their websites.¹⁹ One of the bill’s sponsors, Senator Richard Blumenthal of Connecticut, noted that in today’s climate there is “much stronger agreement among me and my colleagues that there needs to be more aggressive enforcement action on tech companies like Google.”²⁰

As lawmakers turn their attention to regulatory oversight of the technology industry, the question of court-ordered access to lawfully-seized encrypted devices must not be overlooked. It is an issue that affects citizens and businesses victimized by crime, law enforcement agencies tasked with ensuring public safety, and the judges and juries who make critical judgments in criminal cases.

II. Recent Developments Have Continued to Show that Temporary Workarounds are Not a Solution

As discussed above, the debate over lawful access to smartphone evidence has, in some quarters, shifted away from whether technology companies should be required to comply with court orders to the purported availability of alternative means for investigators to “break into” devices – generally referred to as “workarounds.” Rather than pursue a legislative solution, some argue, we should require law enforcement to rely on workarounds to execute search

¹⁶ Saheli Roy Choudhury, *Apple CEO Tim Cook Defends Decision to Remove VPN Apps in China*, CNBC.COM, Aug. 1, 2017, available at <https://www.cnbc.com/2017/08/01/apple-ceo-tim-cook-defends-decision-to-remove-vpn-apps-in-china.html>.

¹⁷ Cecelia Kang, *Internet Giants Face New Political Resistance in Washington*, N.Y. Times, Sept. 20, 2017, available at <https://www.nytimes.com/2017/09/20/technology/internet-giants-face-new-political-resistance-in-washington.html>.

¹⁸ Sapna Maheshwari and Alexandra Stevenson, *Google and Facebook Face Criticism for Ads Targeting Racist Sentiments*, N.Y. Times, Sept. 15, 2017, available at <https://www.nytimes.com/2017/09/15/business/facebook-advertising-antisemitism.html?action=click&contentCollection=Technology&module=RelatedCoverage®ion=EndOfArticle&pgtype=article>.

¹⁹ *Id.*

²⁰ *Id.*

warrants and access data.²¹ Workarounds include some straightforward solutions, such as guessing a user’s password or obtaining the device while it is in use (and therefore unlocked). Obviously, those solutions are of limited utility because they depend largely on luck and are not feasible in the vast majority of cases. A more sophisticated and commonly-cited workaround is to exploit a flaw in the encryption scheme.²² In other words, law enforcement, either alone or in conjunction with a third-party contractor, must find a way to break a device’s encryption. This has powered an emerging market for “lawful hacking” products, which has its own adverse implications for both information security and transparency.²³

Faced with growing backlogs of encrypted devices, some law enforcement agencies have begun working with private-sector partners to attempt to develop workarounds to obtain contents from otherwise “warrant-proof” Apple and Android phones. This office, with our relatively considerable resources, is one of the few local agencies that can afford to pursue this kind of solution. Other offices lack such resources, which creates an unequal system in which access to justice depends on a particular jurisdiction’s financial capacity. Examples of some of our “workaround” efforts are summarized below.

- In a sexual assault case, we recovered an iPhone 4S running iOS 8 from a defendant who is charged with abusing his niece, a child, over a long period of time. Information provided by the victim suggested that there would be evidence of the assaults on the phone, and so we obtained a search warrant. Because of Apple’s default encryption, we were unable to unlock the phone for several months. Recently, with the assistance of a paid third party, we accessed the phone. Disturbing videos were recovered corroborating the victim’s statements. It is impossible to overstate the value of this kind of evidence, particularly in a case where the only eyewitness is a child victim.
- In a homicide case, an iPhone 6 running iOS 8 was recovered from the victim, who had been stabbed to death on the street. Because the device belonged to the decedent, there was no privacy issue – a search warrant would not have been necessary. Nonetheless, default device encryption prevented a search of the phone. Approximately two years later, with the

²¹ See, e.g., Orin Kerr & Bruce Schneier, *Encryption Workarounds*, GWU Law School Public Research Paper No. 2017 22, May 22, 2017; Ben Buchanan, *Bypassing Encryption: “Lawful Hacking” is the Next Frontier of Law Enforcement Technology*, Salon.com, Mar. 22, 2017; Alina Selyukh, *Lawful Hacking: Should, or Can, the FBI Learn to Overcome Encryption Itself?*, npr.org, Apr. 19, 2016.

²² See Kerr & Schneier, *Encryption Workarounds*, GWU Law School Public Research Paper No. 2017 22, May 22, 2017.

²³ Daniel Richman, *Getting Encryption onto the Front Burner*, Lawfare, Oct. 26, 2017, available at <https://www.lawfareblog.com/getting-encryption-front-burner> (“We already face the risk of government hacking tools escaping. How much greater is the risk when the market expands? Moreover, if forced to rely on vulnerability exploitation, law enforcement cannot be expected to tolerate the disclosure of each tool developed or bought whenever they bring a prosecution using its fruits.”).

assistance of a paid private vendor, we were able to access the phone's contents. The phone contained videos, taken less than an hour before the murder, showing the defendant and the victim together. This material was vitally important to the case, and was unavailable via any other means.

- Another homicide case involved a woman who was killed and then burned in a Manhattan building. A suspect was identified, but his relationship to the victim was unknown. Several months after the crime, we were able to unlock the suspect's phone, again with third-party assistance. The phone contained chats between the suspect and the victim, establishing their relationship as well as a timeline for the murder.
- In a sexual assault case, the defendant assaulted the victim after breaking into her home. He later claimed that he was intoxicated and committed the crimes by mistake. Evidence obtained from his locked smartphone, particularly text messages and internet history from immediately prior to the incident, refuted that claim and conclusively established his intent.
- In a multi-defendant homicide case, the victim's phone was unlocked with third-party assistance after several months. The phone revealed a text sent from the victim's phone by one of the defendants, attempting to gain access to the victim's safe.
- In a complex larceny scheme, two suspects were acting together to commit credit card fraud. One suspect's phones were unlocked with the assistance of a third party; the other suspect's phones were inaccessible. On the unlocked phones, investigators saw dozens of additional stolen credit card accounts, linking that suspect to months' worth of fraud. The other suspect, despite likely involvement in that fraud, cannot be charged.

These examples confirm what state and local law enforcement agencies have been saying since 2014: default device encryption results in evidence, whether exculpatory or incriminating, being removed from consideration by prosecutors, investigators, judges, and juries. Because obtaining this evidence is extremely costly in the expanding "lawful hacking" marketplace (the overall cost of these workarounds to our office to date is in the hundreds of thousands of dollars), it is available only in cases handled by a small minority of well-funded agencies. Crime victims thus have unequal access to justice, depending on the resources of the city or county in which they live.

Putting aside cost, these workarounds, by definition, lag behind smartphone technology; each time a new device or operating system is released, it takes months, and

sometimes years, for lawful hacking solutions to catch up. That time can mean that evidence is not available when investigators and prosecutors need it, and no amount of money can change that.

Finally, smartphone data can also be critical in exonerating innocent defendants. For example, in one recent case, two men were indicted for a gunpoint robbery based, in part, on eyewitness identifications. The eyewitnesses were steadfast, but one defendant was adamant he had not been involved. Data extracted from his co-defendant's smartphone revealed the true identity of the other perpetrator, confirming that this defendant had been misidentified and wrongfully charged. His case was accordingly dismissed. Without this evidence, the case against the misidentified defendant might have gone forward, resulting in a miscarriage of justice.²⁴

III. Court Decisions Again Demonstrate a Judicial Remedy is Not Realistic

With efforts to obtain court-ordered decryption assistance from technology companies at a standstill, investigators and prosecutors have few alternative means to access encrypted devices. As discussed above, they can employ techniques, at a significant cost, to try to break encryption on their own. Alternatively, they can attempt to obtain the passcodes for encrypted devices from the devices' users. This is not always feasible – users might be unknown, unavailable, or deceased. When the users are known and available, they will often be suspects in a criminal investigation, and obtaining their cooperation presents a host of issues.

From a legal standpoint, as discussed in the 2016 Report, the issue is that the compelled production of a user's passcode generally implicates that person's Fifth Amendment privilege against self-incrimination.²⁵ Whether and how law enforcement can compel a user to unlock his or her device depends on how courts view the Fifth Amendment's protections in this context. The 2016 Report described the framework in which courts apply the Fifth Amendment, and discussed some recent outcomes in cases involving "decryption orders." Over the past year, courts have continued to address government requests for decryption orders, but no clear trends have emerged.

Assuming a user has properly invoked the Fifth Amendment, law enforcement may still be able to compel the user to decrypt his device by demonstrating that any privileged

²⁴ It might seem likely that, where a smartphone contains exonerating evidence, the user will simply consent to the search, making assistance unnecessary. But, for one thing, this evidence often resides on smartphones belonging to others – in the case described here, the phone belonged to a (properly charged) co defendant. Moreover, defendants often refuse to consent to searches of phones even when they believe there is exculpatory evidence to be found there. Frequently, there is also evidence of uncharged crimes that they do not want to disclose. Prosecutors are thus forced to make charging decisions without the benefit of what might be critical exculpatory evidence.

²⁵ See, e.g., *SEC v. Huang*, 2015 U.S. Dist. LEXIS 127853, at *3 (E.D. Pa. Sept. 23, 2015) (finding "the personal thought process defining a smartphone passcode not shared with an employer is testimonial").

information sought is already known to the government – legally speaking, a “foregone conclusion.”²⁶ Courts have held that, when the government already knows of the “existence and location” of the information it seeks, the Fifth Amendment does not apply – providing the information becomes a question of “surrender,” not “testimony.”²⁷ The 2016 Report described two divergent approaches to applying the “foregone conclusion” doctrine to decryption orders: some courts have required the government to demonstrate that the contents of the device are known ahead of time,²⁸ while others have asked only whether the existence of the passcode, and the user’s knowledge of it, are known facts.²⁹ Going forward, law enforcement’s ability to compel decryption, by users, of smartphones and other devices will depend largely on which of these approaches courts favor.

The question is far from settled. In March of this year, the Third Circuit Court of Appeals in Pennsylvania affirmed a contempt order against a defendant who refused to comply with a lower court’s order to decrypt two hard drives.³⁰ According to the lower court, the government had satisfied the “foregone conclusion” test by showing that the devices existed and contained the evidence sought (*i.e.*, child pornography).³¹ Because the government had already examined other devices belonging to the defendant and found child pornography on them, there was reason to believe the encrypted drives contained similar material.³² The appeals court affirmed the contempt order, noting the government had met the burden of showing that child pornography was on the devices. By contrast, in an earlier case, a different federal court, the Eleventh Circuit Court of Appeals, rejected the government’s “foregone conclusion” argument because there had been no evidence that any files existed on the devices, or that the suspect could access them.³³

Both of these decisions turned on whether the government had shown that it knew of the existence of certain *contents* of the encrypted devices. In other words, the courts employed the more onerous test, rather than the simpler question of whether the existence of the password, and the defendant’s knowledge of it, were known ahead of time. Notably though, the Third Circuit hinted that, in future cases, it might take the view that the government need only show that the password’s existence is a “foregone conclusion.” In a footnote, the court made a point of saying that, because it was simply reviewing the lower court’s decision for plain error, it was not weighing in on the “correct focus” of the foregone conclusion analysis.³⁴ It noted that

²⁶ See *Fisher*, 425 U.S. 391; *Doe*, 487 U.S. 201.

²⁷ *Id.* at 411.

²⁸ See *United States v. Doe*, 670 F.3d 1335 (11th Cir. 2012); *SEC v. Huang*, 2015 U.S. Dist. LEXIS 127853 (E.D. Pa. Sept. 23, 2015); and *Commonwealth v. Baust*, 89 Va. Cir. 267 (2014).

²⁹ See *United States v. Gavegnano*, 305 Fed. Appx. 954 (4th Cir. 2009); *United States v. Fricosu*, 841 F. Supp. 2d 1232 (D. Colo. 2012); *Commonwealth v. Gelfgatt*, 468 Mass. 512 (2014).

³⁰ *United States v. Apple Mac Pro Computer et. al.*, 851 F.3d 238 (3d Cir. 2017).

³¹ *Id.* at 243, 248.

³² *Id.* at 248.

³³ *Id.* (discussing *In re Grand Jury Subpoena Duces Tecum Dated Mar. 25, 2011*, 670 F.3d 1335 (11th Cir. 2012)).

³⁴ *Apple Mac Pro Computer, et. al.*, 851 F.3d at 248.

a very sound argument can be made that the foregone conclusion doctrine properly focuses on whether the Government already knows the testimony that is implicit in the act of production. In this case, the fact known to the government that is implicit in the act of providing the password for the devices is “I, John Doe, know the password for these devices.”³⁵

While the court did not explicitly disagree with the Eleventh Circuit, it strongly suggested that, if presented with the issue, it would adopt the less onerous application of the foregone conclusion doctrine.

As courts are increasingly asked to decide whether to issue decryption orders, or hold defendants in contempt for violating them, it is possible that the view espoused in the Third Circuit’s footnote (as well as in some earlier decisions³⁶) will take hold. At least one commentator believes that would be the correct result.³⁷ This would mean that, in order to obtain a decryption order, law enforcement would have to demonstrate that the target of the order (presumably the device’s user) knows the password – generally, a fairly easy case to make. But compliance with the order is a different issue; a user might decide that a contempt finding is preferable to whatever punishment might be imposed if he reveals the encrypted material. So far, the user in the Third Circuit case has opted to remain in jail rather than unlock his hard drives.³⁸

Finally, many devices are now accessible not only via their passcodes but also with the user’s fingerprint. And Apple’s newest technology eliminates the fingerprint identification in favor of facial recognition technology.³⁹ As documented in the 2016 Report, biometric data like a fingerprint (and, presumably, a user’s face) is generally not considered to be protected by the Fifth Amendment.⁴⁰ At least one court has held that a user can be ordered to unlock

³⁵ *Id.*

³⁶ See note 29, *supra*.

³⁷ Orin Kerr, *Third Circuit Doesn’t Resolve Standard for Forced Decryption under the Fifth Amendment*, Wash. Post, Mar. 20, 2017, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/20/third-circuit-doesnt-resolve-standard-for-forced-decryption-under-the-fifth-amendment>.

³⁸ See Olivia Solon, *Man Jailed Until He Unlocks Encrypted Hard Drives in Child Abuse Images Case*, The Guardian, Mar. 23, 2017, available at <https://www.theguardian.com/technology/2017/mar/23/francis-rawls-philadelphia-police-child-abuse-encryption>.

³⁹ With the release of iPhone 8 this year, Apple has introduced 3D facial recognition scanning in place of fingerprint Touch ID. The increased number of data points in a facial recognition scan may enhance security ordinarily, but it is unclear how this may affect the legal approach to ordering unlock using biometric features. This mechanism would foreclose workaround options employed by some law enforcement officials, for example, making a 3D print of a fingerprint to unlock a victim’s phone. It is unclear whether courts may issue orders to unlock a device using biometric identifiers in this context or prohibit an enforcement official from holding the phone in front of the user’s face without consent in order to unlock.

⁴⁰ There is also no Fourth Amendment protection with respect to the “seizure” of a person’s fingerprint. See *Maryland v. King*, 133 S. Ct. 1958, 1977 (2013), *United States v. Dionisio*, 410 U.S. 1 at 77-78 (1972). The Fourth Amendment does, however, prohibit the use of fingerprint evidence obtained as the result of an unlawful detention. *Davis v. Mississippi*, 394 U.S. 721 (1969); *Hayes v. Florida*, 470 U.S. 811, 816 (1985) (noting fingerprint

his device via the fingerprint sensor,⁴¹ and in some instances, law enforcement, including this office, has sought and obtained search warrants that include provisions ordering occupants of the target premises to use their fingerprints to unlock any Touch ID-enabled devices.⁴² However, even if this became standard practice for law enforcement, its utility would be limited, as iPhones require the entry of the passcode after 48 hours of inactivity, or when the phone restarts.⁴³ Apple's newest technology also undermines law enforcement's ability to use fingerprints to unlock a Touch ID-enabled device.⁴⁴

More importantly, there is reason to believe courts may view these blanket orders with skepticism. A federal magistrate judge in Illinois recently denied a search warrant provision ordering occupants of a premises to unlock devices with their fingerprints, finding the government had not established probable cause to detain every person on the scene for the purpose of obtaining their fingerprints.⁴⁵ While there was no "protectable Fourth Amendment interest" in the fingerprints themselves, the detention of all occupants for the purpose of getting their fingerprints was deemed a violation.⁴⁶ The court also found a Fifth Amendment issue, for the same reasons – without knowledge of who the occupants might be, or what devices they might possess, the government could not satisfy the "foregone conclusion" test.⁴⁷ That decision was later overruled by a District Court judge who found no Fifth Amendment

evidence obtained as the result of unlawful, warrantless detention was inadmissible, but "a brief detention in the field for the purpose of fingerprinting" not based on probable cause may be permissible).

⁴¹ *Commonwealth v. Baust*, 89 Va. Cir. 267, 271.

⁴² *In the Matter of the Search of iPhone Seized from 3254 Altura Avenue in Glendale, California*, Case 2:16 mj 00398 DUTY (C.D. Cal., Feb. 25, 2016). See also Kaveh Wadell, *Police Can Force You to Use Your Fingerprint to Unlock Your Phone*, The Atlantic, May 3, 2016, <http://www.theatlantic.com/technology/archive/2016/05/iphone-fingerprint-search-warrant/480861>; Thomas Fox Brewster, *Feds Walk Into a Building, Demand Everyone's Fingerprints to Open Phones*, Forbes, Oct. 16, 2016, available at <http://www.forbes.com/sites/thomasbrewster/2016/10/16/doj-demands-mass-fingerprint-seizure-to-open-iphones/#5e0cd74d8d9d>.

⁴³ See "Use Touch ID on iPhone and iPad," available at <https://support.apple.com/en-us/HT201371>.

⁴⁴ Since Apple released iOS 11 on September 19, 2017, even when a device is unlocked with a fingerprint, it will require a passcode once an external device is connected. This means that law enforcement can look at the contents of a phone that has been unlocked using Touch ID, but cannot perform a forensic acquisition of the data contained on the device using an external tool. In other words, law enforcement cannot create an image of the device, which is considered to be the best practice in cellphone forensic analysis. This prevents access to potentially critical evidence on the device, such as recently deleted SMS, MMS, and iMessages and deleted internet history, which are not visible during a manual examination of the phone. Additionally, with iOS 11, Apple created a "kill switch" that an iPhone owner can use to temporarily disable Touch ID by pressing and holding the side button and one of the volume buttons or by touching the power button five times in rapid succession. See Apple, "Use Emergency SOS on your Phone," available at <https://support.apple.com/en-us/HT208076>. See also Tom Warren, *iOS 11 Has a "Cop Button" to Temporarily Disable Touch ID*, The Verge, Aug. 17, 2017, available at <https://www.theverge.com/2017/8/17/16161758/ios-11-touch-id-disable-emergency-services-lock>. This means that a user who is approached by law enforcement can quickly and surreptitiously disable that feature. These innovations in iOS 11 have the potential to limit severely Touch ID access by law enforcement.

⁴⁵ *In re Application for a Search Warrant*, 236 F. Supp. 3d 1066 (N.D. Ill. 2017).

⁴⁶ *Id.*

⁴⁷ *Id.* at 11 18.

problem.⁴⁸ That judge noted that the court was not weighing in on whether this investigative tactic should be regulated, because “the legislature is better positioned to balance the interests of law enforcement and privacy interests.”⁴⁹

Although the law remains unsettled, fingerprint unlock orders are unlikely to become standard in search warrant applications. Establishing probable cause, and the requisite foregone conclusion showing, requires “individualized,” “fact-intensive” inquiries.⁵⁰ In some scenarios, facts may be available about specific occupants and devices prior to the execution of a search warrant. But in many cases, law enforcement will only learn of the basis for a fingerprint decryption order after the search has been conducted. Because of the time-sensitive nature of the Touch ID technology, that will almost certainly be too late.

In short, nothing in recent court decisions suggests that this encryption problem can be solved through litigation. Courts across jurisdictions, at state and federal levels, will invariably adopt different approaches. Even if courts were to agree on a single approach that enables law enforcement to access data on a seized device through a judicially-approved search warrant, technology companies could simply manufacture their devices to circumvent that type of access. A legislative solution is the only way to ensure a proper balance of safety and security interests, that is, to encourage innovation by device manufacturers which ensuring access to critical evidence by law enforcement.

IV. Other Countries are Making Efforts to Strike the Balance Between Privacy and Public Safety

While there has been a standstill in legislative efforts in the United States, foreign nations are continuing to seek legislative solutions to the encryption issue. Unfortunately, these efforts will likely have little practical effect in investigations and prosecutions in the United States.

European Union

European nations have recently recognized “the unacceptability of the status quo, in terms of encryption, which makes the police and judicial authorities powerless.”⁵¹ The European Commission has suggested several measures to address the problem. First, it has proposed additional resources for Europol, with the aim of developing decryption capability.⁵² Second, the Commission proposes a network of subject-matter experts at the European level,

⁴⁸ *In the Matter of the Search Warrant Application for [REDACTED]*, Case No. 17 M 85, (N.D.Ill. Sept. 18, 2017). See also Michael Tarm, *Case Reveals Legal Rules of Thumb Tricky with iPhone Sensors*, Associated Press, Oct. 17, 2017, available at <https://www.seattletimes.com/nation-world/case-reveals-legal-rules-of-thumb-tricky-with-iphone-sensors>.

⁴⁹ *Id.*

⁵⁰ *In re Application for a Search Warrant*, 236 F. Supp. 3d 1066 (N.D. Ill. 2017).

⁵¹ *Compte rendu, Reunion sur L'impact du Chiffrement dans les Investigations Criminelles*, Sept. 18, 2017.

⁵² *Communication from the Commission to the European Parliament, the European Council, and the Council, Elevent Progress Report Towards an Effective and Genuine Security Union*, Oct. 18, 2017.

to facilitate collaboration among member-states. Third, member states are encouraged to develop “a toolbox of alternative investigation techniques” to access encrypted evidence. Fourth, the Commission recommends “a better and more structured collaboration between authorities, service providers and other industry partners” to understand better the challenges that exist in all sectors. Fifth, resources will be devoted to training programs aimed at enabling investigators to obtain and secure electronic evidence. And, finally, the Commission will continue to assess and evaluate the role of encryption in legal criminal investigations from a legal and technical perspective, and will support other efforts to that end.⁵³ The Commission is also attempting to facilitate access to electronic evidence across member state lines.⁵⁴ A European Commission working group on the topic of encryption has specifically suggested compelling providers to technically assist law enforcement in accessing data.⁵⁵

The E.U. is also mindful of privacy concerns. In July 2017, a European Parliament committee proposed an amendment to pending legislation (“ePrivacy directive”) that would prevent member states from trying to decrypt encrypted communications, and compel all tech companies to use end-to-end encryption.⁵⁶

France and Germany

French authorities report that France and Germany have recently put forward a joint proposal for technical and legal solutions to the problems posed by encryption. The proposal is, in part, a response to the ePrivacy directive described above. It notes the importance of strengthening “the capabilities of our law enforcement authorities, which respecting the legitimacy of encrypted communications.”⁵⁷ The technical measures contemplated include (i) developing practical guidelines for law enforcement to follow; (ii) creating a framework for technical collaboration with private partners; (iii) cooperating with app developers to allow law enforcement to execute, e.g., lawful wiretap orders; (iv) ensuring the security of any tools developed to aid law enforcement; (v) providing enhanced access to VoIP calls for law enforcement; and (vi) developing and implementing abstractions for law enforcement’s use of digital forensics tools.⁵⁸

On the legislative side, the countries propose (i) standardizing the regulatory requirements that affect electronic evidence among member states (retention times, file formats, etc.); (ii) requiring that electronic communications providers designate a representative for each Member State to respond to law enforcement requests, including search warrants; (iii) proposing a European code for electronic communications that would cover services like Skype and WhatsApp; (iv) drafting “umbrella legislation” that would harmonize the legal framework for dealing with different types of apps and services; (v)

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Compte rendu, Reunion sur L’impact du Chiffrement dans les Investigations Criminelles*, Sept. 18, 2017.

⁵⁶ The proposal must be approved by Parliament and then reviewed by the EU Council.

⁵⁷ Memorandum from Secrétariat général des affaires européennes to la Représentation permanente de la France auprès de l’Union européenne (Sept. 5, 2017) (on file with author).

⁵⁸ *Id.* at 3 4.

creating a framework for cooperation between the E.U. and U.S. as an alternative to the lengthy MLAT process; (v) finding a way to secure law enforcement access to metadata without undermining privacy rights; (vi) adopting a clear obligation for providers to provide law enforcement with necessary technical assistance; (vii) creating a legal framework for the interception of 4G and 5G communications; and (viii) creating an enforcement framework, including sanctions and restrictive measures.

Australia

The Australian government has recently introduced legislation to address the encryption issue, which the Attorney General described as “potentially the greatest degradation of intelligence and law enforcement capability that we have seen in our lifetimes.”⁵⁹ The legislation is based on the United Kingdom’s Investigatory Powers Bill, and would require device manufacturers to provide “appropriate assistance” to law enforcement, “where it is necessary to interdict or in the case of a crime that may have been committed, it is necessary to investigate and prosecute serious crime, whether it be counter terrorism, whether it be serious organised crime, whether it be for example, the operation of pedophile networks.”⁶⁰

Australia’s Attorney General has emphasized that the legislation does not alter the nation’s legal principles, but merely moves them into the modern era: “It has always been accepted that in appropriate circumstances there is a compellable obligation on citizens, including corporate citizens, to cooperate with law enforcement authorities in order to resolve or prevent crime.”⁶¹

In Queensland, the parliament also recently passed the “Counter-Terrorism and Other Legislation Amendment,” which gives law enforcement the legal authority to hack into devices related to terror attacks, including the implanting of remote software. The text of the bill includes an amendment that will require “a person to provide access codes, passwords, or encryption keys” when “a person’s life or safety is seriously endangered.”⁶²

United Kingdom

In the U.K., the Investigatory Powers Bill, discussed in the 2016 Report, recently passed the House of Commons and is being debated by the House of Lords. The law clarifies and codifies existing powers, such as interception of targeted data and communications, and

⁵⁹ Australia, Office of the Prime Minister, Press Conference with the Attorney General, Senator the Hon. George Brandis QC and the Acting Commissioner of the Australian Federal Police, Mr. Michael Phelan APM, July 14, 2017, *available at* https://www.pm.gov.au/media/2017_07_14/press_conference_attorney_general_senator_hon_george_brandis_qc_and_acting.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Counter Terrorism and Other Legislation Amendment Bill 2017 (Cth.), July 20, 2017, *available at* <https://www.legislation.qld.gov.au/browse/bills>.

hacking, and authorizes bulk collection of metadata.⁶³ With respect to encryption, the bill requires communications service providers (CSPs) in the UK to have the ability to remove encryption applied by the CSP, provided it is technically feasible and not unduly expensive. There is an appeals process for orders to break encryption, wherein CSPs can assert that compliance would be prohibitively expensive or otherwise damaging. The law does not require the installation of “backdoors,” it merely requires CSPs maintain the ability (already mandated in the UK) to remove encryption. It does not apply to CSPs in other countries. Apple opposes the bill.⁶⁴

V. Federal Legislation Remains the Only Effective Option

Default device encryption remains a significant public safety concern – it hamstrings law enforcement agencies in their efforts to investigate, solve, and prosecute crime. Recent developments in encryption workarounds have provided some measure of relief, but pitting law enforcement and the technology sector in an endless cat-and-mouse game is ill-advised, costly, and untenable. It also offers no remedy to the huge majority of law enforcement agencies that cannot afford to pursue “lawful hacking” solutions.

It is true that, as some commentators point out, if smartphone providers were required by law to comply with decryption orders issued by state and federal courts, some more sophisticated criminals might migrate to foreign providers, or employ additional encryption technology not subject to such regulations. But the fact is that criminals, like all users, prefer software and devices that are reliable and user-friendly, and most of them will continue to use iPhones and Androids for that reason. Indeed, for this same reason, search warrants executed on United States-based email accounts often yield critical evidence, even though criminals could choose to use foreign email providers who are not subject to U.S. legal process.

As discussed in the 2015 Report, prior to October 2014, U.S. smartphone providers routinely complied with court-issued “unlock orders,” with no discernable cost to information security.⁶⁵ And technology companies continue to maintain the ability to access certain encrypted data for their own business reasons.⁶⁶ The legislative solution previously proposed

⁶³ See United Kingdom Parliament, Investigatory Powers Act of 2016, <https://services.parliament.uk/bills/2015/16/investigatorypowers.html>.

⁶⁴ In a series of interviews following the circulation of the draft bill, CEO Cook noted that any requirement to provide technical assistance to the U.K. government would have “very dire consequences.” See Ben Quinn, *UK Surveillance Bill Could Bring Very Dire Consequences, Warns Apple Chief*, The Guardian, Nov. 9, 2015, available at <https://www.theguardian.com/world/2015/nov/10/surveillance-bill-dire-consequences-apple-tim-cook>.

⁶⁵ *Report of the Manhattan District Attorney’s Office on Smartphone Encryption and Public Safety*, November 18, 2015, *supra* note 1. In March, 2016, in written testimony before the House Judiciary Committee, Apple’s then General Counsel Bruce Sewell stated that “The process Apple used to extract data from locked iPhones running iOS 7 or earlier operating systems was not, to our knowledge, compromised.” *The Encryption Tightrope: Balancing Americans’ Security and Privacy Before the H. Comm. on the Judiciary*, th Cong. (2016) (statement of Bruce Sewell, General Counsel for Apple, Inc.).

⁶⁶ See Section II, *supra*; Daniel Richman, *Getting Encryption onto the Front Burner*, Lawfare, Oct. 26, 2017, available at <https://www.lawfareblog.com/getting-encryption-front-burner>.

in our 2015 and 2016 Reports⁶⁷ would simply require that similar capabilities exist when the data is sought by a judge, investigator, or grand jury, after the requisite showing of probable cause.

In the past year, conversations about such legislation have stalled. But this issue has not gone away, and is not going away any time soon. Workarounds like lawful hacking are not a meaningful solution. We should insist that Apple, Google, and other smartphone providers play by the rules, rather than writing them.

⁶⁷ *Report of the Manhattan District Attorney's Office on Smartphone Encryption and Public Safety: An update to the November 2015 Report, supra* note 3, at Part V, Point VI.

Watson, Theresa (OAG)

From: Watson, Theresa (OAG)
Sent: Thursday, December 7, 2017 11:12 AM
To: Whitaker, Matthew (OAG (b)(6), (b)(7)(C) per FBI (CG) (FBI); Cutrona, Danielle (OAG); Barnett, Gary E. (OAG); Flores, Sarah Isgur (OPA); Moore, Paul (OAG); Darden, Silas V. (OAG)
Cc: AGPD
Subject: WH Roundtable on Violent Crime and Opioids
Attachments: Sessions Event Memo.docx; ATT00001.txt

For tomorrow's event at 2pm.

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

From: Gunn, Ashley L. EOP/WH (b) (6)
Sent: Thursday, December 7, 2017 11:06 AM
To: Watson, Theresa (OAG (b) (6)
Cc: Riggs, Charlotte R. EOP/WH (b) (6)
Subject: Sessions Event Memo.docx

Ashley Gunn
Senior Director
Cabinet Affairs
(b) (6) (no text)
The White House

Flores, Sarah Isgur (OPA)

From: Flores, Sarah Isgur (OPA)
Sent: Saturday, December 16, 2017 1:07 PM
To: Whitaker, Matthew (OAG); Terwilliger, Zachary (ODAG); Parker, Rachel (OASG)
Cc: Prior, Ian (OPA)
Subject: FYI: WH asked me t (b) (5)

Seems like a good opportunity t (b) (5) I
expect some off topic questions but might be good to address those also before we get hit on Fox News
Sunday.

From: McKinney, Suzanna (OAG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=67365f085c414ccaba0b6c7958c3
b8ab-mckinney, s>
To: Whitaker, Matthew (OAG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=ec1c6542c4b34ac2b6fa7848ead5
bda3-whitaker, m>
Cc:
Bcc:
Subject: FW: Marijuana Enforcement Memo Materials
Date: Mon Jan 08 2018 16:06:21 EST
Attachments: Articles and Statements_Marijuana Enforcement Memo.pdf
image003.png
image006.jpg
image007.png
Marijuana Enforcement Memo_1.4.18.pdf

Matt-

Here is the email that I sent to WHCO (I took out the AG's note). Feel free to repurpose it for Chief Kelly's office. The WSJ text is below:

Jeff Sessions's Marijuana Candor

The AG is forcing legalizers to square federal and state law.

A customer browses a selection of marijuana products at MedMen, a medical marijuana dispensary, in Los Angeles, Dec. 21, 2017. Photo: Richard Vogel/Associated Press

By: The Editorial Board

Attorney General Jeff Sessions is being lambasted as the uncool parent in Washington, and maybe the universe, for rescinding an Obama Administration directive that decriminalized marijuana in states that have legalized the drug. But even if you're a legalizer, you should give the AG some credit for forcing a debate on the rule of law that Congress should settle.

The problem is the conflict between state and federal statutes. Eight states have legalized pot for recreational use, and more than half for medical purposes. But under the federal Controlled Substances Act of 1970, cannabis is an illegal schedule I drug along with heroin and LSD. Individuals found with even small amounts can go to prison, and making or distributing large quantities carry long sentences and stiff fines.

President Obama tried to dodge this conflict, as he so often did, with an executive diktat. After Colorado and Washington State voted to legalize pot, his Justice Department in 2013 instructed U.S. Attorneys to refrain from prosecuting marijuana offenses in states where the drug is legal. This let him side with the

legalizers without taking responsibility for it.

Justice's guidance expected states to "implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests." Its memo also ordered attorneys to prioritize preventing distribution to minors, diversion to other states or using marijuana as a cover for trafficking in other drugs.

In practice, this has meant few federal pot prosecutions in those states despite evidence of all of those problems and more. Colorado has the highest rate of first-time youth marijuana use in the country. Alaska and Oregon ranked third and seventh after they legalized in 2014. According to Smart Approaches to Marijuana, cannabis use among young people has increased by 65% in Colorado since legalization.

Drug traffickers have exploited the aegis of state laws, which has let the black market flourish. A police report in Oregon revealed that 70% of marijuana sales in 2016 occurred on the black market, and up to 900 tons more cannabis is produced than consumed in the state. Mexican cartels have moved into Alaska.

The Rocky Mountain High Intensity Drug Trafficking Area reported a more than 700% increase in postal marijuana seizures following legalization. The crime rate in Colorado has increased 11 times faster than in other large cities since legalization. A National Institutes of Health study has linked the density of marijuana dispensaries to increased property crime.

Many pot sellers evade state regulation because of hefty compliance costs and taxes. Law enforcement in California reports that only a fraction of pot growers have applied for permits. Drugged-driving fatalities doubled in Washington following legalization. Positive drug tests for marijuana in 2016 increased at more than double the rate in Colorado and Washington as nationwide.

We report all this because the legalization debate has been dominated by a haze of cultural sentiment largely devoid of facts, and the promises by advocates about reduced enforcement costs and crime haven't materialized. Meanwhile, the failure to enforce federal law, and letting states ignore it, erodes confidence in the law and lets Congress duck a debate on legalization.

Federal law trumps state law under the Constitution's Supremacy Clause except on core state powers, and the Supreme Court ruled in *Gonzales v. Raich* (2005) that the feds can prosecute marijuana offenses under the Commerce Clause. We disagreed with Raich, but it is the law and states can't nullify federal laws.

Presidents also can't suspend the enforcement of laws simply because they don't like them. King James II tried that and spurred the Glorious Revolution of 1688. Mr. Sessions is right to enforce the law and restore prosecutorial discretion. The AG has directed U.S. Attorneys to follow the "well-established principles that govern all federal prosecutions" including weighing "all relevant considerations of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community."

Justice shouldn't spend scarce resources prosecuting potheads who grow a few plants in their backyard. Since marijuana has sprouted into a multi-billion dollar industry, prosecutors are also unlikely to target mom-and-pop businesses that are following state laws and not exporting cannabis. In that sense Mr. Session's guidance may encourage increased compliance with state laws.

Social mores are changing, and a majority of Americans support legalizing pot. But instead of taking the cop-out of blaming Mr. Sessions, legalizers in Congress ought to have the courage of their convictions and try to decriminalize pot nationwide. Let Senators Cory Gardner and Kamala Harris persuade their colleagues that what's good for Colorado and California is good for the country.

Appeared in the January 6, 2018, print edition.

Suzanna R. McKinney

U.S. Department of Justice

Office of the Attorney General

From: McKinney, Suzanna (OAG)
Sent: Monday, January 8, 2018 4:03 PM
To: 'Coleman, Reid E. EOP/WHO' (b) (6)
Subject: Marijuana Enforcement Memo Materials

Hey Reid,

Would you mind passing the attached articles and statements along to both Don & Uttam? The AG included a note and wants to make sure they see the attached.

Thanks very much.

Best,

Suzanna R. McKinney

U.S. Department of Justice

Office of the Attorney General



Pot is dangerous, not funny -- a doctor tells us why

By Dr. David B. Samadi

Published January 07, 2018

FoxNews.com

The legalization of marijuana became a hot topic in the past week. First, recreational use of the drug became legal in California at the start of 2018. Next, Attorney General Jeff Sessions announced he would allow U.S. attorneys to decide whether to enforce federal laws outlawing the use and sale of pot in states that have legalized the drug.

Sessions ended an Obama administration policy that discouraged federal prosecutors from enforcing federal marijuana laws in states that allow the drug's medical or recreational use. It's not clear yet what impact the attorney general's action will have.

As a physician, my doctoring knowledge tells me that making marijuana legally available is a bad idea, except perhaps for certain medical conditions. Marijuana is a potent mind-altering drug that can cause serious harm, as I explain below. It will be just one more substance we have to warn our children to stay away from.

As we all know, many people use marijuana even where it remains illegal. But legalization will lead to increased use and make many people believe it is not all that dangerous.

The growing acceptance of legalized pot is an alarming trend. It has quickly spread in the past few years and today seven states and Washington, D.C., allow recreational marijuana. A total of 29 states and the District of Columbia allow some form of medical marijuana.

Sadly, it's very likely that the American people will become more and more acclimated to marijuana use in the years ahead, acknowledging it as just another way to "feel good."

It sure looked like CNN was doing its best to indoctrinate the public on the normalization and acceptance of marijuana. As a medical doctor, I found this encouragement and joking to be both irresponsible and disappointing.

How do we as a society benefit from legalizing marijuana? Maybe it makes sense from a financial standpoint -- perhaps it will cut illegal sales and it will certainly generate tax revenue and create jobs. But what about the overall health of our citizens? Shouldn't that take precedence? Can there not be other creative ideas for generating money and reigning in crime?

From a health standpoint, why is legalization of another mind-altering drug the right thing to do? The U.S. is already in the midst of a devastating prescription opioid and heroin crisis. And individuals from all walks of life struggle with the abuse of alcohol and drugs.

It may be too late, but taking an illegal drug and making it legal needs to be well-thought out, to determine what impact this major step will have on future generations.

Too often, marijuana is treated as a harmless substance -- something to joke and giggle about, and something that we see the people we admire on TV, in movies and elsewhere enjoying as a break from the workaday world. The message? Treat yourself to an ice cream cone, a piece of cake, a beer or some pot. It's OK to enjoy yourself.

There was no better illustration of this than when the cool guys and gals at CNN celebrated the arrival of the 2018 on New Year's Eve with what turned into a nationally televised pot party.

"The most trusted name in news" televised a haze of marijuana smoke enveloping party-goers at a Denver New Year's Eve celebration. The "puff, pass and paint" party was spotlighted by CNN reporter Randi Kaye, featuring revelers partaking of "hits," and using bongos and even a special gas mask while getting high in the mile-high city.

It sure looked like CNN was doing its best to indoctrinate the public on the normalization and acceptance of marijuana. As a medical doctor, I found this encouragement and joking to be both irresponsible and disappointing.

What is marijuana?

Let me give you some facts about marijuana that every American should know.

Similar to hemp, marijuana refers to the dried leaves, flowers, stems and seeds from the cannabis plant. The plant's primary mind-altering chemical comes from delta-9-tetrahydrocannabinol, or THC. It can be smoked; vaped (inhaling the vapor); eaten when mixed in foods such as brownies, cookies or candy; or brewed as tea.

What is especially concerning is the fact that the marijuana of today is not the same as it was back in the 1960s or 1970s. Over the past few decades, the concentration of THC in the cannabis plant has been increasing, making it more potent than ever.

A fairly recent popular method of getting high is smoking THC-rich resins extracted from the plant. Extracts are quite powerful, delivering very large amounts of THC to the body. This has sent many users to the emergency room.

How does pot affect the body?

Marijuana has both short- and long-term effects on the body.

Within a few minutes of smoking marijuana, a person feels the effects of pot, as THC is rapidly passes from the lungs into the bloodstream, making its way to the brain and other organs.

What causes the “high” people experience is marijuana’s effect on over-activating parts of the brain containing specific brain cell receptors. This leads to feelings of an altered sense of time, other altered senses, changes in mood, impaired body movement, impaired memory and difficulty in thinking and problem-solving.

Researchers are still studying the long-term effects of marijuana. But what is known is that the younger a person begins using pot, such as in the teen years, the greater the declines in general knowledge, impaired thinking, learning difficulties and lowered IQ.

Other health effects from marijuana usage both physically and mentally can include the following:

- **Breathing problems** – Marijuana smoke irritates the lungs, causing damage with an increased risk of both chronic bronchitis and lung infections.
- **Increased heart rate** – Pot can raise a person’s heart rate for up to three hours after smoking, increasing the risk for a heart attack, especially in anyone with a heart condition.
- **Harm to unborn babies** – Women using marijuana during pregnancy can have children with a lower birth weight and an increased risk of both brain and behavioral problems as infants. Children exposed to marijuana in the womb have problems of attention, memory, and problem-solving compared to unexposed children.
- **Intense nausea and vomiting** – Those who are long-term, regular users of marijuana may develop cannabinoid hyperemesis syndrome, where they experience cycles of severe nausea, vomiting and dehydration.
- **Temporary hallucinations and paranoia.**
- **Other mental health and behavioral problems** – People with schizophrenia can develop worsening symptoms. Marijuana users – particularly heavy users – can have lower satisfaction with life, relationship problems, and less academic and career success. For young adults it can lead to a greater likelihood of dropping out of school, along with more job absences, accidents, and injuries.

Anyone using marijuana products should not do so before driving or operating heavy or dangerous equipment. And any woman using it who is pregnant should do the right thing and stop. Individuals with heart or lung problems would be smart to avoid it and it should never be used in any form around children or teens.

And no matter what proponents of marijuana use will tell you, marijuana use can lead to the development of a substance use disorder. Between 9 and 30 percent of users may develop some degree of this disorder. Those who start using marijuana before the age of 18 are four to seven times more likely than adults to develop a marijuana use disorder.

What about medical marijuana?

As controversial as it is, the U.S. Food and Drug Administration has approved medications containing synthetic THC drugs dronabinol and nabilone, both man-made forms of cannabis. These are used as appetite stimulants in AIDS patients and for chemotherapy-related nausea and vomiting.

At this time, treating medical conditions using marijuana is still illegal on a federal level. There is still insufficient data from large, long-term, well-designed studies on the potential risks versus benefits of using marijuana to relieve symptoms of certain medical conditions.

There are however, ongoing studies on cannabidiol, a component of marijuana that does not have the mind-altering effects of THC. That may hold potential promise in helping conditions like drug-resistant epilepsy and some psychiatric disorders such as anxiety, substance use disorders, schizophrenia and psychosis.

Where do we go from here?

Here’s a better idea – how about encouraging people to get “high” on taking good care of themselves? It’s the little things, such as

making every bite of food count, using physical activity every day to naturally release an endorphin high, relieving stress by watching a sunrise or sunset, or getting good feelings by helping others.

Those are the kinds of "highs" that are positive, life-affirming and with few risks to our health. Smoking marijuana and slipping into a THC-induced mind-altered state has been shown time and again to have more negatives associated with it than positives.

No matter how much fun using marijuana looks like on TV or in the movies, no matter what your friends say about it, no matter how many people tell you it's harmless, and no matter what laws politicians pass to get votes or raise tax revenue, remember one thing: unless you have certain medical conditions where the drug may be beneficial, you are better off without it.

Dr. Samadi is a board-certified urologic oncologist trained in open and traditional and laparoscopic surgery and is an expert in robotic prostate surgery. He is chairman of urology, chief of robotic surgery at Lenox Hill Hospital and professor of urology at Hofstra North Shore-LIJ School of Medicine. He is a medical correspondent for the Fox News Channel's Medical A-Team and the chief medical correspondent for am970 in New York City. Learn more at roboticoncology.com. Visit Dr. Samadi's blog at SamadiMD.com. Follow Dr. Samadi on Twitter and Facebook.

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Sessions' pot policy reversal is good news for America

By Hans A. von Spakovsky

Published January 08, 2018

FoxNews.com

Reversing Obama era policy, Attorney General Jeff Sessions has given federal prosecutors the discretion to prosecute marijuana traffickers. That's good news for those who believe in the rule of law. And good news, too, for those concerned about public health and the safety of our nation's youth.

On Jan. 4, Sessions revoked the Cole Memo, a 2014 Justice Department directive issued by then-Deputy Attorney General James Cole. The memo essentially gave marijuana producers and distributors in states that had legalized the drug immunity for violating federal drug laws.

Sessions' directive gives the 94 U.S. Attorneys all over the country clear guidance for deciding when to prosecute those who violate federal law prohibiting marijuana cultivation and distribution.

The Baby Boomers reading this column should realize that the marijuana being produced today is many times stronger and more potent than what we saw in the 1960s. The science today is also much clearer: we have far greater knowledge of the long-term, deleterious effects of marijuana on the physical and mental health of users, particular children and teenagers.

Today's pot pushers are just Big Tobacco 2.0. Why else would they be infusing THC, the active ingredient, into everything from cookies to ice cream to Gummy Bears?

The bottom line: today's pot is a potentially dangerous substance. That's why it is classified as a Schedule I controlled drug along with heroin, LSD, and ecstasy – it isn't alcohol. While alcohol can be abused, it is not addictive for most people. Moreover, most consumers stop well shy of the point of intoxication. Moderate amounts even have some positive health benefits such as reducing the risk of heart disease and stroke.

Compared to alcohol, we now know that long-term marijuana use can cause physical disorders such as respiratory disease, social problems such as anomie, and mental health problems such as schizophrenia, something we didn't know about in the 1960s.

Its effect on the young may be more pernicious. It may impair the brain development of children and teenagers. It is associated with lower test scores and lower education attainment. Teenagers who use pot are also much less likely to graduate from college and much more likely to attempt suicide.

Today's pot is genetically modified to boost the "high" a user can get. The goal, naturally, is to get more people hooked on pot, just like Big Tobacco's goal was to get more people hooked on cigarettes.

Today's pot pushers are just Big Tobacco 2.0. Why else would they be infusing THC, the active ingredient, into everything from cookies to ice cream to Gummy Bears?

States like Colorado that have legalized marijuana use have seen huge increases in marijuana-related traffic accidents and fatalities as well as accidental poisonings of both children and pets.

These products directly target the young, creating serious risks for children who may not know what they are ingesting and teenagers who use these products to hide what they are doing from their parents.

States like Colorado that have legalized marijuana use have seen huge increases in marijuana-related traffic accidents and fatalities as well as accidental poisonings of both children and pets. Pot use by teenagers, who are most vulnerable to its damaging effects, has also greatly increased, as have school suspensions and expulsions for pot use.

The Cole Memo ignored all of this information, directing federal prosecutors to back off enforcement.

So does Sessions' directive mean federal prosecutors are now going to go after the college kid who smokes a joint in his dormitory? Of course not. U.S. Attorneys have limited resources. They don't prosecute misdemeanors. The only criminals they will take to court are the large-scale manufacturers and distributors.

Revenue-hungry lawmakers in states like California and Colorado may be willing to trade the problems created by marijuana legalization for the tax bonanza they expect to reap. But it's a very raw deal for their neighbors. States like Nebraska and Oklahoma have complained that Colorado's legalization has increased trafficking into their states, with all of the myriad problems associated with increased drug abuse.

As Sessions' memo notes, Congress "determined that marijuana is a dangerous drug and that marijuana activity is a serious crime." The Attorney General has no authority to simply decide not to enforce a law, which is exactly what the Holder/Lynch Justice Department did. States cannot authorize parties to engage in conduct that federal law prohibits and as long as the Controlled Substances Act is on the books, states cannot tell their citizens to disregard it.

From a policy standpoint, it is wise to battle the growth of an industry that distributes a potentially dangerous drug in what is a national market and thus a national, not just a local, problem. But Sessions has also done the right thing from a legal standpoint. He has acted to preserve a constitutional government in which Congress determines what the law is, and the president and the attorney general fulfill their duty to enforce the law – not ignore it.

Hans A. von Spakovsky is a Senior Legal Fellow at The Heritage Foundation. He is the coauthor of "Who's Counting? How Fraudsters and Bureaucrats Put Your Vote at Risk" and "Obama's Enforcer: Eric Holder's Justice Department."

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Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Monday, January 8, 2018 4:40 PM
To: Kelly, John F. EOP/WHO
Subject: As we discussed 2 of 2
Attachments: MC Chiefs Release - Marijuana Jan 4 2018.pdf; Press Release Marijuana Enforcement 01042018.pdf; 01.04.18 FLEOA Press Release on Cole Memo Final (00110892x87C30).pdf; Cole Memo Release.pdf; statement-by-the-iacp-on-the.pdf; NNOAC Press Release.01042018.pdf; AG Marijuana Enforcement 1.4.18.pdf; IACP Letter to AG Sessions -- Cole -- January 2018.pdf

Sheriffs Applaud DOJ Memo on Marijuana Enforcement Policy

Alexandria, VA National Sheriffs' Association President Harold Eavenson and Executive Director and CEO Jonathan Thompson issued the following statement regarding the Department of Justice's memo on marijuana enforcement that would rescind the Obama Administration directive that barred law enforcement officials from going after offenders in states that have legalized marijuana.

"We applaud the Attorney General for this action today that brings clarity on enforcement of the law by rescinding a confusing policy brought on by the previous administration that hindered law enforcement. This will allow sheriffs to carry out their mission of upholding the rule of law and keeping their communities safe."

"Furthermore, the experiment in Colorado and other states has proven beyond any doubt that impaired driving by marijuana has dramatically and dangerously harmed public safety in Colorado and neighboring states, bringing additional burdens on law enforcement."

ABOUT NSA:

The National Sheriffs' Association is one of the largest associations of law enforcement professionals in the United States, representing more than 3,000 elected sheriffs across the nation, and a total membership of more than 20,000. NSA is a non-profit organization dedicated to raising the level of professionalism among sheriffs, their deputies, and others in the field of criminal justice and public safety. Throughout its seventy-seven-year history, NSA has served as an information clearinghouse for sheriffs, deputies, chiefs of police, other law enforcement professionals, state governments and the federal government.



For Immediate Release

Date: January 4, 2018
Contact: Sheriff Grady Judd

(b) (6)

(b) (6)

Sheriffs Applaud Cole Memo Rescission

Today, the Department of Justice released guidance rescinding the egregious Cole Memo. Allowing for pre-Cole Memo days where individual US Attorneys use their discretion to prosecute marijuana cases is a victory for public safety and public health.

Allowing illegal businesses to flourish and expose our communities and children to harmful substances must stop and DOJ's actions will serve to slow the massive commercialization and marketing of the marijuana industry. Already, the number of marijuana-related car crashes has skyrocketed, and the brazen pot industry has exploited regulations to enrich their profits.

"The push across the nation by organizations like NORML to legalize marijuana under the guise of helping the sick has caused black market sales of so-called legal pot to proliferate in this nation, and it has given a greater and easier access of the drug to our country's most precious resource our children. I commend President Trump and Attorney General Sessions for their leadership and action in repealing the Cole Memo," said Sheriff Grady Judd, MCSA President.

###

The [*Major County Sheriffs of America*](#) (MCSA) is a professional law enforcement association of elected sheriffs representing counties or parishes with 500,000 population or more. MCSA is dedicated to preserving the highest integrity in law enforcement, corrections and the elected Office of the Sheriff. MCSA's membership represents over 100 million Americans, and works to promote a greater understanding of strategies to address future problems and identify law enforcement challenges facing members of the organization.

[Law Enforcement Backs Sessions's Ending of Hands-Off Approach to Marijuana](#)

Washington Free Beacon

By Charles Fain Lehman

Law enforcement and prosecutor organizations gave their support to Attorney General Jeff Sessions's Thursday decision to rescind Obama-era guidance which discouraged prosecutors from enforcing the federal laws against marijuana in states which had legalized the drug.

Sessions's guidance most prominently overturned a 2013 memo from then-Deputy Attorney General James M. Cole, often referred to as the "Cole memo." Issued in the wake of marijuana legalization in Colorado and Washington state, the memo instructed U.S. Attorneys to not enforce marijuana's schedule I status in states where its recreational consumption had been legalized and regulated.

In its place, Sessions's new guidance simply instructs prosecutors to "follow the well-established principles that govern all federal prosecutions."

Law enforcement officials applauded Sessions' move.

"We applaud the Attorney General for this action today that brings clarity on enforcement of the law by rescinding a confusing policy brought on by the previous administration that hindered law enforcement. This will allow sheriffs to carry out their mission of upholding the rule of law and keeping their communities safe," said National Sheriffs' Association President Harold Eavenson and Executive Director Jonathan Thompson in a statement.

Chuck Canterbury, president of the Fraternal Order of Police, saw the rescinding of the Cole memo not as an opportunity for the federal government to crack down on individual marijuana use, as some have feared, but as a return of discretion to law enforcement.

"The Attorney General's announcement is good news for public safety and public health," Canterbury said. "There will be no Federal agents chasing individual users but it will give law enforcement the discretion it lost when the Cole Memo was issued."

Canterbury was one among a number of law enforcement officials who claimed that state-level marijuana legalization had had an adverse impact on public safety, pointing to increases in marijuana-related traffic fatalities.

"This experiment of giving cover to drug dealers has had fatal consequences. When marijuana was 'legalized' in Colorado, traffic-related deaths due to marijuana rose from 13% to 20%. This is costing people their lives," he said.

"Drug-related deaths currently exceed motor vehicle deaths, and while some states have taken steps to change the legal status of marijuana, the substance's illegality remains federal law," noted Nathan Catura, president of the Federal Law Enforcement Officers Association.

Bob Bushman, president of the National Narcotic Officers' Associations' Coalition, claimed in his own statement that enforcement was especially important given the nation's increasingly deadly opioid epidemic.

"Given the current drug epidemic facing our country that is resulting in so much addiction and so many drug poisoning deaths," said Bushman, "we should be doing everything we can to discourage and curb illegal drug use. That includes marijuana."

The President's Commission on Combating Drug Addiction and the Opioid Crisis concluded in its report that "there is a lack of sophisticated outcome data on dose, potency, and abuse potential for marijuana."

Law enforcement also voiced support for Session's general commitment to enforcing laws as written, rather than encouraging rulemaking through overbroad prosecutorial discretion. The National Association of Assistant United States Attorneys made that case in its press release, calling for prosecutorial deference to the "rule of law."

"NAAUSA's position is that the debate over whether or not to legalize marijuana should occur in the halls of Congress and not in the halls of the Department of Justice," the release read. "Accordingly, NAAUSA believes that the Attorney General's recent action with regard to marijuana enforcement is consistent with this strongly held principle that prosecutors should follow the Rule of Law as enacted by the Congress, until such time as the law is changed by the Congress."

"Until Congress sees fit to make marijuana legal, the Attorney General and law enforcement have an obligation to enforce current law. Given these factors, this type of direction and support from the Attorney General is appreciated and will ensure national consistency on this matter," Catura, of the FLEOA, said.

The A.G.'s order was condemned by pro-marijuana legalization organizations like the National Association for the Reform of Marijuana Laws (NORML). Sheriff Grady Judd, vice president of the Major County Sheriff's of America, specifically targeted such objections in his praise for the order.

"The push across the nation by organizations like NORML to legalize marijuana under the guise of helping the sick has caused black market sales of so-called legal pot to proliferate in this nation, and it has given a greater and easier access of the drug to our country's most precious resource our children," Grady said. "I commend

President Trump and Attorney General Sessions for their leadership and action in repealing the Cole Memo."

WALL STREET JOURNAL

Jeff Sessions's Marijuana Candor

The AG is forcing legalizers to square federal and state law.

The Editorial Board

Jan. 5, 2018 7:08 p.m. ET

Attorney General Jeff Sessions is being lambasted as the uncool parent in Washington, and maybe the universe, for rescinding an Obama Administration directive that decriminalized marijuana in states that have legalized the drug. But even if you're a legalizer, you should give the AG some credit for forcing a debate on the rule of law that Congress should settle.

The problem is the conflict between state and federal statutes. Eight states have legalized pot for recreational use, and more than half for medical purposes. But under the federal Controlled Substances Act of 1970, cannabis is an illegal schedule I drug along with heroin and LSD. Individuals found with even small amounts can go to prison, and making or distributing large quantities carry long sentences and stiff fines.

President Obama tried to dodge this conflict, as he so often did, with an executive diktat. After Colorado and Washington State voted to legalize pot, his Justice Department in 2013 instructed U.S. Attorneys to refrain from prosecuting marijuana offenses in states where the drug is legal. This let him side with the legalizers without taking responsibility for it.

Justice's guidance expected states to "implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests." Its memo also ordered attorneys to prioritize preventing distribution to minors, diversion to other states or using marijuana as a cover for trafficking in other drugs.

In practice, this has meant few federal pot prosecutions in those states despite evidence of all of those problems and more. Colorado has the highest rate of first-time youth marijuana use in the country. Alaska and Oregon ranked third and seventh after they legalized in 2014. According to Smart Approaches to Marijuana, cannabis use among young people has increased by 65% in Colorado since legalization.

Drug traffickers have exploited the aegis of state laws, which has let the black market flourish. A police report in Oregon revealed that 70% of marijuana sales in 2016 occurred on the black market, and up to 900 tons more cannabis is produced than consumed in the state. Mexican cartels have moved into Alaska.

The Rocky Mountain High Intensity Drug Trafficking Area reported a more than 700% increase in postal marijuana seizures following legalization. The crime rate in Colorado has increased 11 times faster than in other large cities since legalization. A National Institutes of Health study has linked the density of marijuana dispensaries to increased property crime.

Many pot sellers evade state regulation because of hefty compliance costs and taxes. Law enforcement in California reports that only a fraction of pot growers have applied for permits. Drugged-driving fatalities doubled in Washington following legalization. Positive drug tests for marijuana in 2016 increased at more than double the rate in Colorado and Washington as nationwide.

We report all this because the legalization debate has been dominated by a haze of cultural sentiment largely devoid of facts, and the promises by advocates about reduced enforcement costs and crime haven't materialized. Meanwhile, the failure to enforce federal law, and letting states ignore it, erodes confidence in the law and lets Congress duck a debate on legalization.

Federal law trumps state law under the Constitution's Supremacy Clause except on core state powers, and the Supreme Court ruled in *Gonzales v. Raich* (2005) that the feds can prosecute marijuana offenses under the Commerce Clause. We disagreed with Raich, but it is the law and states can't nullify federal laws.

Presidents also can't suspend the enforcement of laws simply because they don't like them. King James II tried that and spurred the Glorious Revolution of 1688. Mr. Sessions is right to enforce the law and restore prosecutorial discretion. The AG has directed U.S. Attorneys to follow the "well-established principles that govern all federal prosecutions" including weighing "all relevant considerations of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community."

Justice shouldn't spend scarce resources prosecuting potheads who grow a few plants in their backyard. Since marijuana has sprouted into a multi-billion dollar industry, prosecutors are also unlikely to target mom-and-pop businesses that are following state laws and not exporting cannabis. In that sense Mr. Sessions's guidance may encourage increased compliance with state laws.

Social mores are changing, and a majority of Americans support legalizing pot. But instead of taking the cop-out of blaming Mr. Sessions, legalizers in Congress ought to have the courage of their convictions and try to decriminalize pot nationwide. Let Senators Cory Gardner and Kamala Harris persuade their colleagues that what's good for Colorado and California is good for the country.

Sessions' pot policy reversal is good news for America

By Hans A. von Spakovsky

Published January 08, 2018

FoxNews.com

Reversing Obama era policy, Attorney General Jeff Sessions has given federal prosecutors the discretion to prosecute marijuana traffickers. That's good news for those who believe in the rule of law. And good news, too, for those concerned about public health and the safety of our nation's youth.

On Jan. 4, Sessions revoked the Cole Memo, a 2014 Justice Department directive issued by then-Deputy Attorney General James Cole. The memo essentially gave marijuana producers and distributors in states that had legalized the drug immunity for violating federal drug laws.

Sessions' directive gives the 94 U.S. Attorneys all over the country clear guidance for deciding when to prosecute those who violate federal law prohibiting marijuana cultivation and distribution.

The Baby Boomers reading this column should realize that the marijuana being produced today is many times stronger and more potent than what we saw in the 1960s. The science today is also much clearer: we have far greater knowledge of the long-term, deleterious effects of marijuana on the physical and mental health of users, particular children and teenagers.

Today's pot pushers are just Big Tobacco 2.0. Why else would they be infusing THC, the active ingredient, into everything from cookies to ice cream to Gummy Bears?

The bottom line: today's pot is a potentially dangerous substance. That's why it is classified as a Schedule I controlled drug along with heroin, LSD, and ecstasy – it isn't alcohol. While alcohol can be abused, it is not addictive for most people. Moreover, most consumers stop well shy of the point of intoxication. Moderate amounts even have some positive health benefits such as reducing the risk of heart disease and stroke.

Compared to alcohol, we now know that long-term marijuana use can cause physical disorders such as respiratory disease, social problems such as anomie, and mental health problem such as schizophrenia, something we didn't know about in the 1960s.

Its effect on the young may be more pernicious. It may impair the brain development of children and teenagers. It is associated with lower test scores and lower education attainment. Teenagers who use pot are also much less likely to graduate from college and much more likely to attempt suicide.

Today's pot is genetically modified to boost the "high" a user can get. The goal, naturally, is to get more people hooked on pot, just like Big Tobacco's goal was to get more people hooked on cigarettes.

Today's pot pushers are just Big Tobacco 2.0. Why else would they be infusing THC, the active ingredient, into everything from cookies to ice cream to Gummy Bears?

States like Colorado that have legalized marijuana use have seen huge increases in marijuana-related traffic accidents and fatalities as well as accidental poisonings of both children and pets.

These products directly target the young, creating serious risks for children who may not know what they are ingesting and teenagers who use these products to hide what they are doing from their parents.

States like Colorado that have legalized marijuana use have seen huge increases in marijuana-related traffic accidents and fatalities as well as accidental poisonings of both children and pets. Pot use by teenagers, who are most vulnerable to its damaging effects, has also greatly increased, as have school suspensions and expulsions for pot use.

The Cole Memo ignored all of this information, directing federal prosecutors to back off enforcement.

So does Sessions' directive mean federal prosecutors are now going to go after the college kid who smokes a joint in his dormitory? Of course not. U.S. Attorneys have limited resources. They don't prosecute misdemeanors. The only criminals they will take to court are the large-scale manufacturers and distributors.

Revenue-hungry lawmakers in states like California and Colorado may be willing to trade the problems created by marijuana legalization for the tax bonanza they expect to reap. But it's a very raw deal for their neighbors. States like Nebraska and Oklahoma have complained that Colorado's legalization has increased trafficking into their states, with all of the myriad problems associated with increased drug abuse.

As Sessions' memo notes, Congress "determined that marijuana is a dangerous drug and that marijuana activity is a serious crime." The Attorney General has no authority to simply decide not to enforce a law, which is exactly what the Holder/Lynch Justice Department did. States cannot authorize parties to engage in conduct that federal law prohibits and as long as the Controlled Substances Act is on the books, states cannot tell their citizens to disregard it.

From a policy standpoint, it is wise to battle the growth of an industry that distributes a potentially dangerous drug in what is a national market and thus a national, not just a local, problem. But Sessions has also done the right thing from a legal standpoint. He has acted to preserve a constitutional government in which Congress determines what the law is, and the president and the attorney general fulfil their duty to enforce the law – not ignore it.

Hans A. von Spakovsky is a Senior Legal Fellow at The Heritage Foundation. He is the coauthor of ["Who's Counting? How Fraudsters and Bureaucrats Put Your Vote at Risk"](#) and ["Obama's Enforcer: Eric Holder's Justice Department."](#)

http://www.foxnews.com/opinion/2018/01/08/sessions_pot_policy_reversal_is_good_news_for_america.html

Jeff Sessions and the Pot Memo

The attorney general is meeting with some wrongheaded criticism.

By The Editors — January 5, 2018

A minor panic broke out yesterday after it was reported in the press that federal law might be more conscientiously enforced. Attorney General Jeff Sessions, it was confirmed, had rescinded the "Cole Memo," an Obama-era rule that ostensibly laid out how U.S. attorneys should prioritize the enforcement of the federal marijuana laws but, in practice, led to the willful neglect of those states that have legalized the drug. By nixing the memo, Sessions has freed up his attorneys to

prosecute businesses and individuals that violate federal rules.

What this will mean in practice has not yet become clear. Perhaps, given the scant resources under Sessions's command, there will be no real change at all. Perhaps, given his expressed dislike of marijuana, we will see a more dramatic alteration of priorities. Regardless, the criticism attached to the change has been aimed squarely at the wrong branch. Under Article II, the executive is obliged to "take care that the laws be faithfully executed," and, under federal law, marijuana remains prohibited. Using prosecutorial discretion as a smokescreen for nullification is not our definition of "faithful," however misguided the legislature's will might be.

Cory Gardner, a Republican senator from Colorado, had harsh words for Sessions. "With no prior notice to Congress," Gardner griped, "the Justice Department has trampled on the will of the voters in [Colorado] and other states." This critique rings hollow. It was Congress that established this law, and it is Congress that must repeal it. Indeed, if anyone is "trampling," it is the legislature of which Gardner is a part. We have long argued that the prohibition of weed is a fool's game, and we have long urged that it be ended. We have held to this view through a host of administrations, and we hold to this view today. Nevertheless, we believe also that the Constitution must be strictly obeyed, and that congressional inaction presents no magic veto power to the executive. This, put simply, is not Jeff Sessions's call.

Ultimately, this is a debate that belongs at the state level, far away from Washington, D.C., and the ping-ponging attitudes of transient attorneys general. Because Colorado is not Alabama, and Idaho is not Florida, there is no compelling case for a nationwide approach. Judging by the reaction that today's announcement yielded, a number of legislators seem strongly to agree. We applaud their commitment to federalism and to reform. We'll applaud them more loudly when they pass their griping into law.

Pot is dangerous, not funny -- a doctor tells us why

By Dr. David B. Samadi

Published January 07, 2018

FoxNews.com

The legalization of marijuana became a hot topic in the past week. First, recreational use of the drug became legal in California at the start of 2018. Next, Attorney General Jeff Sessions announced he would allow U.S. attorneys to decide whether to enforce federal laws outlawing the use and sale of pot in states that have legalized the drug.

Sessions ended an Obama administration policy that discouraged federal prosecutors from enforcing federal marijuana laws in states that allow the drug's medical or recreational use. It's not clear yet what impact the attorney general's action will have.

As a physician, my doctoring knowledge tells me that making marijuana legally available is a bad idea, except perhaps for certain medical conditions. Marijuana is a potent mind-altering drug that can cause serious harm, as I explain below. It will be just one more substance we have to warn our children to stay away from.

As we all know, many people use marijuana even where it remains illegal. But legalization will lead to increased use and make many people believe it is not all that dangerous.

The growing acceptance of legalized pot is an alarming trend. It has [quickly spread](#) in the past few years and today seven states and Washington, D.C., allow recreational marijuana. A total of 29 states and the District of Columbia allow some form of medical marijuana.

Sadly, it's very likely that the American people will become more and more acclimated to marijuana use in the years ahead, acknowledging it as just another way to "feel good."

It sure looked like CNN was doing its best to indoctrinate the public on the normalization and acceptance of marijuana. As a medical doctor, I found this encouragement and joking to be both irresponsible and disappointing.

How do we as a society benefit from legalizing marijuana? Maybe it makes sense from a financial standpoint – perhaps it will cut illegal sales and it will certainly generate tax revenue and create jobs. But what about the overall health of our citizens? Shouldn't that take precedence? Can there not be other creative ideas for generating money and reigning in crime?

From a health standpoint, why is legalization of another mind-altering drug the right thing to do? The U.S. is already in the midst of a [devastating prescription opioid and heroin crisis](#). And individuals from all walks of life struggle with the abuse of alcohol and drugs.

It may be too late, but taking an illegal drug and making it legal needs to be well-thought out, to determine what impact this major step will have on future generations.

Too often, marijuana is treated as a harmless substance – something to joke and giggle about, and something that we see the people we admire on TV, in movies and elsewhere enjoying as a break from the workaday world. The message? Treat yourself to an ice cream cone, a piece of cake, a beer or some pot. It's OK to enjoy yourself.

There was no better illustration of this than when the cool guys and gals at CNN celebrated the arrival of the 2018 on New Year's Eve with what turned into a nationally televised pot party.

"The most trusted name in news" televised a haze of marijuana smoke enveloping party-goers at a Denver New Year's Eve celebration. The "puff, pass and paint" party was [spotlighted by CNN reporter Randi Kaye](#), featuring revelers partaking of "hits," and using bongos and even a special gas mask while getting high in the mile-high city.

It sure looked like CNN was doing its best to indoctrinate the public on the normalization and acceptance of marijuana. As a medical doctor, I found this encouragement and joking to be both irresponsible and disappointing.

What is marijuana?

Let me give you some facts about marijuana that every American should know.

Similar to hemp, marijuana refers to the dried leaves, flowers, stems and seeds from the cannabis plant. The plant's primary mind-altering chemical comes from delta-9-tetrahydrocannabinol, or THC. It can be smoked; vaped (inhaling the vapor); eaten when mixed in foods such as brownies, cookies or candy; or brewed as tea.

What is especially concerning is the fact that the marijuana of today is not the same as it was back in the 1960s or 1970s. Over the past few decades, the concentration of THC in the cannabis plant has been increasing, making it more potent than ever.

A fairly recent popular method of getting high is smoking THC-rich resins extracted from the plant. Extracts are quite powerful, delivering very large amounts of THC to the body. This has [sent many users to the emergency room](#).

How does pot affect the body?

Marijuana has both short- and long-term effects on the body.

Within a few minutes of smoking marijuana, a person feels the effects of pot, as THC is rapidly passes from the lungs into the bloodstream, making its way to the brain and other organs.

What causes the “high” people experience is marijuana’s effect on over-activating parts of the brain containing specific brain cell receptors. This leads to feelings of an altered sense of time, other altered senses, changes in mood, impaired body movement, impaired memory and difficulty in thinking and problem-solving.

Researchers are still studying the long-term effects of marijuana. But what is known is that the younger a person begins using pot, such as in the teen years, the greater the declines in general knowledge, impaired thinking, learning difficulties and lowered IQ.

Other health effects from marijuana usage both physically and mentally can include the following:

- **Breathing problems** – Marijuana smoke irritates the lungs, causing damage with an increased risk of both chronic bronchitis and lung infections.
- **Increased heart rate** – Pot can raise a person’s heart rate for up to three hours after smoking, increasing the risk for a heart attack, especially in anyone with a heart condition.
- **Harm to unborn babies** – Women using marijuana during pregnancy can have children with a lower birth weight and an increased risk of both brain and behavioral problems as infants. Children exposed to marijuana in the womb have problems of attention, memory, and problem-solving compared to unexposed children.
- **Intense nausea and vomiting** – Those who are long-term, regular users of marijuana may develop cannabinoid hyperemesis syndrome, where they experience cycles of severe nausea, vomiting and dehydration.
- **Temporary hallucinations and paranoia.**
- **Other mental health and behavioral problems** – People with schizophrenia can develop worsening symptoms. Marijuana users – particularly heavy users – can have lower satisfaction with life, relationship problems, and less academic and career success. For young adults it can lead to a greater likelihood of dropping out of school, along with more job absences, accidents, and injuries.

Anyone using marijuana products should not do so before driving or operating heavy or dangerous equipment. And any woman using it who is pregnant should do the right thing and stop. Individuals with heart or lung problems would be smart to avoid it and it should never be used in any form around children or teens.

And no matter what proponents of marijuana use will tell you, marijuana use can lead to the development of a substance use disorder. Between 9 and 30 percent of users may develop some degree of this disorder. Those who start using marijuana before the age of 18 are four to seven times more likely than adults to develop a marijuana use disorder.

What about medical marijuana?

As controversial as it is, the U.S. Food and Drug Administration has approved medications containing synthetic THC drugs dronabinol and nabilone, both man-made forms of cannabis. These are used as appetite stimulants in AIDS patients and for chemotherapy-related nausea and vomiting.

At this time, treating medical conditions using marijuana is still illegal on a federal level. There is still insufficient data from large, long-term, well-designed studies on the potential risks versus benefits of using marijuana to relieve symptoms of certain medical conditions.

There are however, ongoing studies on cannabidiol, a component of marijuana that does not have the mind-altering effects of THC. That may hold potential promise in helping conditions like drug-resistant epilepsy and some psychiatric disorders such as anxiety, substance use disorders, schizophrenia and psychosis.

Where do we go from here?

Here’s a better idea – how about encouraging people to get “high” on taking good care of themselves? It’s the little things, such as making every bite of food count, using physical activity every day to naturally release an endorphin high, relieving stress by watching a sunrise or sunset, or getting good feelings by helping others.

Those are the kinds of “highs” that are positive, life-affirming and with few risks to our health. Smoking marijuana and slipping into a THC-induced mind-altered state has been shown time and again to have more negatives associated with it than positives.

No matter how much fun using marijuana looks like on TV or in the movies, no matter what your friends say about it, no matter how many people tell you it's harmless, and no matter what laws politicians pass to get votes or raise tax revenue, remember one thing: unless you have certain medical conditions where the drug may be beneficial, you are better off without it.

Dr. Samadi is a board-certified urologic oncologist trained in open and traditional and laparoscopic surgery and is an expert in robotic prostate surgery. He is chairman of urology, chief of robotic surgery at Lenox Hill Hospital and professor of urology at Hofstra North Shore-LIJ School of Medicine. He is a medical correspondent for the Fox News Channel's Medical A-Team and the chief medical correspondent for am970 in New York City. Learn more at roboticoncology.com. Visit Dr. Samadi's blog at SamadiMD.com. Follow Dr. Samadi on [Twitter](#) and [Facebook](#).

<http://www.foxnews.com/opinion/2018/01/07/pot-is-dangerous-not-funny-doctor-tells-us-why.html>

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Monday, February 5, 2018 5:02 PM
To: Tucker, Rachael (OAG)
Subject: FW: DOJ edits to Economic Report of the President -Cyber
Attachments: Cyber DOJ Consolidated Comments on 2018 Cyber ERP_CEA Responses.docx; Cyber Chapter 7_Cyber_February_2_2018.docx

Is this yours?

From: Zulauf, Mathew EOP/WH (b) (6)
Sent: Monday, February 5, 2018 1:21 PM
To: Whitaker, Matthew (OA (b) (6); Paige, Dana E (JM (b) (6)
Cc: Staff Secretar (b) (6)
Subject: DOJ edits to Economic Report of the President -Cyber

DOJ,

Attached is the edited Cyber chapter of the CEA Economic Report of the President after incorporating changes from throughout government, along with the referee sheet for the comments DOJ submitted.

Please let Staff Sec know if you have any remaining objections or major edit requests by **5 PM tomorrow, Tuesday.**

Thanks,
Mat Zulauf
White House Fellow
White House Office of the Staff Secretary
Offic (b) (6)
Cel (b) (6)
(b) (6)

Schedule, AG84 (OAG)

From: Schedule, AG84 (OAG)
Sent: Monday, February 26, 2018 5:01 PM
To: Schedule, AG84 (OAG); Jackson, Wykema C. (OAG (b)(6), (b)(7)(C) per FBI. (SECD) (FBI); Tucker, Rachael (OAG); Whitaker, Matthew (OAG); Williams, Toni (OAG); Hilliard, Everett R (JMD); Schreiber, Jayne (OAG (b)(6), (b)(7)(C) per FBI (SECD) (FBI); Bennett, Catherine T (OAG); Washington, Tracy T (OAG); Oliver, Emanuel L. (JMD); Cabral, Joseph (JMD); McKinney, Suzanna (OAG); Avery, Charles W (JMD); AGPD; Smith, Andrew H. (OAG); Hamilton, Gene (OAG); Moore, Paul (OAG); Barnett, Gary E. (OAG); Cutrona, Danielle (OAG); Darden, Silas V. (OAG); Morrissey, Brian (OAG); Yeager, Demi (OAG); JCC (JMD); Bumatay, Patrick (OAG)
Cc: Bryant, Errical (OAG)
Subject: AG's Calendar for Tuesday, February 27, 2018
Attachments: Tuesday, February 27.pdf

February 27, 2018

Tuesday

7:30 AM 8:00 AM

En Route to AG's Office

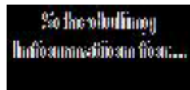
8:20 AM 8:20 AM

En Route to Ritz

Attendees: Sarah Flores, Gary Barnett and Steve Engel

8:45 AM 9:15 AM

Remarks: NAAG Winter Meeting Ritz Calton, DC



POC: Gary Barnett

Attendees: Gary Barnett, Steve Engel and Sarah Flores

9:15 AM 9:15 AM

En Route to WH

Attendees: AG and Steve Engel

9:30 AM 11:00 AM

(b) (5)

11:00 AM 11:00 AM

En Route to DOJ

Attendees: Steve Engel and AG

11:30 AM 12:00 PM

State AG Meeting AG's Conference Room

POC: Brian Morrissey

Attendees: Brian Morrissey, Stephen Boyd, Matt Whitaker, Prim Escalona, Jeremy Bylund and Jessica Hart

- AG Brad Schimel (Wisconsin)
- Deputy AG Paul Connell

- AG Jeff Landry (Louisiana)
- Chief Deputy AG Bill Stiles
- Solicitor General Liz Murrill

- AG Ken Paxton (Texas)
- First Asst. AG Jeff Mateer
- Deputy First Asst. Brantley Starr

- AG Leslie Rutledge (Arkansas)
- Solicitor General Lee Rudofsky

- AG Sean Reyes (Utah)
- Solicitor General Tyler Green

- Adam Piper Policy Director for the Rule of Law Defense Fund (RLDF), a 501 (c)(4) policy organization

12:00 PM 12:15 PM

PHONE CALL: PHONE CALL: Senator Cornyn AG's Office

POC: Danielle Cutrona

Attendee: Danielle Cutrona

Contact: Paig (b) (6)

Call in: Peggi to ca (b) (6)

Topic: AG to thank him for his efforts on the sentencing bill.

12:15 PM 1:00 PM

LUNCH

1:00 PM 1:30 PM

Task Force Announcement Prep AG's Office

POC: Rachael Tucker

Attendees: Rachael Tucker and Sarah Flores

February 27, 2018 Continued

Tuesday

1:30 PM 2:30 PM

Task Force Announcement 7th Floor, Main DOJ

POC: Rachael Tucker

Attendees: Rachael Tucker and Sarah Flores

2:45 PM 2:45 PM

En Route to Treasury

Attendees: AG and John Demers

3:00 PM 4:30 PM

Committee on Foreign Investment in the United States (CFIUS) Meeting Treasury Department address is: 1500 Pennsylvania Ave NW

POC: Rachael Tucker

Attendees: John Demers

4:30 PM 4:30 PM

En Route to DOJ

Attendees: John Demers

5:00 PM 5:30 PM

HOLD Fox New Prep

Attendees: Sarah Flores

8:00 PM 9:30 PM

DOJ Fire Alarm Test

Yeager, Demi (OAG)

From: Yeager, Demi (OAG)
Sent: Tuesday, February 27, 2018 10:10 AM
To: Bryant, Errical (OAG)
Cc: Morrissey, Brian (OAG); Whitaker, Matthew (OAG)
Subject: FW: 30 Day Look ahead for review
Attachments: AG - Cabinet 30 Look Ahead Report 2.26.18.docx

Errical,

Can you please review the events listed in the second portion of this document for their accuracy regarding Date/Time/and if they are 100% confirmed?

I need to submit this document in the next few hours. Thank you!
Demi

Demi A. Yeager
Office of the Attorney General

(o (b) (6)
((b) (6)

From: Yeager, Demi (OAG)
Sent: Monday, February 26, 2018 11:08 AM
To: Bryant, Errical (OAG (b) (6)
Subject: 30 Day Look ahead for review

Errical,

Please review the events listed in the second portion of this document for their accuracy regarding Date/Time/and if they are 100% confirmed.

Thank you in advance for your help!
Demi

Demi A. Yeager
Office of the Attorney General

(o (b) (6)
(b) (6)

Schedule, AG84 (OAG)

From: Schedule, AG84 (OAG)
Sent: Wednesday, February 28, 2018 5:27 PM
To: Schedule, AG84 (OAG); Jackson, Wykema C. (OAG (b)(6), (b)(7)(C) per FBI. (SECD) (FBI); Tucker, Rachael (OAG); Whitaker, Matthew (OAG); Williams, Toni (OAG); Hilliard, Everett R (JMD); Schreiber, Jayne (OAG (b)(6), (b)(7)(C) per FBI (SECD) (FBI); Bennett, Catherine T (OAG); Washington, Tracy T (OAG); Oliver, Emanuel L. (JMD); Cabral, Joseph (JMD); McKinney, Suzanna (OAG); Avery, Charles W (JMD); AGPD; Smith, Andrew H. (OAG); Hamilton, Gene (OAG); Moore, Paul (OAG); Barnett, Gary E. (OAG); Cutrona, Danielle (OAG); Darden, Silas V. (OAG); Morrissey, Brian (OAG); Yeager, Demi (OAG); JCC (JMD); Bumatay, Patrick (OAG)
Cc: Bryant, Errical (OAG)
Subject: AG's Calendar for Thursday March 1, 2018
Attachments: Thursday March 1.pdf

March 1, 2018

Thursday

7:30 AM 8:00 AM **En Route to AG's Office**

8:00 AM 9:00 AM **Member Meeting: Congressman Gohmert and Congressman Perry AG's Conference Room**
POC: Danielle Cutrona
Attendees: AG, Danielle Cutrona, Stephen Boyd and Rachael Tucker
Member attendees: Hon. Louie Gohmert; Hon. Scott Perry and Connie Hair Chief of Staff, Office of Louie Gohmert
Total Number of Attendees: 7

9:30 AM 10:00 AM **International Trip Meeting AG's office**
POC: Rachael Tucker
Attendees: Rachael Tucker, Sarah Flores, Gary Barnett and Matt Whitaker

10:00 AM 11:00 AM **PREP: School Safety Imitative Policy Announcement/ Press AG's Office**
POC: Gary Barnett
Attendees: Gary Barnett, Patrick Bumatay, Roybn Thiemann and Sarah Flores

11:00 AM 11:00 AM **En Route to WH**
Attendees: AG, Matt Whitaker, Sarah Flores and Gary Barnett

11:15 AM 11:15 AM **Arrive at WH Roosevelt Room**
Attendees: POC: Gary Barnett
Attendees: Gary Barnett, Sarah Flores and Matt Whitaker

11:45 AM 12:15 PM **School Safety Initiative Policy Announcement WH: Oval Office**
POC: Gary Barnett
Attendees: Gary Barnett, Sarah Flores and Matt Whitaker

12:30 PM 1:00 PM **PRESS: Opioid Summit WH**
Attendees: Gary Barnett, Matt Whitaker and Sarah Flores

1:00 PM 1:45 PM **LUNCH Navy Mess**
POC: Gary Barnett
Attendees: Gary Barnett, Matt Whitaker and Sarah Flores

2:00 PM 2:45 PM **Opioid summit :Law Enforcement Panel WH: East Room**
Attendees: Matt Whitaker, Sarah Flores and Gary Barnett

3:00 PM 3:00 PM **En Route to DOJ**
Attendees: Matt Whitaker, Sarah Flores and Gary Barnett

4:00 PM 4:30 PM **Meeting: IACP Board AG's Conference Room**
POC: Gary Barnett
Attendees: Gary Barnett and Steve Cook
Outside Attendees: TBD

4:30 PM 5:15 PM **Monthly NSD Briefing AG's Conference room**
POC: Rachael Tucker
Attendees: Matt Whitaker, Rachael Tucker, DAG Rod Rosenstein, Rob Hur, Tash Gauhar, Ed O'Callaghan

March 1, 2018 Continued

Thursday

5:15 PM 5:45 PM

States Secrets. AG's conference Room

POC: Rachael Tucker

Attendees: Rachael Tucker, Kevin Driscoll, Tash Gauhar, Stephen Sola and John Cronan

6:30 PM 6:30 PM

En Route to Fox News

Attendees: AG and Sarah Flores

7:00 PM 7:30 PM

Shannon Bream interview on opioids FOX

Attendees: AG and Sarah Flores

Cook, Steven H. (ODAG)

From: Cook, Steven H. (ODAG)
Sent: Friday, March 9, 2018 12:33 PM
To: Flores, Sarah Isgur (OPA)
Cc: Whitaker, Matthew (OAG); Cutrona, Danielle (OAG); Hamilton, Gene (OAG)
Subject: Re: Ventura County Sheriff

10-4. I'll get to work on it.

On Mar 9, 2018, at 12:23, Flores, Sarah Isgur (OPA (b) (6)) wrote:

Whatever you think is the best way to approach it but lining up opeds, public letters, etc from CA law enforcement seem like a very good idea for next week. Is that something you can put on your list?

Sarah Isgur Flores
Director of Public Affairs

(b) (6)

From: Cook, Steven H. (ODAG)
Sent: Friday, March 9, 2018 12:21 PM
To: Flores, Sarah Isgur (OPA (b) (6))
Cc: Whitaker, Matthew (OA (b) (6)); Cutrona, Danielle (OAG)
(b) (6) Hamilton, Gene (OA (b) (6))
Subject: RE: Ventura County Sheriff

I can ask although the environment isn't ideal. When I hung up with him last night, he said he was satisfied with my representations that no negative inference was intended re his department etc. but asking him to help us right after he feels like we kicked him in the shins (even if inadvertently) may go too far. I might do better to ask the sheriffs associations to help. I have a call in to contacts in LASD already and I will see what their view is on how the speech was received by LE there. I spoke to gang investigators this morning and the California representative was supportive.

Steve

From: Flores, Sarah Isgur (OPA)
Sent: Friday, March 9, 2018 12:11 PM
To: Cook, Steven H. (ODA (b) (6))
Cc: Whitaker, Matthew (OA (b) (6)); Cutrona, Danielle (OAG)
(b) (6) Hamilton, Gene (OA (b) (6))
Subject: RE: Ventura County Sheriff

So can he organize a letter or something public right now? This is what's in the news and it would be very helpful to have a letter either from him or all the sheriffs on that point.

S

Sarah Isgur Flores
Director of Public Affairs

(b) (6)

From: Cook, Steven H. (ODAG)
Sent: Friday, March 9, 2018 12:04 PM
To: Flores, Sarah Isgur (OPA (b) (6))
Cc: Whitaker, Matthew (OA (b) (6)); Cutrona, Danielle (OAG)
(b) (6) Hamilton, Gene (OAG) (b) (6)
Subject: RE: Ventura County Sheriff

The problem is that the sheriff *already has* been a vocal opponent of those policies, the governor, and the legislature and all he asks is that we take care to focus our criticism clearly on them, not him. He is already doing all he can to support us.

Steve

From: Flores, Sarah Isgur (OPA)
Sent: Friday, March 9, 2018 11:50 AM
To: Cook, Steven H. (ODA (b) (6))
Cc: Whitaker, Matthew (OAG) (b) (6); Cutrona, Danielle (OAG)
(b) (6) Hamilton, Gene (OA (b) (6))>
Subject: RE: Ventura County Sheriff

Whoops meant to include others!

Sarah Isgur Flores
Director of Public Affairs

(b) (6)

From: Flores, Sarah Isgur (OPA)
Sent: Friday, March 9, 2018 11:49 AM
To: Cook, Steven H. (ODA (b) (6))
Subject: FW: Ventura County Sheriff

Miller's response→

I actually think that's a great idea. This sheriff should organize it!

Sarah Isgur Flores
Director of Public Affairs

(b) (6)

From: Miller, Stephen EOP/WH (b) (6)
Sent: Friday, March 9, 2018 11:44 AM
To: Flores, Sarah Isgur (OPA (b) (6)); Hahn, Julia A. EOP/WHO
(b) (6); Shah, Raj S. EOP/WH (b) (6)

Cc: Hoffman, Jonatha (b)(6) per DHS
Subject: RE: Ventura County Sheriff

CA sheriffs should send letter to Brown asking him to stop making them flood the streets with criminals

From: Flores, Sarah Isgur (OP (b) (6))
Sent: Friday, March 9, 2018 11:41 AM
To: Miller, Stephen EOP/WHO (b) (6); Hahn, Julia A. EOP/WHO (b) (6); Shah, Raj S. EOP/WHO (b) (6)
Cc: Hoffman, Jonatha (b)(6) per DHS
Subject: FW: Ventura County Sheriff

Want to make you aware of the below issue. We referenced a declined detainer from Ventura County in the AG's speech and the sheriff would like to make sure that anyone talking about this in the future uses the phrase "Ventura County was forced by state law . . ." (b) (5)

S

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

Begin forwarded message:

From: "Cook, Steven H. (ODAG) (b) (6)"
Date: March 8, 2018 at 11:24:41 PM EST
To: "Whitaker, Matthew (OAG)" (b) (6); "Barnett, Gary E. (OAG)" (b) (6)
Cc: "Cutrona, Danielle (OAG) (b) (6)", "Flores, Sarah Isgur (OPA)" (b) (6)
Subject: Ventura County Sheriff

Matt and Gary,

I just hung up the phone with the sheriff of Ventura County. He was, as I had been told, very upset by the AG's reference to his Department in the speech yesterday. He said he and many friends and LE colleagues interpreted the reference to his department as suggesting that they didn't want to support ICE or the immigration policies. He said he has been a big supporter of the AG and even came and met with him here when the AG was sworn in. He said that visit resulted in hate mail and protesters back home but his support for the AG has not wavered nor has his support for the administration's policies.

He suggested two steps could have avoided the problem. First, he said a call to him or his department to give a heads up that the AG was going to reference his department in an arguably negative way—that could have led to the next suggestion being addressed.

Second, he suggested a slight change in the wording would have avoided the problem. Instead of saying that Ventura County declined a request from ICE . . . , we could have said "Ventura County was forced by state law . . ." He said he has been a vocal opponent of the law and that change would have placed the focus in the right place—the state legislature not his department.

I assured him that no negative inference about him, his officers, or his department was

intended but rather the AG simply intended to highlight the problems the state laws (that we are challenging) create.

Anyway, he said he will be on Fox News being interviewed about it in the morning.

I think his suggestion about giving our state and local LE partners a heads up before the AG makes comments that could be viewed as negative, is a good one. And, I would gladly volunteer to make those calls and work with the agencies.

Finally, he said he heard the president was going to reference Ventura County in an upcoming speech and he asked that his speech be correctly focused.

Steve

Steven H. Cook
Associate Deputy Attorney General
950 Pennsylvania Ave. NW
Washington D.C. 20530-0001

(b) (6)

Offic (b) (6)
Ce (b) (6)
Ce (b) (6)

Bryant, Errical (OAG)

From: Bryant, Errical (OAG)
Sent: Tuesday, May 15, 2018 12:30 PM
To: Bumatay, Patrick (OAG); Whitaker, Matthew (OAG)
Subject: FW: Sanctuary Cities
Attachments: SB54.Event.Participants.Bios.2018.docx; SB.54.Event.Memo.May.16.2018.docx

From: Riggs, Charlotte R. EOP/WHO (b) (6)
Sent: Tuesday, May 15, 2018 12:21 PM
To: Bryant, Errical (OAG (b) (6)); Yeager, Demi (OAG (b) (6)); McKinney, Suzanna (OA (b) (6) (b)(6) per DHS); Lim, Evely (b)(6) per DHS
Subject: Sanctuary Cities

Hi all,

Attached is the Event Memo for tomorrow's Sanctuary Cities Roundtable and Bios of those participating. Please let me know if there is anything else you need.

Thank you,
Charlotte

Charlotte Riggs
Office of Cabinet Affairs
The White House
M (b) (6)

Cutrona, Danielle (OAG)

From: Cutrona, Danielle (OAG)
Sent: Tuesday, January 30, 2018 3:02 PM
To: Flores, Sarah Isgur (OPA); Barnett, Gary E. (OAG)
Cc: Ellis, Corey (USANCW); Whitaker, Matthew (OAG); Terwilliger, Zachary (ODAG)
Subject: RE: Fox News: Despite promises to cut back, fed and state governments press asset forfeitures

We should make them change this headline. I'm dead serious. Where in this article are there any issues about federal forfeiture?

From: Flores, Sarah Isgur (OPA)
Sent: Tuesday, January 30, 2018 8:04 AM
To: Barnett, Gary E. (OAG) (b) (6)
Cc: Ellis, Corey (USANCW (b) (6); Whitaker, Matthew (OAG (b) (6);
Cutrona, Danielle (OAG (b) (6); Terwilliger, Zachary (ODAG (b) (6)
Subject: Re: Fox News: Despite promises to cut back, fed and state governments press asset forfeitures

I have the feeling the "calls to the Justice department" were not made or we would have had a response.

On Jan 30, 2018, at 8:00 AM, Barnett, Gary E. (OAG) (b) (6) wrote:

<http://www.foxnews.com/politics/2018/01/29/despite-promises-to-cut-back-fed-and-state-governments-press-asset-forfeitures.html>

Otus84, AG (OAG)

Subject: En Route to Fox News

Start: Thursday, March 1, 2018 6:30 PM
End: Thursday, March 1, 2018 6:30 PM
Show Time As: Tentatively accepted

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Otus84, AG (OAG)
Required Attendees: Whitaker, Matthew (OAG); McKinney, Suzanna (OAG);
(b)(6), (b)(7)(C) per FBI (SECD) (FBI (b)(6), (b)(7)(C) per FBI (SECD)
(FBI); AGPD; Flores, Sarah Isgur (OPA)

Attendees: AG and Sarah Flores

Otus84, AG (OAG)

Subject: Canceled: En Route to Fox News

Start: Thursday, March 1, 2018 6:30 PM
End: Thursday, March 1, 2018 6:30 PM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Otus84, AG (OAG)

Required Attendees: Whitaker, Matthew (OAG); McKinney, Suzanna (OAG);
(b)(6), (b)(7)(C) per FBI (SECD) (FBI (b)(6), (b)(7)(C) per FBI (SECD)
(FBI); AGPD; Flores, Sarah Isgur (OPA)

Importance: High

Attendees: AG and Sarah Flores

Moore, Paul (OAG)

From: Moore, Paul (OAG)
Sent: Tuesday, March 6, 2018 3:15 PM
To: Whitaker, Matthew (OAG)
Subject: FW:

FYI

From: Scott, McGregor (USACA (b) (6))
Sent: Tuesday, March 6, 2018 3:14 PM
To: Moore, Paul (OAG (b) (6)); Laco, Kelly (OP (b) (6))
Subject:

I don't know if a final decision has been made on the location of the Fox news interview, but I wish to again express my strong belief that it should take place here at the USAO. It is a very tight schedule and we'll 30-45 minutes if it is held at the Citizen.

Moore, Paul (OAG)

From: Moore, Paul (OAG)
Sent: Tuesday, March 6, 2018 7:36 PM
To: Flores, Sarah Isgur (OPA); Whitaker, Matthew (OAG); Barnett, Gary E. (OAG); McKinney, Suzanna (OAG); Tucker, Rachael (OAG); Scott, McGregor (USACAE); Readler, Chad A. (CIV); Laco, Kelly (OPA); Moore, Paul (OAG)
Cc: (b)(6), (b)(7)(C) per FBI (CTD) (FBI (b)(6), (b)(7)(C) per FBI (EP) (FBI (b)(6), (b)(7)(C) per FBI. (SECD) (FBI (b)(6), (b)(7)(C) per FBI (SECD) (FBI)
Subject: AG's UPDATED MORNING SCHEDULE (Interviews beginning at 6:45 am)
CONFIDENTIAL

Wednesday, March 7, 2018

6:30 A.M. **Breakfast Delivered to AG's Room (340)** by room service (order already placed)

6:45 A.M. **Breitbart Reporter Joel Pollack Arrives at CP (331)**
Sarah Isgur Flores meets him there and takes him to AG's Room

6:45 7:00 A.M. **Breitbart Interview (Joel Pollack)**
(AG's Room w/ Sarah)

7:05 7:15 A.M. **Radio Interview w/ "Morning Answers"** (Hosts Brian Whitman / Jennifer Horn)
Call in: (b) (6)
Back up: (b) (6)
(AG's Room w/ Sarah)

7:15/20 7:30 A.M. **Radio Interview w/ "Doug McIntyre Show"** (Host Doug McIntyre)
Call in: (b) (6)
Back up: (b) (6)
(AG's Room w/ Sarah)

7:30 7:40 A.M. **Radio Interview w/ "Real Side"** (Host Joe Messina)
Call in: (b) (6)
Back up: (b) (6)
(AG's Room w/ Sarah)

7:45 8:00 A.M. **En Route: [Speech Venue](#) (Kimpton Sawyer Hotel)**

8:05 8:35 A.M. **SPEECH ([California Peace Officers' Association](#))**

8:35 8:40 A.M. **En Route: [USAO \(ED-CA\)](#)**

8:45 9:00 A.M. **TV Interview (Fox News w/ Shannon Bream)**
(10th Floor US Attorney's Suite)

9:00 9:15 A.M.

Meeting with [US Attorney McGregor “Greg” Scott](#)

RESUME USAO FULL SCHEDULE

Paul R. Moore
Director of Advance
Office of the Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530
(cel (b) (6))

Panuccio, Jesse (OASG)

From: Panuccio, Jesse (OASG)
Sent: Monday, October 9, 2017 7:08 PM
To: Flores, Sarah Isgur (OPA); Prior, Ian (OPA); Crowell, James (ODAG); Terwilliger, Zachary (ODAG); Whitaker, Matthew (OAG); Cutrona, Danielle (OAG); O'Malley, Devin (OPA); Hovakimian, Patrick (OASG)
Subject: RE: Fox News tonight

I would ask Chad R and Jeff W, as they are closest to latest litigation happenings.

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

From: Flores, Sarah Isgur (OPA)
Sent: Monday, October 9, 2017 6:14 PM
To: Prior, Ian (OPA (b) (6)); Crowell, James (ODAG (b) (6))
Terwilliger, Zachary (ODAG (b) (6)); Panuccio, Jesse (OASG)
(b) (6); Whitaker, Matthew (OAG (b) (6)); Cutrona, Danielle
(OAG (b) (6)); O'Malley, Devin (OP (b) (6)); Hovakimian, Patrick
(OASG) (b) (6)
Subject: FYI: Fox News tonight

FYSA: WH booked me on immigration priorities tonight on Fox.

If anyone has any guardrails they'd like me to avoid, give me a call.

Moore, Paul (OAG)

From: Moore, Paul (OAG)
Sent: Friday, October 20, 2017 1:21 PM
To: Whitaker, Matthew (OAG); Barnett, Gary (ODAG); Flores, Sarah Isgur (OPA); Terwilliger, Zachary (ODAG); Cook, Steven H. (ODAG)
Cc: (b)(6), (b)(7)(C) per FBI (CG) (FBI (b)(6), (b)(7)(C) per FBI (SECD) (FBI); Moore, Paul (OAG)
Subject: Philadelphia - Misc.

All you'll be staying at the [downtown Philadelphia Courtyard](#) this evening. The speech venue (Convention Center) is across the street. For security reasons (large ANTIFA presence because of the gathering of the major cities chiefs and the AG and the FBI Dir today), the Protective Detail will drive the AG / staff across the street (into a garage) tomorrow morning. Historic [Reading Terminal Market](#) is a block away (great place for local variety food). If the AG wants to dine in at the hotel, here's the restaurant / menu: [Restaurant 1926](#).

Please remember to swipe your govt credit card at the front desk this evening.

Drop will be 8 am in Room 403.

Depart hotel for Convention Center at 8:40 am.

The AG's lead Protective Detail S/As here are (b)(6), (b)(7)(C) per FBI (cc'd).

This location is much better in the event you all and/or the AG want to go out to eat (v. the Terminal B Airport Marriott) and at the govt rate (good work, Detail!).

Zach, I know you're heading back to DC this evening. If you need any logistical assistance, I'm happy to help.

Paul

1:30 1:55 P.M. **En Route: [Austin-Bergstrom Int. Airport \(KAUS\)](#)**
[Signature Flight Support](#)
Lunch in flight

1:55 P.M. Wheels Up: Austin-Bergstrom Int. Airport (KAUS)

6:20 P.M. (EDT) Wheels Down: Philadelphia Int. Airport (KPHL)
(3:25 min flight)

6:20 6:30 P.M. **En Route: [Philadelphia Airport Marriott](#)**

[Saturday, October 21, 2017](#)

8:40 8:50 A.M. **En Route: [Speech Venue \(Philadelphia Conv. Center\)](#)**

8:50 9:00 A.M. Holding Room (Room 4N16)

9:00 9:25 A.M. **SPEECH: [Major Cities Chiefs Association \(US + Canada\)](#)**

9:25 9:35 A.M. BREAK (Holding Room Room 4N16)

9:35 10:05 A.M. **Meeting with Major Cities Police Chiefs (TBD)**

10:05 10:25 A.M. **En Route: [Philadelphia Int. Airport \(KPHL\)](#)**
[Atlantic Aviation](#)

10:25 A.M. Wheels Up: Philadelphia Int. Airport (KPHL)

11:00 A.M. Wheels Down: Joint Base Andrews, MD (KADW)
(:35 min flight)

11:00 11:20 A.M. **En Route: Washington, D.C.**

Paul R. Moore
Director of Advance
Office of the Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530
(cel (b) (6) [REDACTED])

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Friday, October 27, 2017 5:55 PM
To: Gunn, Ashley L. EOP/WHO
Subject: Re: How did jfk event go?

12 cameras. It went really well. Did everyone else's events go well? AG on Fox News at top of hour from courtyard at Justice. Tune in.

On Oct 27, 2017, at 5:51 PM, Gunn, Ashley L. EOP/WH (b) (6) wrote:

Ashley Gunn
Senior Director
Cabinet Affairs
(b) (6) (no text)
The White House

Tucker, Rachael (OAG)

From: Tucker, Rachael (OAG)
Sent: Saturday, November 4, 2017 12:48 PM
To: Whitaker, Matthew (OAG)
Subject: Fwd: Police staging on Pennsylvania Ave

See this? He should prob go.

Begin forwarded message:

From: "JCC (JMD) (b) (6)" >
Date: November 4, 2017 at 12:46:43 PM EDT
To: "Abraham, Jeffrey R (JMD) (b) (6)" "Anderson, Brian W (JMD)"
(b) (6) >, ATF Command Cente (b) (6), ATF JSO (b) (6)
(b) (6), (b) (7)(C) per USMS (USMS) (b) (6), "BOP-CPD/Ofc of Emerg
Prep (BOP)" <BOP-CPD/Ofc.of.Emerg.Prepare@usdoj.gov>, "Collier, Isaac M."
(b) (6) >, "Command Center (DEA) (b) (7)(E) per DEA
"USAEO-Emergency (USA)" (b) (6) >, "EPG (JMD)"
(b) (6), FBI SIO (b) (7)(E) per FBI >, "COMM, USMS (USMS)"
(b) (6) >, USNCB - Interpol Washingto (b) (6)
"Crowell, James (ODAG) (b) (6)", "Dunlap, James L (JMD)"
(b) (6) >, "Gauhar, Tashina (ODAG)" (b) (6) >, "Groves,
Brendan M. (ODAG) (b) (6)", "Harrison, Anna M (JMD)"
(b) (6), "Hur, Robert (ODAG) (b) (6)" >, "Tucker, Rachael
(OAG) (b) (6)" >
C (b) (6), (b) (7)(C), (b) (7)(E) per FBI (MP) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI "Austin, William (ODAG)"
(b) (6) (b) (6), (b) (7)(C) per USMS (USMS) (b) (6) (b) (6), (b) (7)(C), (b) (7)(E) per FBI
(NY) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI
(b) (6), (b) (7)(C) per USMS (USMS) (b) (6) >, "Burnett, Jonathan P. (ODAG)"
(b) (6) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI
(SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI "DAGDetail (USMS)"
(b) (6) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (CTD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI
(HQ) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI >, (b) (6), (b) (7)(C) per USMS (USMS) (b) (6) >, "Edge, Jason
O. (ODAG) (b) (6)", (b) (6), (b) (7)(C) per USMS (USMS)" (b) (6),
(b) (6), (b) (7)(C), (b) (7)(E) per FBI (HO) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (SECD) (FBI)"
(b) (6), (b) (7)(C), (b) (7)(E) per FBI (SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI >, "Hicks, Scott
(ODAG)" (b) (6) >, (b) (6), (b) (7)(C) per USMS (USMS) (b) (6) (b) (6), (b) (7)(C), (b) (7)(E)
(SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (b) (6), (b) (7)(C) per USMS (USMS)"
(b) (6) >, "Kiely, Matthew E. (JMD) (b) (6)" >
(b) (6), (b) (7)(C), (b) (7)(E) per FBI (SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI, "Land, Hunter (ODAG)" (b) (6),
(b) (6), (b) (7)(C) per USMS (USMS) (b) (6) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (CG) (FBI)"
(b) (6), (b) (7)(C), (b) (7)(E) per FBI (SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (b) (6), (b) (7)(C) per USMS
(USMS) (b) (6) "Mustapha, Adewale A. (JMD)"
(b) (6) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (NY) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI
(SECD) (FBI) (b) (6), (b) (7)(C), (b) (7)(E) per FBI (NK) (FBI)"

(b)(6), (b)(7)(C), (b)(7)(E) per FBI POUBridge <POUBridge@fbi.gov>, "Proctor, Desmond (ODAG)"
(b) (6) >, (b)(6), (b)(7)(C) per USMS (USMS)" (b) (6),
(b)(6), (b)(7)(C) per USMS (USMS) (b) (6) "Regal, Michael ODAG"
(b) (6) "Valladares, Brian (ODAG) (b) (6),
(b)(6), (b)(7)(C) per USMS (USMS) (b) (6) (b)(6), (b)(7)(C), (b)(7)(E) per FBI (SECD) (FBI)"
(b)(6), (b)(7)(C), (b)(7)(E) per FBI (SECD) (FBI) (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(SECD) (FBI) (b)(6), (b)(7)(C), (b)(7)(E) per FBI

Subject: FW: Police staging on Pennsylvania Ave

(b)(7)(E) per JMD
.

Nathaniel A. Johnson
Nathaniel A. Johnson
DOJ/SEPS/JCC
Watch Officer
Rm 6100, Main
(b) (6)

From: JPSControl (JMD)
Sent: Saturday, November 04, 2017 12:43 PM
To: Avery, Charles W (JMD (b) (6)); Gunn, Barry L (JMD (b) (6))
Haynes, Timmy J. (JMD (b) (6)); Hilliard, Everett R (JMD
(b) (6) >; Hinkelman, Marc R. (JMD (b) (6)) Quinones,
Daniel (JM (b) (6))
Cc: JCC (JMD) (b) (6)
Subject: Police staging on Pennsylvania Ave

1229	INFORMATION ENTRY: Eight DC Metropolitan Police vehicles were observed on Pennsylvania Avenue in front of the FBI Building (b)(7)(E) per JMD [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
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Ferrato, Katherine M. (ODAG)

From: Ferrato, Katherine M. (ODAG)
Sent: Friday, November 24, 2017 2:40 PM
To: Hur, Robert (ODAG); Crowell, James (ODAG); Spolar, Ellen S. (ODAG); Terwilliger, Zachary (ODAG); Bolitho, Zachary (ODAG); Bressack, Leah (ODAG); Bumatay, Patrick (ODAG); Cook, Steven H. (ODAG); Frank, Michael (ODAG); Gauhar, Tashina (ODAG); Geise, John (ODAG); Goldsmith, Andrew (ODAG); Groves, Brendan M. (ODAG); Hill, John L. (ODAG); Lan, Iris (ODAG); Loveland, Daniel (ODAG); Medina, Amelia (ODAG); Michalic, Mark (ODAG); Murray, Michael (ODAG); Ohr, Bruce (ODAG); Raman, Sujit (ODAG); Schools, Scott (ODAG); Sheehan, Matthew (ODAG); Swanson, James (ODAG); Troester, Robert J. (ODAG); Mizelle, Chad (ODAG); Hunt, Ted (ODAG); Marotta, Elizabeth (ODAG); Whitaker, Matthew (OAG)
Cc: Simms, Donna Y. (ODAG); Brown, Angela M. (ODAG); Gamble, Nathaniel (ODAG); Murphy, Marcia (ODAG)
Subject: Weekly Report
Attachments: 11.27.17 ODAG Weekly Report.pdf

Hi all,

The weekly report is attached. Please let me know if you receive late submissions from your components and I will add them and send an updated report first thing Monday morning. Thank you.

Have a good weekend!

Best,
Katie

From: Ferrato, Katherine M. (ODAG)
Sent: Friday, November 24, 2017 9:45 AM
To: Spolar, Ellen S. (ODAG (b) (6) >); Terwilliger, Zachary (ODAG (b) (6) >); Bolitho, Zachary (ODAG (b) (6) >); Bressack, Leah (ODAG (b) (6) >); Bumatay, Patrick (ODAG (b) (6) >); Cook, Steven H. (ODAG (b) (6) >); Frank, Michael (ODAG (b) (6) >); Gauhar, Tashina (ODAG (b) (6) >); Geise, John (ODAG (b) (6) >); Goldsmith, Andrew (ODAG (b) (6) >); Groves, Brendan M. (ODAG (b) (6) >); Hill, John L. (ODAG (b) (6) >); Lan, Iris (ODAG (b) (6) >); Loveland, Daniel (ODAG (b) (6) >); Medina, Amelia (ODAG (b) (6) >); Michalic, Mark (ODAG (b) (6) >); Murray, Michael (ODAG (b) (6) >); Ohr, Bruce (ODAG (b) (6) >); Raman, Sujit (ODAG (b) (6) >); Schools, Scott (ODAG (b) (6) >); Sheehan, Matthew (ODAG (b) (6) >); Swanson, James (ODAG (b) (6) >); Troester, Robert J. (ODAG (b) (6) >); Mizelle, Chad (ODAG (b) (6) >
Cc: Simms, Donna Y. (ODAG (b) (6) >); Brown, Angela M. (ODA (b) (6) >
Subject: Weekly Report

Good morning,

Please send your submissions for the weekly report to me, Ellen, Donna, and Angie by noon today. Thank you!

Best,
Katie

For ODAG Internal Use Only



WEEKLY REPORT
FOR
THE DEPUTY ATTORNEY GENERAL

WEEK OF
27 NOVEMBER 2017

ATJ Access to Justice	ODAG POC: Dan Lovelan (b) (6) Component POC: Acting Director Maha Jweie (b) (6)			
<p>United States Interagency Council on Homelessness. The United States Interagency Council on Homelessness is a statutorily mandated group that requires DOJ's participation as a council member. The AG or his designee must staff the council. Mary Thomas of OJP will be selected to represent DOJ on this council.</p>		Date	OAG/ODAG action required?	Recommend notifying PAO?
		11/24/17	No	No

ATR Antitrust Division	ODAG POC: Michael Murra (b) (6), Amelia Medin (b) (6) Component POC: COS John Elia (b) (6)			
<p>The Antitrust Division anticipates the following criminal events:</p> <ul style="list-style-type: none"> <i>United States v. Tokai Kogyo et al.</i> (S.D. Ohio): Closing arguments are set for November 28 in the Division's criminal case against auto parts manufacturer Tokai Kogyo and its US subsidiary for price fixing of auto body sealing products. The government and defense rested on November 20. <i>United States v. Azim Makojiya and United States v. Zaappaaz, Inc.</i> (S.D. Tex.): On November 30, a customized promotional products company and its president are scheduled to plead guilty to conspiring to fix the prices of wristbands and lanyards sold online. Zaappaaz has agreed to pay a \$1.9 million criminal fine. <p>We anticipate the following civil events:</p> <ul style="list-style-type: none"> <i>United States v. Broadcast Music, Inc.</i> (2d Cir.): Oral argument will be held in the Division's appeal from an S.D.N.Y. ruling that the parties' 1966 consent decree does not bar fractional licensing or require full work licensing. 		Date	OAG/ODAG action required?	Recommend notifying PAO?
		11/28/17	Situational awareness	N/A
		11/30/17		
		12/1/17		

<ul style="list-style-type: none"> <i>United States et al. v. American Express Co.</i> (S. Ct.): The Division’s brief is due on November 30 in this case in which the Supreme Court granted the state plaintiffs’ petition for a writ of certiorari. The issue presented is whether “under the rule of reason, the government’s showing that Amex’s anti steering provisions stifled price competition on the merchant side of the credit card platform suffice to prove anticompetitive effects and thereby shift to Amex the burden of establishing any procompetitive benefits from the provisions. (b)(5) AWP per ATR [REDACTED] 	11/30/17		
<p>And we anticipate the following meetings:</p> <ul style="list-style-type: none"> Deputy Assistant Attorney General Roger Alford will attend a meeting of the Global Strategy Group of the Organisation for Economic Co operation and Development (“OECD”), an intergovernmental economic organization. The meeting will be held in Paris. DAAG Alford will lead a discussion on the competition aspects of digitalization. 	11/28/17 11/29/17		

ATF Alcohol, Tobacco, Firearms, and Explosives	ODAG POC: Michael Fran (b) (6) Component POC: Chief of Staff Joseph Allen (b) (6)		
<i>Nothing to report.</i>	<i>Date</i>	<i>OAG/ODAG action required?</i>	<i>Recommend notifying PAO?</i>

Child Sexual Exploitation, Human Trafficking, Elder Abuse	ODAG POC: Michael Fran (b) (6)		
<i>Nothing to report.</i>	Date	OAG/ODAG action required?	Recommend notifying PAO?

CIV Civil Division	ODAG POC: Bob Troeste (b) (6), Michael Murra (b) (6) Component POC: Alex Haa (b) (6)		
<i>Nothing to report.</i>	Date	OAG/ODAG action required?	Recommend notifying PAO?

COPS Community Oriented Policing Services	ODAG POC: Chad Mizell (b) (6) Component POC: Acting Director Russ Washington (b) (6)		
COPS Office plans to release the Anti Methamphetamine and Anti Heroin Task Force grants. The funds from both programs will go to state law enforcement agencies for drug enforcement purposes.	Date 11/27/17	OAG/ODAG action required? ODAG has been involved in the rollout	Recommend notifying PAO? Yes, OPA has already been notified

CRS Community Relations Services	ODAG POC: Chad Mizelle (b) (6) Component POC: Acting Director Gerri Ratliff (b) (6)		
<i>Nothing to report.</i>	Date	OAG/ODAG action required?	Recommend notifying PAO?

reexamine the decision for 2016 2018. Citing the confusion, the Center for Biological Diversity and the Natural Resources Defense Council filed suit on November 20, challenging both the November 17 Zimbabwe elephant finding and an earlier finding allowing the importation of lion trophies, in *Center for Biological Diversity v. Zinke* (D.D.C.). (b)(5) ACP per ENRD

Consent Decree in Clean Air Act Motorcycle Defeat Device Case. We expect to move to enter the Clean Air Act consent decree in *United States v. Harley Davidson, Inc. et al.* (D.D.C.) soon. The proposed consent decree was lodged with the Court on July 20, 2017, to resolve allegations that defendants, inter alia, sold illegal “tuning” devices that allowed dealers and motorcycle owners to bypass or defeat certified emission controls on Harley motorcycles. The consent decree would require the defendants to implement measures to ensure future compliance with the Clean Air Act and pay a \$12 million civil penalty. The United States received four adverse comments on the proposed decree, all relating to the fact that it replaced an earlier proposed consent decree lodged in August 2016. The earlier decree was identical to the current decree, except that it also required defendants to mitigate excess emissions caused by use of the tuning devices, by paying a third party the American Lung Association Northeast Chapter to perform a woodstove change out mitigation project in the northeastern United States. Following issuance of the Attorney General’s Third Party Payment Policy, the United States sought the defendants’ agreement to modify the proposed consent decree to revise the project or include a different project. When the parties could not reach agreement, the United States obtained the defendants’ agreement to settle without a mitigation project.

Re-opening of Nevada Grazing Case Involving Cliven Bundy. In 1998, the United States sued Cliven Bundy for trespass damages and to permanently enjoin him from trespassing on federal land formerly known as the Bunkerville Allotment. *United States v. Bundy* (D. Nev. 1998) (“Bundy I”). After awarding the United States summary judgment, the court permanently enjoined Mr. Bundy from grazing his livestock within the allotment and ordered him to remove all of his cattle. Mr. Bundy never complied with the injunction and instead expanded the scope of his trespass to include public lands surrounding the Allotment. In response, the United States moved in 2012 to enforce the injunction as to the allotment, and commenced a separate civil action, known as Bundy II, to enjoin Bundy’s trespass on the surrounding lands. The United States prevailed in both instances and obtained orders

Ongoing	No	No	
Ongoing	No	Yes	

<p>directing Mr. Bundy to remove his cattle and confirming that the Bureau of Land Management (BLM) could seize and impound any of Mr. Bundy’s cattle that remained in trespass after 45 days. When Mr. Bundy again flouted the court’s orders, BLM began the process of impounding the cattle, but ultimately abandoned those efforts in the face of armed resistance by numerous Bundy supporters. That armed resistance led to criminal charges against Mr. Bundy and several co defendants. The criminal trial commenced on November 14.</p> <p>That same day, Mr. Bundy moved to reopen Bundy I, and to vacate the order enforcing the injunction in that case. He argues that the injunction should be vacated on grounds that it is unlawfully vague, inequitable, and has proved impossible to implement. Our response is due November 28, but Mr. Bundy’s counsel has indicated they will not oppose an extension of that deadline to December 22.</p>			
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EOIR Executive Office for Immigration Review	ODAG POC: Matt Sheeha (b) (6) Component POC: Acting Director James McHenry (b) (6)		
<i>Nothing to report.</i>	<i>Date</i>	<i>OAG/ODAG action required?</i>	<i>Recommend notifying PAO?</i>

EOUSA Executive Office for United States Attorneys	ODAG POC: Iris Lan (b) (6) Component POC: Director Monty Wilkinson, (b) (6)		
<i>United States Attorney Confirmations:</i> Bobby L. Christine Southern District of Georgia David J. Freed Middle District of Pennsylvania <i>Intent to Nominate United States Attorneys:</i> Joseph P. Kelly District of Nebraska Scott W. Murray District of New Hampshire David Weiss District of Delaware	<i>Date</i>	<i>OAG/ODAG action required?</i>	<i>Recommend notifying PAO?</i>
	11/15/17	No	No
	11/17/17	No	No

Billy J. Williams District of Oregon			
NAC Training			
<ul style="list-style-type: none"> • Basic Civil Pretrial Practice Seminar 	11/27/17 12/01/17	No	No
<ul style="list-style-type: none"> • Criminal Jurisdiction in Indian Country Seminar 	11/28/17 11/30/17	No	No
<ul style="list-style-type: none"> • Project Safe Childhood Child Interviewing Seminar 	11/28/17 12/01/17	No	No
<p>Honduran Man Sentenced to Prison for Role in MS-13 Gang Initiation Murder in Virginia (EDVA). Yerwin Ivan Hernandez Ordonez, a Honduran national, was sentenced to more than 30 years in prison for his role in a 2011 murder in Richmond, Virginia. Hernandez Ordonez was sentenced to 365 months in prison, followed by five years of supervised release, for use of a firearm in the commission of a crime of violence resulting in the death of another. The murder was part of a gang initiation for two recruits of MS 13. In October 2016, Hernandez Ordonez was arrested in Panama and extradited to the United States. He pled guilty on May 5. Hernandez Ordonez admitted that he aided and abetted two MS 13 recruits to murder a victim so the recruits could gain entrance into MS 13. USA Dana Boent (b)(6) per EOUSA.</p>	11/15/17	No	Already notified
<p>New York Probation Officer Charged For Role In Conspiracy To Smuggle Heroin From Nigeria (NJ). Anderson Ajimavo was arrested for allegedly collecting drug distribution proceeds and laundering money on behalf of a heroin distribution conspiracy operating out of Nigeria. Ajimavo was allegedly employed by the drug trafficking organization to collect, transmit, and launder the narcotics proceeds. (b)(7)(D) per EOUSA, who received the heroin from couriers after they arrived in the United States, was instructed by the leader of the drug trafficking organization to pay for the heroin through Ajimavo. On at least four occasions from November 2016 through March 2017, the source met with Ajimavo and paid him a total of more than \$75,000 in narcotics proceeds, which Ajimavo transmitted to the drug trafficking organization in Nigeria. USA William Fitzpatrick (b)(6) per EOUSA.</p>	11/14/17	No	Already notified
<p>Last US Defendant Pled Guilty in Multimillion Dollar India-Based Call Center Scam Targeting US Victims (SDTX). Miteshkumar Patel, an Illinois man, pled guilty to money</p>	11/13/17	No	Already notified

<p>laundering conspiracy, joining six others who recently pled guilty to conspiracy charges for their roles in liquidating and laundering victim payments generated through a massive telephone impersonation fraud and money laundering scheme perpetrated by a network of India based call centers, which was responsible for defrauding U.S. residents of hundreds of millions of dollars. The defendants perpetrated a complex scheme in which individuals from call centers located in Ahmedabad, India impersonated officials from the IRS and U.S. Citizenship and Immigration Services to defraud victims throughout the United States. Using information obtained from data brokers and other sources, call center operators targeted U.S. victims who were threatened with arrest, imprisonment, fines, or deportation if they did not pay alleged monies owed to the government. Victims who agreed to pay the scammers were instructed how to provide payment, including by purchasing general purpose reloadable (GPR) cards or wiring money. Upon payment, the call centers would immediately turn to a network of “runners” based in the United States to liquidate and launder the fraudulently obtained funds. USA Abe Martine (b)(6) per EOUSA.</p>			
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<p>FBI Federal Bureau of Investigation</p>	<p>ODAG POC: Iris La (b)(6)</p>		
<p>John Hill presented on the Federal Rules of Criminal Procedure at FBI Headquarters to counter intelligence special agents.</p>	<p><i>Date</i></p>	<p><i>OAG/ODAG action required?</i></p> <p>No</p>	<p><i>Recommend notifying PAO?</i></p> <p>N/A</p>

<p>OARM Office of Attorney Recruitment and Management</p>	<p>ODAG POC: Scott School (b)(6) Component POC: Jamila Frone (b)(6)</p>		
<p><i>Nothing to report.</i></p>	<p><i>Date</i></p>	<p><i>OAG/ODAG action required?</i></p>	<p><i>Recommend notifying PAO?</i></p>

OIG Office of the Inspector General	ODAG POC: Scott School (b) (6), Matt Sheehan (b) (6) Component POC: Deputy Inspector General Rob Storch (b) (6)		
(b)(6) per EOUSA, a former Civil Division attorney who had taken a job at Akin Gump, is expected to plead guilty in the Northern District of California to obstruction of justice and interstate transportation of stolen property. According to the Information, while employed with the Civil Division Fraud Section (b)(6) per EOUSA made copies of two sealed qui tam complaints in cases not assigned to him. After leaving DOJ (b)(6) per EOUSA attempted to sell the qui tam complaints that remained under seal to the defendant companies. OIG will release its report on the DEA's management of its contract with Conduit Language Specialists, Inc. The OIG found that DEA had failed to provide sufficient administration and oversight of the contract, which resulted in: (1) significant non compliance with applicable laws, regulations, and the contract terms and conditions; (2) minimal quality assurance (QA); (3) contractor performance deficiencies; and (4) poorly defined contract requirements. OIG found that linguists worked under the contract without valid language proficiency results, completed background investigations, or signed non disclosure forms. As a result, DEA paid almost \$3.7 million in net unallowable costs for linguist services.	Date	OAG/ODAG action required?	Recommend notifying PAO?
	11/29/17	No	Yes
	Exact date unknown	No	Yes

OJP Office of Justice Programs	ODAG POC: Chad Mizelle (b) (6) Component POC: Acting AAG Alan Hanso (b) (6)		
Nothing to report.	Date	OAG/ODAG action required?	Recommend notifying PAO?

OLA Office of Legislative Affairs	ODAG POC: Amelia Medin (b)(6)) Component POC: DAAG Jill Tyson, (b)(6)		
	<i>Date</i>	<i>OAG/ODAG action required?</i>	<i>Recommend notifying PAO?</i>
1. The House and Senate are not in session. The Senate returns November 27, 2017. The House returns November 28, 2017.	N/A	Situational awareness	N/A
2. <i>Hearing.</i> Kenneth Blanco, Acting Assistant Attorney General, Criminal Division, will testify before the Senate Judiciary Committee on S. 1241, the “Combatting Money Laundering, Terrorist Financing, and Counterfeiting Act of 2017.” Comments on the bill, expected to be favorable and supportive, are currently pending final clearance at OMB. The Department of Treasury is also expected to participate in the hearing.	11/28/17 (am)		
3. <i>Hearing.</i> FBI Director Christopher A. Wray will testify before the House Homeland Security Committee regarding worldwide threats.	11/30/17		
4. <i>Briefing.</i> Officials from the FBI will brief the staff of the Senate Select Committee on Intelligence o (b)(7)(E) per FBI	11/30/17		
5. <i>Legislative Roundtable.</i> John Gore, Acting Assistant Attorney General of the Civil Rights Division; Tanya Kirwan, Assistant Director of the Servicemembers and Veterans Initiative; and Andrew Braniff, Assistant Director of the Servicemembers and Veterans Initiative, will meet with majority staff of the Senate Committee on Veterans’ Affairs to discuss the Department’s views on S. 646, the “Justice for Servicemembers and Veterans Act of 2017.”	11/27/17 (am)		
6. <i>Senate Executive Calendar.</i> Jeffrey Clark (nominee to be Assistant Attorney General, Environment and Natural Resources Division), Brian Benzkowski (nominee to be Assistant Attorney General, Criminal Division), Eric Dreiband (nominee to be Assistant Attorney General, Civil Rights Division), and John Demers (nominee to be Assistant Attorney General, National Security Division) are pending on the Senate Executive Calendar.	Ongoing		

OLP Office of Legal Policy	ODAG POC: Michael Murra (b) (6), Patrick Bumata (b) (6) Component POC: DAAG Robyn Thiemann, (b) (6)			
<i>Nothing to report.</i>		Date	OAG/ODAG action required?	Recommend notifying PAO?

OPR Office of Professional Responsibility	ODAG POC: Scott School (b) (6) Component POC: Counsel Robin Ashton (b) (6)			
<i>Nothing to report.</i>		Date	OAG/ODAG action required?	Recommend notifying PAO?

OTJ/Indian Country Office of Tribal Justice	ODAG POC: Dan Lovelan (b) (6) Component POC: Director Tracy Toulou (b) (6)			
American Indian and Alaska Native Heritage Month Program. On Wednesday, November 29 at 11am in Main Justice's Great Hall, DOJ will host a program to honor Native American Heritage. The event will feature remarks from the Associate AG, USA Trent Shores (E.D. OK.), and Tracy Toulou.		Date 11/29/17	OAG/ODAG action required? Dan will attend	Recommend notifying PAO? Already aware

OVW Office on Violence Against Women	ODAG POC: Michael Fran (b) (6) Component POC: Acting Director Nadine Neufville (b) (6)			
<i>Nothing to report.</i>		Date	OAG/ODAG action required?	Recommend notifying PAO?

TAX Tax Division	ODAG POC: Amelia Medin (b) (6) Component POC: Counsel Carl Wasserman (b) (6)			
<i>Nothing to report.</i>		<i>Date</i>	<i>OAG/ODAG action required?</i>	<i>Recommend notifying PAO?</i>

USTP U.S. Trustee Program	ODAG POC: Amelia Medin (b) (6) Component POC: Director Clifford White (b) (6)			
<p><i>Toys R Us (Bankr. E.D. Va.).</i> On Monday or Tuesday, November 27 28, USTP will file an objection to the payment of up to \$32 million in bonuses to 17 executives and insiders of Toys R Us. Under the Bankruptcy Code, retention bonuses are generally prohibited, but incentive bonuses are permitted if the proponent can satisfy statutory standards. In this case, the metrics for the bonuses are insufficiently clear to justify the awards. USTP also will object to a companion motion to approve a Non Insider Compensation Program. The <i>Toys R Us</i> case has been the subject of much news coverage, including in the <u>New York Times</u> and on Fox News. USTP frequently objects to bonuses, and its objections are likely to draw media coverage in circumstances such as these.</p>		<i>Date</i>	<i>OAG/ODAG action required?</i>	<i>Recommend notifying PAO?</i>
		11/27/17 11/28/17	Situational awareness	Already aware

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Tuesday, May 29, 2018 8:40 PM
To: Yeager, Demi (OAG)
Subject: Fwd: Second Chance Pell Update.docx and White House discussion on Pilot programs

Begin forwarded message:

From: "Kersten, Ji (b) (6)"
Date: May 29, 2018 at 8:11:03 PM EDT
To: (b)(6): Matthew Whitaker email address >, John Koufos
(b) (6)
Subject: Fw: Second Chance Pell Update.docx and White House discussion on Pilot programs

FYI

From: Kersten, Jim
Sent: Tuesday, May 29, 2018 4:48 PM
T (b)(6) per Labor (email of Emily Hoffman) (b)(6) per Labor (email of Pedro Allende)
Cc: Kersten, Jim
Subject: RE: Second Chance Pell Update.docx and White House discussion on Pilot programs

Hi guys. I will be in DC June 11-13 and would like to meet you. I will also be meeting with Senator Grassley and his Judiciary staff on corrections reform while there.

Could you send me a 15 minutes window that would work for you on either the 11th or 12th or 13th between 11-6?

Thanks!

Jim

From: Kersten, Jim

Sent: Wednesday, April 4, 2018 2:11 PM

T (b)(6) per Labor (email of Emily Hoffman) (b)(6) per Labor (email of Pedro Allende)

Cc: Kersten, Ji (b) (6) >

Subject: Fw: Second Chance Pell Update.docx and White House discussion on Pilot programs

Pedro and Emily:

Pedro is was great to meet you yesterday and I look forward to talking and meeting soon. Secretary asked me to forward information on Second Chance Pell, so I thought I would forward an email I sent a few weeks ago to the group

working with the White House policy team, led by Kara McKee. We met with Kara a few weeks ago and she asked us to submit some creative ideas once we visit with you at the DOL and the DE. Thus our interest in working with you.

The attached is a summary of how many prisoners we are serving via the Iowa Central Corrections Education program. We could serve much larger numbers if we could construct an industrial training center with the Fort Dodge, Iowa Prison.

Below is a brief summary of our Second Chance Pell work at two Iowa prisons. I sent this to the group working with Safe Streets Second Chance to let them know of our success and willingness to innovate. This group is working with the White House and Jared Cushner to ramp up training for inmates.

We feel we would be a great applicant for the soon to be announced re-entry grant and would like to collaborate with the Governor's office and Iowa Department of Corrections, and DOL, DOJ and the DE.

<https://www2.ed.gov/about/offices/list/ope/pell-secondchance.pdf>

<https://www2.ed.gov/documents/press-releases/second-chance-pell-institutions.pdf>

Please review and give me a call when you can.

Thanks.

Jim

James B. Kersten

Vice President of External Affairs and Government Relations

Iowa Central Community College

One Triton Circle

Fort Dodge, Iowa 50501

(b) (6) (Office)

(b) (6) (Cell)

515-576-7207 (Fax)

(b) (6)

Good afternoon Brook and Derek.

My name is Jim Kersten and I read with interest your comments made with the President yesterday related to Prison Reform. I am currently Vice President of Iowa Central Community College in Fort Dodge, Iowa. I am also a former member of the Iowa Senate where I served as a Republican State Senator. I have a diverse public and private sector background, including work on the staff of former Iowa Governor Terry Branstad (Now Ambassador to China). I also worked with Eric Branstad who managed President Trump's Iowa Campaign where he carried Iowa with record numbers. I only give you that background so you know who you are getting contacted by! Iowa Central is one of 67 colleges selected to participate in the Second Chance Pell Program. We have been up and running now for just over a year and see continued growth and interest in our degree and certificate programs in two prisons we serve in North Central Iowa. We have been keeping Iowa Senator Chuck Grassley updated on our SecondChance Pell project and he has become much more supportive now that we have seen enrollment and real interest by the inmates we serve. As Chair of the Senate Judiciary committee he is very interested to learn more.

If possible, could one of you give me a call to discuss Second Chance Pell and the very interesting work you all have been working on? We would like to collaborate with you from here in Iowa.

Thanks.

Jim

James B. Kersten

I would

Trump hosts prison reform session, in break from prosecution focus

[close](#)

Trump: Dr. King's words and vision grow stronger with time

President Trump on Thursday held a listening session on prison reform which covered how to address mass incarceration in the United States as well as how to reduce the rate of recidivism.

“We will be very tough on crime but we will provide a ladder of opportunity,” Trump told a roundtable that included governors from Georgia, Kentucky and Kansas, criminal justice experts and faith-based leaders.

Trump added that he wants those in prison to be able to contribute to society once they leave.

“Two-thirds of the 650,000 people released from prison each year are arrested again within three years,” he said. “We can help break this vicious cycle through job training, very important, job training, mentoring and drug addiction treatment.”

Kentucky Gov. Matt Bevin, who has brought significant prison reform to his state, weighed in, saying “we are good at removing but we need to do more than simply remove people from society.”

Bevin said 95 percent of the nation's prison population will eventually be released.

"What are we doing as a society, at the federal level, at the state level, at the local levels, what are we doing to ensure that they have been rehabilitated and they can be re-assimilated?"

The steps are aimed at reducing the rate of recidivism. As Trump noted, the Justice Department has reported that approximately two-thirds of the more than 650,000 ex-offenders released from prison every year are rearrested within three years.

While the president has sounded a tough-on-crime message during his first year in office, the White House views changes to the prison system as a conservative issue that could potentially gain bipartisan support in a divided Congress.

Trump discussed potential changes to the prison system with lawmakers and Cabinet members at Camp David earlier in the month.

White House senior adviser Jared Kushner, whose own father spent more than a year behind bars, was part of the listening session though he did not speak when reporters were in the room.

Kushner and his wife, Ivanka Trump, have been building support for bipartisan reform for the past six months.

During that time, Kushner met with prison experts and has reportedly developed a bipartisan proposal to address mass incarceration in the United States, which includes ways to address recidivism.

Brooke Rollins, president of the Texas Public Policy Foundation, told Fox News ahead of the meeting that she's worked closely with Kushner's Office of American Innovation and says she's given them advice on ways to reform the prison system.

In Texas, Rollins, who also serves on Trump's economic advisory committee, has worked with other advocacy groups on criminal justice reform and has helped shutter eight prisons.

She's also worked with the American Civil Liberties Union to create programs to keep nonviolent offenders out of jail and helped inmates transition into jobs following their release. She believes she can bring similar results to the national stage.

"I think that the time is so right for really great and significant dialogue on prison reform," Rollins told Fox News ahead of the meeting.

She added that most of the reforms being discussed involve non-violent offenders, which doesn't step on Attorney General Jeff Sessions' pledges to crack down on crime.

"His big effort has been on sentencing but we're talking about prison reform," she said.

Sessions has taken a strict stance on drugs and violent crimes and has repeatedly threatened to utilize the toughest sentences possible.

One of Sessions' first orders was to reverse an Obama-era directive phasing out the use of private prisons, an acknowledgement that they may be needed given his aggressive enforcement of drug and immigration laws.

But facing a narrow majority in the Senate, the White House views the issue -- along with plans for a sweeping infrastructure bill -- as among a handful of areas where Trump could work with Democrats in Congress.

On Thursday, Sessions said the Justice Department "is committed to a reentry program and if we do this right, we can make progress."

The Associated Press contributed to this report.

Sponsored Stories You May Like

Laco, Kelly (OPA)

From: Laco, Kelly (OPA)
Sent: Friday, June 15, 2018 4:05 PM
To: Flores, Sarah Isgur (OPA); Prior, Ian (OPA); Whitaker, Matthew (OAG); Bumatay, Patrick (OAG); Barnett, Gary E. (OAG); Moore, Paul (OAG); Hamilton, Gene (OAG); O'Malley, Devin (OPA (b)(6) per CRM (CRM)
Subject: Press Clips Fort Wayne and Scranton
Attachments: AG in Scranton, PA .docx; AG in Ft Wayne, IN.DOCX

Attached!

Kelly Laco
Office of Public Affairs
Department of Justice
Offic (b)(6)
Ce (b)(6)

AG in Ft Wayne, IN

AG's Radio Hits

Tony Katz WIBC (Indianapolis)

<https://omny.fm/shows/tony-katz-and-the-morning-news/tony-katz-speaks-with-attorney-general-jeff-sessio/embed?style=artwork>

Pat Miller Program WOWO (Ft. Wayne)

<https://www.wowo.com/jeff-sessions/>

Print Media

AP: Sessions cites Bible to defend separating immigrant families (Colleen Long)

The Washington Post: Sessions cites Bible passage used to defend slavery in defense of separating immigrant families (Julie Zauzmer and Keith McMillan)

Newsweek: Immigrant Children Separated From Parents 'well Cared For At Taxpayer Expense,' Jeff Sessions Says (Alexandra Hutzler)

NBC: Sessions cites Bible in defense of breaking up families, blames migrant parents (Adam Edelman)

Vox: Sarah Sanders on immigrant family separation: "It is very biblical to enforce the law" (Emily Stewart)

Vox: Jeff Sessions cited a Bible passage used by American slaveholders to defend Trump's family separation policy (Emily Stewart)

WIBC: Sessions Defends Trump Administration's Immigration Plan In Fort Wayne (Kurt Darling)

WOWO: Attorney General Jeff Sessions visits Fort Wayne, speaks to WOWO (Caleb Hatch)

FOX59: AG Jeff Sessions visits Fort Wayne to discuss Trump administration's immigration priorities (FOX59)

Indiana Public Media: Sessions Strongly Defends Immigration Policies In Fort Wayne Visit (Zach Bernard and Araceli Gomez-Aldana)

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Television

MSNBC - U.S. Cable Morning Joe MSNBC 6/15/2018 6:33:41 AM

AP: Sessions cites Bible to defend separating immigrant families (Colleen Long)

<https://apnews.com/0bcc5d5d077247769da065864d215d1b>

WASHINGTON (AP) — Attorney General Jeff Sessions cited the Bible on Thursday in his defense of his border policy that is resulting in hundreds of immigrant children being separated from their parents after they enter the U.S. illegally.

Sessions, speaking in Fort Wayne, Indiana, on immigration, pushed back against criticism he had received over the policy. On Wednesday, a cardinal in the Roman Catholic Church said that separating mothers from their babies was “immoral.”

Sessions said many of the recent criticisms were not “fair or logical and some are contrary to law.”

“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,” he said. “Orderly and lawful processes are good in themselves and protect the weak and lawful.”

Last month, the attorney general announced a “zero tolerance” policy that any adult who enters the country illegally is criminally prosecuted. U.S. protocol prohibits detaining children with their parents because the children are not charged with a crime and the parents are.

According to U.S. Customs and Border Protection, more than 650 children were separated from their parents at the U.S.-Mexico border during a two-week period in May.

White House press secretary Sarah Huckabee Sanders said Thursday that she hadn’t seen Sessions’ comments but affirmed that the Bible did back up the administration’s actions.

“I can say that it is very biblical to enforce the law. That is actually repeated a number of times throughout the Bible,” she said. “It’s a moral policy to follow and enforce the law.”

In an unusually tense series of exchanges in the White House briefing room, Sanders wrongly blamed Democrats for the policy separating children from parents and insisted the administration had made no changes in increasing the use. Until the policy was announced in April, such families were usually referred for civil deportation proceedings, not requiring separation.

“The separation of illegal alien families is the product of the same legal loopholes that Democrats refuse to close, and these laws are the same that have been on the books for over a decade, and the president is simply enforcing them,” she said.

“We don’t want this to be a problem,” she said.

Cardinal Daniel DiNardo, the archbishop of Galveston-Houston, told the U.S. Conference of Catholic Bishops on Wednesday that he was joining other religious leaders in opposing the government’s border policy.

“Our government has the discretion in our laws to ensure that young children are not separated from their parents and exposed to irreparable harm and trauma,” DiNardo said in a statement.

The Washington Post: Sessions cites Bible passage used to defend slavery in defense of separating immigrant families (Julie Zauzmer and Keith McMillan)

https://www.washingtonpost.com/news/acts-of-faith/wp/2018/06/14/jeff-sessions-points-to-the-bible-in-defense-of-separating-immigrant-families/?utm_term=.68df6f2820ad

Attorney General Jeff Sessions on Thursday used a Bible verse to defend his department’s policy of prosecuting everyone who crosses the border from Mexico, suggesting that God supports the government in separating immigrant parents from their children.

“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 the government for his purposes,” Sessions said during a speech to law enforcement officers in Fort Wayne, Ind. “Orderly and lawful processes are good in themselves. Consistent and fair application of the law is in itself a good and moral thing, and that protects the weak and protects the lawful.”

Government officials occasionally refer to the Bible as a line of argument take, for instance, the Republicans who have quoted 2 Thessalonians (“if a man will not work, he shall not eat”) to justify more stringent food stamps requirements.

But the verse that Sessions cited, Romans 13, is an unusual choice.

“There are two dominant places in American history when Romans 13 is invoked,” said John Fea, a professor of American history at Messiah College in Pennsylvania. “One is during the American Revolution [when] it was invoked by loyalists, those who opposed the American Revolution.”

The other, Fea said, “is in the 1840s and 1850s, when Romans 13 is invoked by defenders of the South or defenders of slavery to ward off abolitionists who believed that slavery is wrong. I mean, this is the same argument that Southern slaveholders and the advocates of a Southern way of life made.”

In May, Sessions announced a zero-tolerance policy in which the Justice Department would begin prosecuting everyone who crosses the Southwest border. Part of the policy shift meant that migrants traveling with children or unaccompanied minors end up detained instead of released; U.S. immigration law charges adults with a crime, but not the children, which means they’re held separately.

The Associated Press cited U.S. Customs and Border Protection figures from two weeks in May in which more than 650 children were separated from parents. Reports from the same month that the government lost track of 1,475 children sparked a national outcry; those reports were later disputed.

Sessions has said “we’ve got to get this message out” that asylum seekers or anyone else immigrating through unofficial means is not given immunity. He appealed to “church friends” later in Thursday’s speech in Fort Wayne, emphasizing that non-citizens who enter the United States illegally are breaking the law.

On the same issue, other religious groups and individuals have cited the Bible as well, to take the opposite side.

“Overwhelmingly, Scripture causes families to be kept together,” said Gabriel Salguero, president of the National Latino Evangelical Coalition. “Overwhelmingly Scripture causes us to defend families. As Evangelicals, we have a doctrine to be a pro-family-values people, you know. The Bible calls us to be pro-family, and I personally find it deeply lamentable that we are separating children from their parents at the border or anywhere.”

At a meeting of the U.S. Conference of Catholic Bishops on Wednesday, the nation’s Catholic leaders strongly condemned the administration’s immigration policies as immoral, with one bishop going so far as to suggest that Catholics who help carry out the Justice Department’s policies are violating their faith and perhaps should be denied Communion.

White House press secretary Sarah Huckabee Sanders said during a briefing Thursday that she hadn't seen Sessions's comments, but she backed his line of thinking.

"I can say that it is very biblical to enforce the law. That is actually repeated a number of times throughout the Bible," she said. "It's a moral policy to follow and enforce the law."

Fea, the American history professor, said that after the Civil War, historians don't see many references to Romans 13 because the essence of the passage—submission to authority—is regarded as un-American.

"America was built and born on rebellion and a sort of radical resistance to authority," Fea said. "Whenever Romans 13 was used in the 18th and the 19th century—and Sessions seems to be doing the same thing, so in this sense there is some continuity—it's a way of manipulating the scriptures to justify your own political agenda."

The chapter itself can be interpreted in varying ways.

"Romans 13 says that the purpose of government is to pursue what is good, and it says that the government should not be a terror for those who are doing good," said Matthew Soerens, U.S. director of church mobilization for World Relief, the humanitarian arm of the National Association of Evangelicals.

"You cannot read Romans 13 without reading Romans 12," Salguero said, pointing to the prior chapter, which in part suggests that love must be the guide instead of evil.

"Laws are good, and order is good, but that doesn't mean that separating families from each other is a good law," he said. "There are good laws, and there are bad laws, and separating families from each other is a bad policy. We're not against the law, we're against bad laws and bad policies."

Besides, as Soerens points out, the person in the Bible whom Sessions referenced ran afoul of the law.

"The fact that the Apostle Paul, who wrote Romans, wrote several epistles from jail suggests that he was occasionally on the wrong side of an unjust law," Soerens said.

The evangelical polling group Barna found that evangelical Christians' attitudes toward immigration seem to be warming somewhat. In 2016, Barna found that 42 percent of evangelicals agreed with the statement "We allow too many immigrants into the country,"

compared with 30 percent of American adults overall. By the next year, just 23 percent of adults overall and 31 percent of evangelicals agreed.

Newsweek: Immigrant Children Separated From Parents 'well Cared For At Taxpayer Expense,' Jeff Sessions Says (Alexandra Hutzler)

<http://www.newsweek.com/jeff-sessions-family-separations-church-evangelicals-immigration-978168>

In an attempt to defend his "zero tolerance" approach to immigration and the subsequent family separations at the U.S. border, Jeff Session told church leaders that at least "we are not sending children to jail with their parents."

"We currently spend more than \$1 billion a year in taxpayer dollars taking care of unaccompanied illegal alien minors," he said in a speech in Fort Wayne, Indiana on Thursday, where he justified the Trump administration's immigration policies.

"They are provided food, education in their native language, health and dental care, and transported to their destination city all at taxpayer expense."

Sessions then blamed the parents trying to cross the border for putting their children in harm's way. "There's only one way to stop this and that is for people to stop smuggling children. Stop crossing the border illegally with your children. Apply to enter lawfully. Wait your turn," he added.

In May, the attorney general announced that the Justice Department would criminally prosecute anyone trying to come into the country illegally, even if they are first time offenders or are crossing the border with small children.

The move instantly recieved criticism from church leaders, who see the family unit as an essential part of society.

Daniel Cardinal DiNardo, an American cardinal in the Catholic Church, responded to the separations in a statement Wednesday stating that "our government has the discretion in our laws to ensure that young children are not separated from their parents and exposed to irreparable harm and trauma. Families are the foundational element of our society and they must be able to stay together."

The Evangelical Immigration Table wrote a letter to President Donald Trump asking him to "resolve this situation of families being separated," stating that the policy goes against the Bible's teachings about family.

During the White House press briefing on Thursday, a CNN reporter asked press secretary Sarah Huckabee Sanders to weigh in on the matter, saying, "Come on Sarah you're a parent. Don't you have any empathy for what these people are going through?"

She did not answer that question and accused the reporter of simply seeking more exposure on television.

NBC: Sessions cites Bible in defense of breaking up families, blames migrant parents

(Adam Edelman)

<https://www.nbcnews.com/politics/immigration/sessions-cites-bible-defense-breaking-families-blames-migrant-parents-n883296>

Attorney General Jeff Sessions on Thursday offered a full-throated defense of the Trump administration's policy of separating children from their parents at the border, saying that having kids does not give migrants immunity from prosecution and found justification for his policies in the Bible.

Sessions who last month announced a "zero tolerance policy" to criminally prosecute people crossing the border illegally made his latest remarks in a speech to law enforcement officers in Fort Wayne, Indiana, telling the group that the migrant families were to blame for their own break-ups and that his department's separation of families was not "unusual or unjustified."

"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," Sessions said. "Having children does not give you immunity from arrest and prosecution."

"However, we are not sending children to jail with their parents," he said, adding that the policy "can result in short-term separation."

"Noncitizens who cross our borders unlawfully, between our ports of entry, with children are not an exception," the attorney general said. "They 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."

Current law does not prohibit separating children from their parents.

Crossing the border illegally is a misdemeanor for the first offense, and when parents are charged they end up in federal and separated from their children an increasingly dire situation that has drawn criticism from lawmakers in both major parties, as well as Christian groups, including the Rev. Franklin Graham, a supporter of President Donald Trump. Graham said this week that the administration's efforts that led to families being "ripped apart" were "disgraceful."

In addition, several evangelical groups sent a letter to the White House this month, asking Trump to protect families at the border that were fleeing violence.

Sen. James Lankford, R-Okla., a evangelical pastor and Christian camp director, tweeted Thursday morning that he was personally asking the White House "to keep families together as much as we can."

In his remarks, Sessions hit back at the "concerns raised by our church friends about separating families," calling the criticism "not fair or logical" and quoting Scripture in his defense of the administration's tough policies.

"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," Sessions said. "Orderly and lawful processes are good in themselves and protect the weak and lawful."

He called on religious leaders to "speak up strongly to urge anyone who would come here to apply lawfully, to wait their turn and not violate the law."

Later Thursday, White House Press Secretary Sarah Sanders doubled down on Sessions' comments, saying it is "very biblical to enforce the law."

"That is actually repeated a number of times throughout the Bible," she said, responding to a question about Sessions' comments about Scripture's supporting the administration's policies.

Many of the children separated from their parents have ended up in enormous facilities that more closely resemble prisons, where they spend 22 hours per day during the week locked inside overcrowded buildings.

Sessions, however, said the U.S. government facilities, which are run by the Department of Health and Human Services, "care for the children in a good and decent and proper way" and blamed the parents of the children for subjecting them to "such a treacherous journey."

"It's not as if we just want to see if we can be mean to children," Sessions added.

The attorney general also defended his ruling this week that fear of domestic abuse or gang violence is not an acceptable basis for granting asylum.

He claimed that he had not made new law and that he had "simply restated and implemented what Congress has passed: Asylum is generally not for those who have suffered a private act of violence."

"I am not going to apologize for carrying out our laws," he added.

Vox: Sarah Sanders on immigrant family separation: "It is very biblical to enforce the law"
(Emily Stewart)

<https://www.vox.com/2018/6/14/17465662/sarah-sanders-family-separation-bible-sessions>

A White House briefing with press secretary Sarah Sanders grew tense on Thursday as reporters pressed her on the matter of the Trump administration's family separation policy for asylum seekers at the US-Mexico border. Sanders upheld the practice as a matter of law and defended Attorney General Jeff Sessions's assertion that separating immigrant children from their parents is in line with the Bible.

During a speech to law enforcement officers in Fort Wayne, Indiana, earlier in the day, Sessions said that his department's separation of migrant families was not "unusual or unjustified" but instead a matter of law — Christian law, in fact. "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," Sessions said, according to NBC News. "Orderly and lawful processes are good in themselves and protect the weak and lawful."

CNN's Jim Acosta asked Sanders during Thursday's White House press briefing what Sessions was talking about. She said she wasn't "aware" of the attorney general's comments or "what he was referencing" but sided with him on the "it's what the Bible says" part.

"I can say that it is very biblical to enforce the law," Sanders said. "That is actually repeated a number of times throughout the Bible."

Acosta pushed back at her assertion, to which Sanders replied testily, "I know it's hard for you to understand even short sentences, I guess."

She then took the line of argument that President Donald Trump and the White House often push that this is what the law says (it isn't) and it's Democrats' fault (it's not). "The separation of alien families is the product of the same legal loopholes that Democrats refuse to close, and these laws are the same that have been on the books for over a decade. The president is simply enforcing the law," she said.

When Acosta asked whether she believes the practice is moral, Sanders replied, "It's a moral policy to follow and enforce the law."

Family separation isn't the law

The Trump administration has recently implemented a policy of separating children from their parents as they attempt to enter the United States seeking asylum at the US border. They're typically splitting up families by charging parents with illegal entry into the US and sending them into criminal custody and treating their children as if they were "unaccompanied alien children" who had tried to enter the United States alone.

The policy has sent shock waves across the country, igniting outrage on the part of immigration advocates, human rights groups, and citizens across the political spectrum. Multiple reports of uniquely aggressive or inhumane treatment have added fuel to the fire, including a Honduran man who died by suicide less than a day after being separated from his wife and 3-year-old child by Border Patrol agents, and a Honduran woman who says officials took her daughter away while she was breastfeeding her in a detention center.

The White House is arguing that what it's doing is just what the legal code says. "We're a country of law and order, and we're enforcing the law and protecting our borders," Sanders said.

Except that's not the case. As Vox's Dara Lind points out, there is no law that requires immigrant families to be separated:

The decision to charge everyone crossing the border with illegal entry and the decision to charge asylum seekers in criminal court rather than waiting to see if they qualify for asylum are both decisions the Trump administration has made.

Other administration officials back up Trump by pointing to the laws that give extra protections to families, unaccompanied children, and asylum seekers. The administration has been asking Congress to change these laws since it came into office, and has blamed them for stopping Trump from securing the border the way he'd like. (Those aren't "Democratic laws" either; the law addressing unaccompanied children was passed overwhelmingly in 2008 and signed by George W. Bush, while the restriction on detaining families is a result of federal litigation.)

In that context, the law isn't forcing Trump to separate families; it's keeping Trump from doing what he'd perhaps really like to do, which is simply sending families back or keeping them in detention together, and so he has had to resort to plan B.

Brian Karem, the White House correspondent for Playboy Magazine, on Thursday got into an even more heated argument with Sanders and admonished her for defending the administration's position. "You're a parent," he told Sanders, a mother of three, asking if she could seriously argue the White House was right. "I'm trying to be serious, but I'm not going to have you yell out of turn," she retorted.

CBS News reported on Wednesday that Sanders has told friends she plans to leave the administration by the end of the year. Sanders denied the report on Twitter on Wednesday and in Thursday's briefing, but her fatigue with the situation was apparent.

"In terms of personnel announcements, I don't have any to make," she told reporters. "I can tell you that I show up here every day, I love my job, I'm glad to work for the president, and each and every day, I'll pray for clarity and discernment on what my future looks like."

Vox: Jeff Sessions cited a Bible passage used by American slaveholders to defend Trump's family separation policy (Emily Stewart)

<https://www.vox.com/policy-and-politics/2018/6/15/17467772/jeff-sessions-bible-passage-slavery-romans-13>

Attorney General Jeff Sessions defended the Trump administration's family separation policy for asylum seekers by invoking a controversial passage in the Bible that's rarely been cited since the Civil War because it was used by Southerners to defend slavery.

This is what Sessions said at a speech to law enforcement officers in Fort Wayne, Indiana, on Thursday, according to NBC News:

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.

The historical context spread across Twitter. Yoni Appelbaum, a historian and editor at the Atlantic, showed the passage was cited during key moments in the American debate over slavery:

2. Whatever one thinks of the exegetical merits of this argument, it's quite surprising in one particular way Romans 13 was widely quoted in political debates of the 1840s and 1850s, but rarely thereafter. (Via <https://t.co/zs4wZX13G7>) pic.twitter.com/KLCQLIGSHt

Yoni Appelbaum (@YAppelbaum) June 14, 2018

The Washington Post's Julie Zauzmer and Keith McMillan spoke with experts for a piece that ran Friday morning and concluded that Sessions's decision to cite Romans 13 is an unusual one, given how the passage has been used historically.

"This is the same argument that Southern slaveholders and the advocates of a Southern way of life made," John Fea, a professor of American history at Messiah College in Pennsylvania, told the Post.

Abolitionists argued that slavery was unconscionably cruel and pointed, specifically, to separating families as a violation of religious principles, Appelbaum explained. Slavery defenders said the duty to abide by law was part of the Bible and specifically cited Romans 13. Abolitionists, ultimately, won the argument over slavery.

Fea told the Post that after the Civil War, there haven't been as many references to Romans 13 because the passage's message about submitting to authority is regarded as un-American.

"Whenever Romans 13 was used in the 18th and 19th century and Sessions seems to be doing the same thing, so in this sense there is some continuity it's a way of manipulating the scriptures to justify your own political agenda," Fea said.

Sarah Huckabee Sanders made the same "the Bible says follow the law" argument on Thursday White House press secretary Sarah Sanders on Thursday was asked about Sessions's invocation of the Bible to defend the administration's family separation policy. She said she wasn't "aware" of the attorney general's specific comments but sided with him on the Bible part.

"I can say that it is very biblical to enforce the law," Sanders said. "That is actually repeated a number of times throughout the Bible."

When CNN's Jim Acosta asked whether she believes the practice is moral, Sanders replied, "It's a moral policy to follow and enforce the law."

President Donald Trump in a surprise appearance on Fox & Friends on Friday defended the policy as well, but he didn't mention the Bible. "That's the law," he said.

Family separation isn't the law

The Trump administration has recently implemented a policy of separating children from their parents as they attempt to enter the United States seeking asylum at the US border. They're typically splitting up families by charging parents with illegal entry into the US and sending them into criminal custody and treating their children as if they were "unaccompanied alien children" who had tried to enter the United States alone.

The policy has sent shock waves across the country, igniting outrage on the part of immigration advocates, human rights groups, and citizens across the political spectrum. Multiple reports of uniquely aggressive or inhumane treatment have added fuel to the fire, including a Honduran man who died by suicide less than a day after being separated from his wife and 3-year-old child by Border Patrol agents, and a Honduran woman who says officials took her daughter away while she was breastfeeding her in a detention center.

The White House is arguing that what it's doing is just what the legal code says. "We're a country of law and order, and we're enforcing the law and protecting our borders," Sanders said.

Except that's not the case. As Vox's Dara Lind points out, there is no law that requires immigrant families to be separated:

The decision to charge everyone crossing the border with illegal entry and the decision to charge asylum seekers in criminal court rather than waiting to see if they qualify for asylum are both decisions the Trump administration has made.

Other administration officials back up Trump by pointing to the laws that give extra protections to families, unaccompanied children, and asylum seekers. The administration has been asking Congress to change these laws since it came into office, and has blamed them for stopping Trump from securing the border the way he'd like. (Those aren't "Democratic laws" either; the law addressing unaccompanied children was passed overwhelmingly in 2008 and signed by George W. Bush, while the restriction on detaining families is a result of federal litigation.)

In that context, the law isn't forcing Trump to separate families; it's keeping Trump from doing what he'd perhaps really like to do, which is simply sending families back or keeping them in detention together, and so he has had to resort to plan B.

WIBC: Sessions Defends Trump Administration's Immigration Plan In Fort Wayne (Kurt Darling)

<http://www.wibc.com/news/local-news/sessions-defends-trump-administrations-immigration-plan-fort-wayne>

FORT WAYNE, Ind. -- US Attorney General Jeff Sessions was in Fort Wayne today. The primary focus of his talk was on immigration.

The visit comes as House Republicans agreed on a bill to protect "Dreamer" immigrants. But Sessions is defending a new push from the Trump Administration to prosecute all illegal entries into the United States.

"We have an opportunity to fix an immigration system that has been broken for decades," Sessions said to the gathering in Fort Wayne. "I believe it's moral and right and just that we have a lawful system of immigration."

Sessions added that fleeing domestic or gang violence will no longer be a valid reason to receive asylum in the U.S.

The administration is facing growing heat over the separation of children from their parents at the U.S.-Mexican border. House Democratic leader Nancy Pelosi has called it "barbaric."

As far as the legalization of marijuana though, Sessions told 93 WIBC's Tony Katz he needs more convincing as to it's use to treat medical issues like PTSD in veterans.

"While you could perhaps extract certain things from marijuana and use it as medicine I think that's possible," Sessions said. "Though I think it's not quite as proven as some people say."

State lawmakers will talk about medical pot legalization in Indiana during a summer study committee. Sessions says regardless of what the state decides to do when it comes to medical marijuana, it's still illegal on the federal level.

FOX59: AG Jeff Sessions visits Fort Wayne to discuss Trump administration's immigration priorities (FOX59)

<http://fox59.com/2018/06/14/ag-jeff-sessions-visits-fort-wayne-to-discuss-trump-administrations-immigration-priorities/>

FORT WAYNE, Ind. U.S. Attorney General Jeff Sessions is in the Hoosier State Thursday to discuss the Trump administration's priorities on immigration.

Sessions spoke at Parkview Field at 1:15 p.m. in Fort Wayne.

He emphasized that there is "zero-tolerance prosecution" at the border, and having children with you does not give you immunity. He said people the U.S. that have children aren't exempt from

crime. “We either have open borders, or we have laws. It’s one way or the other, and I think the situation is pretty clear,” Sessions said.

His full remarks can be seen in the player above.

On Monday, Sessions issued a ruling that could affect large numbers of Central Americans who have increasingly turned to the United States for protection.

“Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non-government actors will not qualify for asylum,” Sessions wrote in 31-page decision. “The mere fact that a country may have problems effectively policing certain crimes such as domestic violence or gang violence or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim.”

The widely expected move overruled a Board of Immigration Appeals decision in 2016 that gave asylum status to a woman from El Salvador who fled her husband. Sessions reopened the case for his review in March.

Sessions took aim at one of five categories to qualify for asylum — persecution for membership in a social group — calling it “inherently ambiguous.” The other categories are for race, religion, nationality and political affiliation.

Domestic violence is a “particularly difficult crime to prevent and prosecute, even in the United States,” Sessions wrote, but its prevalence in El Salvador doesn’t mean that its government was unwilling or unable to protect victims any less so than the United States.

The decision came hours after Sessions’ latest criticism on the asylum system, which he and other administration officials consider rife with abuse. The cases can take years to resolve in backlogged immigration courts that Sessions oversees and applicants often are released on bond in the meantime.

“Saying a few simple words — claiming a fear of return — is now transforming a straightforward arrest for illegal entry and immediate return into a prolonged legal process, where an alien may be released from custody into the United States and possibly never show up for an immigration hearing,” Sessions said at a training event for immigration judges. “This is a large part of what has been accurately called ‘catch and release.’”

Indiana Public Media: Sessions Strongly Defends Immigration Policies In Fort Wayne Visit
(Zach Bernard and Araceli Gomez-Aldana)

<https://indianapublicmedia.org/news/sessions-strongly-defends-immigration-policies-fort-wayne-visit-149753/>

US Attorney General Jeff Sessions strongly defended policies that separate undocumented children from their parents in a visit to Fort Wayne Thursday afternoon.

Sessions discussed the Trump administration's controversial immigration policies as faith communities protested outside the venue.

Two of the US' largest religious denominations have scrutinized the Trump administration's practices. The Southern Baptists requested a compassionate path to legal status and a more humane immigration system at its annual convention.

More sharply, U.S. Conference of Catholic Bishops president Cardinal Daniel DiNardo called it "immoral," saying, "families are the foundational element of our society and they must be able to stay together."

According to the Pew Research Center, 52 percent of Catholics in Northeast Indiana voted for Trump in the 2016 election. Sessions says he's listened to faith leaders, and remains sympathetic to their concerns.

"But I am a law officer," Sessions says. "A law officer for a nation state. A secular nation state; not a theocracy, it's not a church. If we have laws and I believe we have reasonable immigration laws they should be enforced."

The comment was a break from Sessions' prepared remarks, and seemingly from a decades-long prioritization to the nation's churches.

He spent 30 minutes defending the administration's policies, and the message was simple: if you break US immigration laws, you will be punished.

Hundreds of protesters gathered outside of Parkview Field during the event. The protests were organized by People For the Common Good and United Activists of Fort Wayne Indiana.

Protesters held signs and chanted things like, "This is what democracy looks like" and "Vote them out."

Sarah Hyndman is one of the co-founders of People For the Common Good. She says she was confused as to why Sessions chose Fort Wayne.

She says she knows the area is known to be conservative, but adds a lot of refugees live in the city and she hopes that's not why he came.

"It would be a shame if he is trying to stir up divisiveness," Hyndman says. "But I think what he doesn't know is we really thrive on diversity here."

WOWO: Attorney General Jeff Sessions visits Fort Wayne, speaks to WOWO (Caleb Hatch)

<https://www.wowo.com/attorney-general-jeff-sessions-visits-fort-wayne-speaks-to-wowo/>

FORT WAYNE, Ind. (WOWO): U.S. Attorney General Jeff Sessions visited Fort Wayne to discuss immigration policy.

Sessions spoke with invited guests at Parkview Field during his address, Thursday. His address included remarks regarding a proposed office, within the Department of Justice, to be focused on identifying people who are "cheating" to get their citizenship.

Organizers with 'People for the Common Good' and 'United Activists of Fort Wayne' tell our partners in news at ABC 21, their goal for the rally was to offer a different viewpoint on immigration than the Attorney General. One major topic of contention, children being separated from their families at the border.

Sessions also joined the Pat Miller Program to touch on a wide range of topics, including a new religious liberty announcement, free speech on college campuses, his immigration address at Parkview Field and the Inspector General's Report on James Comey.

It comes after he told immigration judges earlier this week to ignore domestic and gang violence as reasons for granting asylum.

Indianapolis Star: Attorney General Jeff Sessions: Zero-tolerance policy isn't about being 'mean to children' (Jordyn Hermani)

<https://www.indystar.com/story/news/2018/06/14/jeff-sessions-immigration-fort-wayne-attorney-general/698894002/>

U.S. Attorney General Jeff Sessions on Thursday defended the Trump administration's "zero-tolerance" policy toward illegal immigration at the border, saying the intent is not to harm children but to enforce laws.

Launched in May, the policy has brought stepped-up criminal prosecutions of people crossing the border without authorization. Children traveling with parents caught at the border are forcibly removed and placed into government care while their parents face criminal charges in court. The result has drawn criticism from some immigrant advocates, lawmakers and clergy.

“Our policies are discouraging people from making children endure that treacherous journey,” Sessions said during a news conference at Parkview Field in Fort Wayne. “Everything the open borders lobby is doing is encouraging that and endangering these children. It’s that simple.”

The goal of the policy and its strictness have been misconstrued, Sessions said. “It’s not as if we want to see if we can be mean to children,” he said. “That’s not what this is about.”

He said the point is to crack down on potential child trafficking or abuse. He said parents who choose to make potentially deadly treks through desert terrain and dangerous areas are making the choice to put their children at risk.

Children separated from their parents are detained by the Department of Health and Human Services within 72 hours. Sessions said more than \$1 billion a year is spent taking care of “unaccompanied illegal alien minors,” most of whom are in federal custody. He said they are provided food, health care and education, “all at taxpayer expense.”

The zero-tolerance policy is being challenged by the Texas Civil Rights Project and other groups that filed an emergency injunction earlier this month with the Washington-based Inter-American Commission on Human Rights.

“The big problem is that the children are being taken away before there is any determination about not only the parents' criminal liability but also their potential immigration relief,” Efrén Olivares, the racial and economic justice director for the Texas Civil Rights Project, told USA Today earlier this month. “Many of these people are asylum seekers.”

Sessions said the asylum process has been abused in recent years.

“If you do not meet the standards of asylum, you should not receive asylum,” Sessions said. Asylum was “never meant to solve serious problems that people face every day all around the world.”

The asylum restrictions mark a drastic change from prior administrations, USA Today reported. Central American women, for instance, have sought safety from troubled domestic relations where they experienced physical, emotional and sexual abuse.

Seeking asylum means someone is asking for political protection from another country because they are unable to go back to their own country. Those seeking asylum have to prove they faced persecution in their home country on the basis of race, religion, nationality, membership in a particular group or political opinions.

Sessions told those gathered in Fort Wayne that people attempting to use reasons such as escaping domestic abuse or other “private crimes” would no longer have a valid reason to apply for asylum to the U.S.

“I have simply restated and implemented what Congress has passed: Asylum is generally not for those who have suffered a private act of violence,” Sessions said. “There is no right or entitlement — legal or moral — to come to this country.”

Elissa Steglich, a professor at the Immigration Clinic at the University of Texas at Austin School of Law, disagrees. She joined the groups who filed the emergency injunction earlier this month.

“U.S. law clearly allows for people in the United States a right to seek asylum,” Steglich told USA Today. “It doesn’t matter how you come in.”

Mike McAlexander, chief deputy prosecuting attorney for Allen County, attended Sessions' address Thursday in Fort Wayne. He said many of the attorney general's points “simply made sense.”

“If you flip it around and look at it from another point of view, what would you have us do? Let people in for any reason?” McAlexander said. “The United States has been criticized for being the world’s policeman for other things. How much do we (get to) impose our own values? It’s unfortunate, but people live in countries that don’t have the rule of law that we have.”

Another attendee, Fort Wayne attorney Robert Gevers, said he hopes Washington policymakers can unite behind a holistic approach to immigration enforcement.

“The Trump administration has certainly outlined its thoughts on the immigration process and their plans,” Gevers said. “My hope is, whatever the solution might be, that lawmakers in D.C. can work together to make that solution and not just piecemeal.”

A handful of protesters gathered outside Parkview Stadium prior to Sessions' address, among them Rowan Greene. The 24-year-old Fort Wayne resident was standing barefoot outside the ballpark, holding a sign that read: “My government takes children away from their families!”

“I came out here to stand up against several of the policy decisions that are being implemented by Jeff Sessions because that’s his job,” Greene said. “I don’t like the way that immigrants are being handled.”

Indianapolis Star: Sessions cites Romans 13 to defend Trump's immigration policy, raises Christians' ire (Dakota Crawford)

<https://www.indystar.com/story/news/politics/2018/06/15/jeff-sessions-bible-immigration-debate-over-romans-13-sparked-fort-wayne-indy-area-experts-react/704400002/>

Attorney General Jeff Sessions sparked a heated two-fold debate on immigration and the meaning of a Bible passage while speaking Thursday in Fort Wayne.

Sessions cited a chapter in Romans while defending the Trump administration's policy of separating parents from their children at the border. The policy has been widely denounced by both religious leaders and immigration advocates, among others.

“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,” said Sessions, who is also a Sunday school teacher at the Ashland Place United Methodist Church in Mobile, Alabama.

The first three verses of Romans 13 in the Common English Bible, traditionally used by the United Methodist Church, read:

1 Every person should place themselves under the authority of the government. There isn’t any authority unless it comes from God, and the authorities that are there have been put in place by God.

2 So anyone who opposes the authority is standing against what God has established. People who take this kind of stand will get punished.

3 The authorities don’t frighten people who are doing the right thing. Rather, they frighten people who are doing wrong. Would you rather not be afraid of authority? Do what’s right, and you will receive its approval.

But some who share Sessions' faith disagree with his interpretation of the passage.

"It was terrible," said Mike Mather, the senior pastor at Broadway UMC in Indianapolis. "If you read the first 11 chapters of Romans, you get a pretty good idea of what the context of that

community was. If you read (Chapter) 12, you see love is supposed to be the guiding force. ... (Sessions) didn't read on very far."

Romans 12 includes the line, "Contribute to the needs of God's people, and welcome strangers into your home."

Those verses, Mather said, seem to run contrary to the policy Sessions was defending. Launched in May, the policy forcibly removes children traveling with parents caught at the border and places them in government care.

Sessions said the goal of the policy is not "to see if we can be mean to children." He said the point is to crack down on potential child trafficking or abuse and discourage parents from bringing their children on the often-dangerous border crossing.

Wednesday, prior to Sessions' speech, a group of religious leaders from the United Methodist Church, Islamic Society of North America, Union for Reform Judaism, Mennonite Church and 20 other diverse religious organizations released a joint statement criticizing the policy.

"I have given the idea of immigration much thought and have considered the arguments of our Church leaders," Sessions said in the speech. "I do not believe scripture or church history or reason condemns a secular nation state for having reasonable immigration laws."

On Thursday, White House Press Secretary Sarah Huckabee Sanders, a conservative Christian, answered a question about Sessions' comments, saying, "it is very Biblical to enforce the law."

However, public backing for the policy -- and the religious argument that Sessions used to support it -- has been hard to come by.

Romans 13 has a history of being used by government officials in defense of their decisions or edicts.

Rev. Dr. Rob Saler, executive director for the Center for Pastoral Excellence at Indianapolis' Christian Theological Seminary, said the verses were used by Lutherans in Nazi Germany to justify supporting Adolf Hitler.

"Romans 13, for a long time, has been appealed to in an incorrect way, as a justification for 'Obey the laws, no matter what,'" he said. "Whether they're just or not. I don't want to be too extreme, but ... In Nazi Germany, Lutherans, for the most part, supported Hitler and they used Romans 13 to validate that."

In an interview with the Washington Post, John Fea, a professor of American history at Messiah College at Pennsylvania, said the verse was also used to support slavery in the 1840s and 1850s.

"(It) is invoked by defenders of the South or defenders of slavery to ward off abolitionists who believed that slavery is wrong," he said. "I mean, this is the same argument that Southern slaveholders and the advocates of a Southern way of life made."

Saler noted, too, that it's important to consider when Paul the Apostle wrote Romans. At that time, Christians were being executed by the Roman Empire, he said.

What Paul was penning, Saler added, was meant to be a road map to living a gentler life full of charity, a stark contrast to how Paul would have viewed the empire.

"It's flat-out irresponsible (for Sessions) to use it without attention to the broader context," Saler said. "It's basically practical advice: While you're doing this, sure, go ahead and pay your taxes, give the government its due.

"But taken as a whole, Romans stands as a counter to unjust government and unjust rule."

Mather, who has served at UMC Broadway for 15 years, echoed that sentiment. When he learned Sessions had been a Sunday school teacher, he chuckled.

"I didn't know he'd been a Sunday school teacher, but I think this would be a bad interpretation to give to kids, or anyone for that matter," Mather said. "I'm constantly surprised by people who argue that they're Christians, but don't seem to know the essence of our faith."

WBOI (NPR Affiliate): AG Sessions Visits Fort Wayne, Pushes Back Against Churches

(Zach Bernard)

<http://wboi.org/post/ag-sessions-visits-fort-wayne-pushes-back-against-churches#stream/0>

US Attorney General Jeff Sessions visited Fort Wayne Thursday afternoon to discuss the Trump administration's immigration policies. During his remarks, Sessions strongly defended policies that separate undocumented children from their parents.

That's even as faith communities push back.

Two of the US' largest religious denominations have scrutinized the Trump administration's practices. The Southern Baptists requested a compassionate path to legal status and a more humane immigration system at its annual convention.

More sharply, U.S. Conference of Catholic Bishops president Cardinal Daniel DiNardo called it “immoral,” saying, “families are the foundational element of our society and they must be able to stay together.”

According to the Pew Research Center, 52 percent of Catholics in Northeast Indiana voted for Trump in the 2016 election. Sessions says he’s listened to faith leaders, and remains sympathetic to their concerns.

“But I am a law officer. A law officer for a nation state. A secular nation state; not a theocracy, it’s not a church,” Sessions said. “ If we have laws -- and I believe we have reasonable immigration laws -- they should be enforced.”

This comment was a break from Sessions’ prepared remarks, and seemingly from a decades-long prioritization to the nation’s churches.

He spent 30 minutes defending the administration’s policies, and the message was simple: if you break US immigration laws, you will be punished.

You may find a copy of Attorney General Sessions' prepared remarks here.

13 WTHR Indianapolis: Local advocates for immigrants react to AG Sessions' Fort Wayne remarks (WTHR Staff)

<https://www.wthr.com/article/local-advocates-for-immigrants-react-to-ag-sessions-fort-wayne-remarks>

FORT WAYNE, Ind. (WTHR) - U.S. Attorney General Jeff Sessions was in Fort Wayne on Thursday, defending the administration's "zero-tolerance" policy on immigration.

In some cases, families are being separated. But Sessions says those who come here illegally will be deported.

People in Indianapolis were listening intently to Sessions’ words. We sat down with a church leader who works with immigrant families. He shared his thoughts on the attorney general’s remarks.

They were strong words coming from Sessions Thursday, but those who have been on the other side say they are not surprised.

Stephen Carlsen is the Dean at Christ Church Cathedral and works with Faith in Indiana, a group that has been working to support families dealing with deportation and legal proceedings. He says Sessions drew a hard line in his stance of enforcing immigration laws. And while it wasn't surprising, Carlsen said he was still hoping for a softer tone today.

“The attorney general has an amazing amount of discretion and what he is talking about so much of the law, the law, the law. There is a lot of policy and discretion that can be exercised to be much more humane than we are being and he is following the hardest line on every topic.”

Sessions does say the administration's stance on immigration is working and that fewer people are coming to the country illegally.

“Our attorney general doesn't know faith very well,” said Carlsen. “Our faiths are crystal-clear on how we treat immigrants and refugees. It's clear in the Hebrew crystal and the Torah to treat them better than we treat ourselves. Actually, I am surprised to hear him respond so directly to people of faith. I think he is hearing the message and we are not going to stop.”

News Sentinel: Hundreds turn out to protest Attorney General Jeff Sessions' Fort Wayne visit (Lisa Esquivel Long)

<http://www.news-sentinel.com/news/local-news/2018/06/14/hundreds-turn-out-to-protest-attorney-general-jeff-sessions-fort-wayne-visit/>

Hundreds of people held up signs as they lined both sides of Jefferson Boulevard in front of Parkview Field on Thursday to protest U.S. Attorney General Jeff Sessions' visit to discuss the Trump administration's immigration policy.

The group Advancing Voices of Women had invited Sessions to its discussion afterward of how domestic and gang violence affect families, in light of his ruling earlier this week that those two issues were not reasons for granting asylum in the U.S.

Among those gathered outside before Sessions' visit was Yolanda Linan, 19, an Ivy Tech student whose parents came to the U.S. on a permit and stayed even after it expired. She and her siblings were born here.

“I was raised in a Mexican immigrant household,” said Linan, who with friends was holding a Mexican flag. “It's important they don't separate families.”

She has an uncle who was deported back to Mexico because of what Linan called a minor traffic infraction. Her uncle had to leave behind his wife and three children, the youngest being 6 years

old. He has been talking with lawyers to get permanent residency or a permit to return to the country.

Her parents, like many others, came to the U.S. to seek a better life, Linan said.

She said of immigrants, “They’re not taking away from Americans. They’re doing jobs other Americans won’t do.”

Her mother has been trying to get her papers, but it’s a process that takes years.

It took Fernando Zapari, publisher of Fort Wayne’s El Mexicano Newspaper, 12 years to get permanent residency status after entering the U.S. illegally 40 years ago. He chose to get his U.S. citizenship “because I wanted to be able to vote.”

“Fort Wayne has a lot of love for immigrants,” said Zapari, who attended with his wife and grandchildren.

Immigrants are trying to find a better life, just as his Italian grandparents did when they immigrated to Mexico.

“You only live once,” Zapari said. “You can either stay or seek a better life.”

Doing so legally is important, he said, but he knows of people here who have spent 25 years going through the immigration system.

However, not just Mexicans were among the protesters, who chanted “No hate! No fear! Immigrants are welcome here!” and “Hey, hey, ho, ho! Donald Trump has got to go!”

Fran Culler of Auburn said, “I’m totally disgusted with how the country is going down the tubes, in my opinion.” She put a sign on the neck of her dog, Tanner, that read, “Licks not hate. My wagging tail says it all!”

Alex Briggs, 22, held a sign that read, “Hate not welcome here.” He came because “it’s not OK to separate families at the border.”

“We’re all immigrants,” said Pluto Brand, one of the protest organizers for United Activists that joined with People for a Common Good to set up the event.

Brand is an Inuit whose ancestors are believed to have crossed the Bering Strait from Asia.

“We came over here thousands of years ago,” Brand said. “but ... the borders are just a manmade structure.”

While many drivers passing by on Jefferson honked in support of the protesters one voiced his disagreement by shouting, “Get a damn life.”

Undaunted, the protesters continued, then moved to the Ewing Street side of the baseball park, where police officers asked them to move across the street and away from the plaza in front of the gates, where Sessions and his entourage would be quickly hustled into the baseball park’s suite where he would be speaking to about 200 invited community leaders and media.

Sessions didn’t show up to the AVOW event, hosted by Marilyn Moran-Townsend, CEO of CVC Communications.

AVOW organized the event after Sessions on Monday ruled that domestic and gang violence, such as that affecting Central Americans seeking escape to the United States, is not grounds for asylum.

AVOW says it is “a nonpartisan voice for these women and children who cannot always speak for themselves.”

Lisa Koop, associate director of legal services at the National Immigrant Justice Center in Chicago and an adjunct professor at the University of Notre Dame Law School, described the situations that some of her clients find themselves in.

For instance, she visited three women in San Diego who had been in federal custody for weeks and had sought asylum with their children. Their children had been taken away, but none of the mothers knew where, Koop said.

All the women had escaped partners who beat them with fists, threatened them with machetes and sexually abused them, Koop said. Gang members had broken into the home of one woman and raped her in front of her children. Others couldn’t find help from their local police who either sat and had coffee with the abuser or said, “We are as afraid of these gangs as you are,” Koop said.

Luther Whitfield, senior pastor of New Covenant Worship Center who has worked with Youth For Christ for 35 years, said he could attest to the impact that violence has on families.

In response to Sessions’ question on why a parent would bring a child across the border illegally, Whitfield said, “He doesn’t understand what (violence) does to a child.”

Locally, even children not in gangs can be a victim of gang violence, he said. Parents have moved their children to live with relatives in different cities and states in hopes of saving their children from violence, he said.

Just as Sessions quoted scripture in his speech, Whitfield made reference to Matthew 25:42: “For I was hungry and you gave me nothing to eat...”

Sessions’ decision Monday has Brisseida Hernandez in a quandary. The attorney with the local immigration law office of Brian A. Seyfried had applied for asylum for a woman hours before Sessions’ decision. Hernandez is not sure what to say to the judge during a hearing next Monday or to her client.

“I’m going to say, ‘Sorry, you have to go back to your country?’” Hernandez said.

Sessions has repeatedly set precedent in the courts. “He’s impacting a lot of lives,” Hernandez said.

“Do we want to turn these women away?” asked Rachel Tobin-Smith, former director of Stop Child Abuse & Neglect, herself a first-generation American whose grandmother lied about her identity to escape the Russian pogroms aimed at Jews.

“Nobody takes leaving home lightly,” Tobin-Smith said. In fact, statistics say that it takes women 5-7 times before they permanently leave a domestic-violence situation, she said.

Women who live in countries that culturally or legally consider them property will find it difficult to move to another city and escape violence, Tobin-Smith said.

Tobin-Smith told those in attendance they can vote in November for candidates who side as they do on these issues.

News Sentinel: Attorney General Jeff Sessions tells Fort Wayne crowd he is not ‘ashamed’ to protect America’s borders (Kevin Leininger)

Defying the protesters outside, U.S. Attorney General Jeff Sessions vigorously defended the Trump administration’s immigration policies Wednesday, saying a renewed priority on border security is not only legally correct but morally justified.

“This is a secular state, not a church, and I am a law enforcement officer,” Sessions told a crowd of about 200 people at Parkview Field. Although many religious leaders, including Pope Francis, have encouraged liberal migration policies, Sessions said failure to enforce immigration law has only encouraged more people, including children, to endanger themselves by attempting to cross into the United States illegally.

“The (immigration) system has been broken for decades, but the elites and activist groups don’t have the interests of the American people at heart,” he said, noting that in 2013 about 15,000 family units were apprehended at the border compared to five years later an increase he attributed to lax enforcement policies of the Obama administration.

The Trump administration has a zero-tolerance policy toward illegal immigration, Sessions said. Critics have blasted the administration for separating children and families at the border, but Sessions said families who seek asylum at legal points of entry are not separated during the review process, while parents and children separated after caught crossing illegally are usually reunited quickly.

In that case, Sessions insisted, the blame should fall on people breaking American law, including the criminal cartels profiting from human trafficking. Americans don’t think they can escape incarceration for a crime just because they have children, he said. Asylum has traditionally been reserved for members of persecuted religious, political or ethnic groups but under the Obama administration was expanded to include people who believed themselves to be personally endangered. In such cases, people should seek safety by moving within their own countries. Hundreds of people die every year attempting to enter the country illegally, he said, and the U.S. spend about \$1 billion annually on the care of alien minors.

Sessions reserved special scorn for so-called “sanctuary cities” that refuse to cooperate with federal immigration officials in order to detain and deport illegal immigrants charged with crimes “a rejection of immigration law itself” by officials sworn to uphold the law. The elites don’t have the votes in Congress to pass open-borders legislation, he added, “so they have embraced illegality. It’s a misdemeanor, a crime, to enter illegally and a felony to be deported and return. The laws call for that, and that is what we will do.”

Sessions, an early supporter of Trump’s immigration policies and proposed wall, asked religious leaders to urge people wanting to come to the United States to do so legally by getting in line and waiting their turn. Scripture says Nehemiah built a wall around Jerusalem not to trap people inside but to protect them from potentially harmful outside forces, he noted.

“We have one of the most generous immigration policies in the world,” he said. “We admit 1.1 million legal immigrants, 700,000 people for work and 500,000 for college. But I am not ashamed of our legal system. In the Trump administration, we enforce the law,” he said.

Sessions said he planned to meet with local law enforcement officials following his address.

The Journal Gazette: We enforce the law (Brian Francisco)

<http://www.journalgazette.net/news/local/20180615/we-enforce-the-law>

U.S. Attorney General Jeff Sessions said Thursday in Fort Wayne that he is simply upholding the law by implementing the Trump administration's “zero tolerance” immigration policy.

“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 are going to enforce our laws? And in the Trump administration, we enforce the law,” Sessions told more than 200 people invited to the Suite Level Lounge at Parkview Field.

Sessions said “there is nothing mean-spirited” about a lawful immigration system and that America has “reasonable immigration laws.”

“Our goal is not radical. What is radical is the open-border policies that have been pushed on us time and again by the elites and the Washington insiders,” he said.

“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,” he said.

More than 200 protesters who gathered along Jefferson Boulevard north of Parkview Field would surely have disagreed with Sessions' remarks. Many carried signs with messages such as “Stop Separating Families” and “Families Belong Together,” and demonstrators chanted “Immigrants made America” and “No hate, no fear, immigrants are welcome here.”

“Where is the Republican Party that used to support family values? They are breaking families apart at the border. They're putting children in what they euphemistically call detention centers. ... I'm old enough to remember something called concentration camps,” said Randy Schmidt, legislative liaison for United Auto Workers Local 2209, the union at the General Motors truck assembly plant in southwest Allen County.

Sessions and President Donald Trump have come under fire for allowing U.S. Immigration and Customs Enforcement to separate children from their parents when undocumented immigrants are apprehended and detained crossing the U.S.-Mexico border.

Protester Fred Gilbert, who is an activist for refugees, said, "I've watched this for 50 years now, and I've never seen kids treated the way kids are being treated now, with the ICE deportations and the law enforcement harshness that relates to people who have been here a long time."

Sessions later defended family separations during his half-hour speech to an audience of lawyers, law enforcement officials and Rotary Club members. (The Rotary Club of Fort Wayne said in a statement that it did not invite Sessions and "has not endorsed any policies associated with his office or is in any way connected with his visit.")

"Having children does not give you immunity from arrest and prosecution. It certainly doesn't give immunity to American citizens," said Sessions, a former Republican U.S. senator from Alabama.

"However, 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," he said.

Sessions said that "in many cases" the children involved are being trafficked, abused or recruited by criminal gangs.

"There's only one way to stop this and that is for people to stop smuggling children," the attorney general said. "Stop crossing the border illegally with your children. Apply to enter lawfully. Wait your turn."

Sessions said short-term separation of families immigrating illegally "is not unusual or unjustified. American citizens that are jailed do not take their children to jail with them."

Undocumented immigrants "are the ones who endangered their own children on their trek," he said. "The United States, on the other hand, goes to extraordinary lengths to protect these children while the parents go through the detention period."

Sessions stood by his Monday ruling that domestic abuse and gang violence are not grounds for immigration judges to grant asylum to undocumented immigrants.

“I have not made new law I have simply reinstated and implemented what Congress has passed: asylum is generally not for those who have suffered from a private act of violence. ... Asylum is for members of groups who are persecuted by the state,” Sessions said.

He said that only 20 percent of asylum claims have been deemed meritorious by immigration judges in the past five years.

Sessions, who did not take questions from the audience or media, said then-President Barack Obama's administration practiced “de facto open borders” for immigrants with children, and he repeatedly referred to “elites” he said favor illegal immigration. He also referred to undocumented immigrants as “alien” and “aliens” several times.

After the program, Allen County Prosecutor Karen Richards said in an interview that illegal immigration “is an issue in every city in the United States. And I frankly have never been impressed up until now with the government's ability to deport people that we continue to arrest that are here illegally and commit crimes. What's refreshing about this attorney general is I think we're actually going to get those people deported now.”

The nonpartisan Advancing Voices of Women conducted a news conference at the nearby Courtyard by Marriott to discuss Sessions' approach to immigration.

Goshen attorney Lisa Koop, who manages the Indiana division of the National Immigrant Justice Center, told about three female clients from Central America who seek asylum after fleeing domestic partners who had beaten and sexually assaulted the women. One of the women also was raped in front of her children by gang members, Koop said.

“Aside from being rife with legal errors, the attorney general's decision, paired with this administration's practice of family separation, is calculated cruelty,” Koop said about Sessions' asylum ruling.

“Regardless of one's political stripes, we as Americans believe in family integrity. We believe that women who have survived unimaginable horror and have fled to save themselves and their children should be given the chance to seek legal protection,” she said.

Koop said Americans must “demand that the inhumane practice of family separation end immediately and that due process, fairness and compassion in the asylum system be restored.”

Chicago immigration attorney Brisseida Hernandez said that for her clients, asylum in the United States “is their last resort. They have no other options.”

Sessions is scheduled to speak today about immigration in Scranton, Pennsylvania.

KPC News: Sessions touts 'zero-tolerance' policy in FW rally (Taylor Lehman)

http://www.kpcnews.com/heraldrepublican/article_46014bb3-cef5-5e0a-91dd-310965c17c96.html

FORT WAYNE U.S. Attorney General Jeff Sessions spoke to 250 Indiana citizens Thursday afternoon at Parkview Field to discuss the recent “zero-tolerance” immigration policy presented by President Donald Trump and his administration.

Since the policy was first manifested, Sessions has said on record that he will encourage prosecution of “100 percent” of immigrants who enter the United States illegally, and he remained steadfast in those claims Thursday.

“Under the laws of this country, illegal entry is a misdemeanor. Re-entry after having been deported is a felony,” Sessions said. “Under the law, we are supposed to prosecute these crimes. Accordingly, I have ordered our prosecutors to pursue 100 percent of the illegal entries on the Southwest border that (the Department of Homeland Security) refers to us.”

The policy has garnered criticism for the Trump administration for its inclination of separating immigrant parents from their children, as children are turned over to the U.S. Health and Human Services Department while the parents undergo prosecution.

Sessions addressed these criticisms directly and said that parents’ prosecutions don’t last more than “a week or two” and that children are sent to their desired destination within the country unless there is none. If there is no desired destination, Sessions said, children are placed in custody of the DHS and provided food, education in their native language and health and dental care at taxpayer expense.

Sessions pointedly referred to former President Barack Obama and his administration’s sparing of 800,000 illegal immigrants from deportation in 2012 when the attorney general claimed that word has spread among foreign lands that an immigrant can enter the country and, even if not a citizen, remain within the borders, particularly if the immigrant is accompanied by children.

These expectations have endangered immigrant children, Sessions said, by exposing them to trafficking, gangs and other abuse, and the attorney general justified Trump’s policy by asserting that stricter immigration laws will reduce the incentive for immigrants to cross the border in the first place.

“There’s only one way to stop this and that is for people to stop smuggling children,” Sessions said. “Stop crossing the border illegally with your children. Apply to enter lawfully. Wait your turn.”

Sessions also addressed a further crack down on asylum eligibility, which in the Immigration and Nationality Act of 1952 states that asylum is available for anyone who leaves his or her home country due to persecution or fear in regard to race, religion, nationality, political opinion or relation to a particular social group.

Sessions referred to Trump’s 2016 campaign promise of the construction of a wall on the United States-Mexico border when he stated the deal the president offered Democrats in Congress. The deal, Sessions said, was to provide DACA immigrants legal citizenship if Democrats agreed to build a wall, close the “loopholes” that allow immigrants to cross and stay and establish a merit-based system in obtaining American citizenship.

“The Democrats’ refusal of this offer is baffling,” Sessions said. “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.”

Protestors gathered outside of Parkview Field as Sessions was set to arrive at the ballpark around 1 p.m., with some calling for opening the borders for immigrants and seeking a reduction in the rhetoric used by Sessions and the Trump administration to dehumanize illegal immigrants.

Robert W. Gevers II, a Fort Wayne attorney at law, attended Sessions press conference and expressed his hopes for a solution to the oft-debated immigration issue in the country.

“He said essentially what most of us anticipated he would say,” Gevers said. “The Trump administration has made the immigration issue a high priority, and from the reactions you saw in the crowd, many people have differing opinions. I just hope the folks in (Washington D.C.) come together to find a solution.”

Marijuana Moment: Jeff Sessions Is (Again) Challenged On His Marijuana Stance (Kyle Jaeger)

<https://www.marijuanamoment.net/jeff-sessions-is-again-challenged-on-his-marijuana-stance/>

Attorney General Jeff Sessions repeated his anti-marijuana mantra in an interview with an Indiana radio host on Thursday, stating that cannabis remains illegal under federal law and there’s nothing he can do about it.

Asked whether pursuing marijuana cases is, or should be, a priority for the Justice Department, Sessions said “we’ve never prosecuted small marijuana cases and that’s not changing but it does remain in violation of the laws of the United States and I’m not able to change that.”

Though the vast majority of federal drug cases concern trafficking, a recent report from the United States Sentencing Commission (USSC) did find that 1,301 drug cases “involved a conviction for the simple possession of a drug.” The report did not specify whether cannabis possession violations were among those cases, however.

Sessions went on to concede that “you could perhaps extract certain things from marijuana and use it as medicine.” But while he thinks “it’s possible” and “perfectly legitimate,” the attorney general said “it’s not, I think, as proven as some people say.”

Recreational marijuana use is another story, Sessions said.

“But just to advocate and suggest in any way that regular, normal smoking of marijuana is healthy and is anything but dangerous, I think, is a mistake. The people need to know this is not a healthy substance. It can do permanent damage, particularly to young people’s brains and I just think that people need to study it very carefully before they participate in using marijuana.”

“It’s just not a healthy thing,” he said.

The remarks from the attorney general don’t come as a particular surprise given his consistent track record of opposing cannabis reform and marijuana use. But even as the top cop at the Justice Department maintains his prohibitionist stance, there’s movement at the congressional level to change federal marijuana laws including a bipartisan bill to amend the Controlled Substances Act, protecting legal states from federal interference and freeing up banks to work with legal cannabis businesses.

That bill, the Strengthening the Tenth Amendment Entrusting States (STATES) Act, earned a tentative endorsement from President Donald Trump, who told one of the co-sponsors, Sen. Cory Gardner (R-CO), that he supported the effort. Trump reiterated his support during an impromptu press conference last week, telling reporters that he “probably will end up supporting [the bill].”

In a separate interview with Colorado Public Radio last week, Sessions lamented that he was excluded from White House discussions on marijuana.

MSNBC - U.S. Cable Morning Joe MSNBC 6/15/2018 6:33:41 AM

[http://mms.tveyes.com/transcript.asp?StationID=205&DateTime=6/15/2018%206:33:41%20AM&playclip=true&pbcs=search%3a%2b\(sessions+indiana\)](http://mms.tveyes.com/transcript.asp?StationID=205&DateTime=6/15/2018%206:33:41%20AM&playclip=true&pbcs=search%3a%2b(sessions+indiana))

Mika Brzezinski:

attorney general jeff sessions is defending the trump administration's zero tolerance immigration policy. in a speech to law enforcement officers in indiana yesterday, sessions justified the administration's policy of separating children from their parents at the border. and cited the bible in his remarks.

Jeff Sessions:

having children does not give you immunity from arrest and prosecution. bringing children with you doesn't guarantee you won't get prosecuted. i would cite you to the apostle paul in his clear and wise command in romans 13, to obey the laws of the government, because god has ordained the government for his purposes.

Sarah Huckabee Sanders:

i can say that it is very biblical to enforce the law, that's repeated a number of times throughout the bible. however -- hold on, jim if you'll let me finish. i'm not going to comment on the attorney's specific comments that i haven't seen. that's not what i said, i know it's hard for to you understand, even short sentences i guess, but please don't take my words out of context, but the separation of illegal alien families is the product of the same legal loopholes that democrats refuse to close, in these laws are the same that have been on the books for over a decade and the president is simply enforcing them.

Joe Scarborough:

let's see, so the game plan at the white house we saw there is one, you lie about what the law is and what the law isn't. when questioned about your lies, and the misquoting of the bible, you insult a reporter. and then you quote the bible again. you know it's interesting, jon meachum, you're of course the biblical scholar here. what we're talking about children if they want -- there's so many bible verses that completely contradict the actions of donald trump and his administration, joijevangelicals know it if they've actually read the bible lately. you could go to luke 17 where jesus says it would be better for millstones to be hung around their necks and they be thrown to the bottom of the sea, if anyone were to cause a little child to stumble. i mean -- the sermon writes itself. and you can even be out in time to have 14 stanzas of "just as i am" and get to morrison's cafeteria by 12:05.

AG in Scranton, PA

AG's Radio Hits

Dom Giordano (Philly)

<https://player.fm/series/series-1511393/attorney-general-jeff-sessions-the-dom-giordano-program>

The Morning News With Webster And Nancy (Scranton)

<https://wilknews.radio.com/articles/us-attorney-general-jeff-sessions>

Print Media

Reuters: Sessions says Justice Department will address problems raised by watchdog report (Justin Mitchell)

Breitbart: Jeff Sessions: 'Real Proud' of FBI Director Wray's Testimony on DOJ IG Report (Joshua Caplan)

WNEP (ABC Affiliate): U.S. Attorney General Jeff Sessions Speaks at Lackawanna College (Allen Vickers)

WBRE (NBC Affiliate): US Attorney General Jeff Session Addresses Group in Lackawanna County (Jayne Ann Bugda)

KTUU (NBC Affiliate): UPDATE: AG Sessions to deal with 'any problems' in FBI (Anne Flaherty, Eric Tucker and Chad Day)

Jezebel: Jeff Sessions Warns Law Enforcement About Children and Other Dangers (Stassa Edwards)

Times Leader: Sessions talks immigration at Lackawanna College; protest staged (Brigid Edmunds-Lawrence)

The Times Tribune: Protesters chant "shame, shame, shame" as Sessions departs Scranton (Kathleen Bolus)

The Times Tribune: Sessions discusses immigration, opioid epidemic at Lackawanna College (Jeff Horvath)

Citizen Voice: Bishop Bambera criticizes separating immigrant parents, children ahead of AG Sessions' visit (Jeff Horvath)

Reuters: Sessions says Justice Department will address problems raised by watchdog report (Justin Mitchell)

https://www.reuters.com/article/us-usa-congress-fbi-sessions/sessions-says-justice-department-will-address-problems-raised-by-watchdog-report-idUSKBN1JB25N?feedType=RSS&feedName=politicsNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+Reuters%2FPoliticsNews+%28Reuters+Politics+News%29

(Reuters) - U.S. Attorney General Jeff Sessions said on Friday the Justice Department would confront any problems uncovered by an inspector general's report that found former FBI Director James Comey made errors in judgment handling the Hillary Clinton email investigation.

"We're not going to be defensive, we're going to confront any problems and we're going to deal with them one by one in a proper, fair and appropriate way," he said during a speech in Scranton, Pennsylvania.

Breitbart: Jeff Sessions: 'Real Proud' of FBI Director Wray's Testimony on DOJ IG Report (Joshua Caplan)

<http://www.breitbart.com/big-government/2018/06/15/jeff-sessions-real-proud-of-fbi-director-wray/>

Attorney General Jeff Sessions praised FBI Director Christopher Wray's testimony on the Justice Department Inspector General report while discussing immigration and law enforcement in Scranton, Pennsylvania Friday.

"I was real proud of Chris Wray, the new director of the FBI, yesterday for his statements on the IG report," Sessions told Lackawanna College. "We're not going to be defensive. We're going to confront any problems, and we're going to deal with them one-by-one, in a proper, fair, and appropriate way."

"We're going to reaffirm and recommit ourselves to the first ideals of that great agency the FBI One of the greatest investigative agency, maybe the greatest in the history of the world, as far as I'm concerned," he added. "If we make a mistake, we're going to confront it."

Wray defended the FBI Thursday in response to a scathing inspector general report that heavily criticized the actions of his predecessor in the Hillary Clinton email investigation.

Wray said the report only addresses a specific set of facts and the actions of a handful of officials. He says "nothing" in the report "impugns" the integrity of the FBI workforce as a whole.

"While the Inspector General didn't find any evidence of political bias or improper consideration impacting the investigation under review, all of us at the FBI take this report seriously, and we accept its findings and recommendations, Wray said.

"We've already taken steps to address many of the concerns it raises. We'll change what we need to change and improve what can be made better and stronger, and we'll move forward with renewed focus and determination. Because that is the essence of the FBI we learn from the

past, we get better at what we need to do, and we continually strive to be the very best we can be," he added.

Wray also said the report found "errors in judgment" and policy violations, but it found no evidence of political bias or improper consideration "actually impacting the investigations under review."

The report released Thursday criticizes former FBI Director James Comey, calling him "insubordinate" and saying he broke with longstanding policy. It also criticizes the politically charged texts of a handful of agents.

WNEP (ABC Affiliate): U.S. Attorney General Jeff Sessions Speaks at Lackawanna College (Allen Vickers)

<http://wnep.com/2018/06/15/u-s-attorney-general-jeff-sessions-speaks-at-lackawanna-college/>

SCRANTON, Pa. -- United States Attorney General Jeff Sessions was in Scranton Friday to discuss law enforcement and immigration.

Sessions spoke to a crowd at Lackawanna College around 11:30 a.m.

The attorney general has been a vocal opponent of illegal immigration and he discussed the shocking number of illegals in the nation and right here in Pennsylvania.

"There's an estimated 11 million in the country today. That's the size of the state of Georgia. Pennsylvania alone has more than 180,000 illegal aliens," said Attorney General Sessions. "And the problem is growing. From 2009 to 2014, 50,000 aliens moved to Pennsylvania."

A group gathered outside Lackawanna College to protest Sessions' visit.

WBRE (NBC Affiliate): US Attorney General Jeff Session Addresses Group in Lackawanna County (Jayne Ann Bugda)

<http://www.pahomepage.com/news/us-attorney-general-jeff-session-addresses-group-in-lackawanna-county/1241300375>

SCRANTON, LACKAWANNA COUNTY (WBRE/WYOU-TV) US Attorney General Jeff Sessions spoke at Lackawanna College Friday morning

He was introduced by US Attorney for the Middle District David Freed and spoke before a group of invited guests including federal, state and local law enforcement along with local police academy cadets.

Sessions' stop comes as there is growing attention on immigration issues nationwide.

That is one of the topics he will address here today.

Yesterday, at a stop in Indiana, Sessions quoted the Bible in defense of separating children from their families who cross the border illegally.

Sessions said migrant families were to blame for their own break-up, emphasizing they are not sending kids to jail with their parents. He says the law requires children who cannot be with their parents to be placed in the custody of the Department of Health and Human Services.

Session today told the crowd ""Pennsylvania alone has 180,000 illegal aliens. That's more than the population of Allentown. And the problem is growing. It's estimated that from 2009 to 2014 50,000 aliens move to Pennsylvania."

"Any crimes committed by illegal aliens are preventable" because they shouldn't be in the country. Sessions also had strong words against Philly's mayor regarding sanctuary cities

Sessions added his office is not "hostile against immigrants" but wants to end lawlessness

Eyewitness News Reporter Eric Deabill will have more tonight beginning at 5 pm.

KTUU (NBC Affiliate): UPDATE: AG Sessions to deal with 'any problems' in FBI (Anne Flaherty, Eric Tucker and Chad Day)

<http://www.ktuu.com/content/news/President-Trump-tweets-that-firing-Comey-was-a-great-service-485657261.html>

WASHINGTON (AP) The Latest on the Justice Department's inspector general report (all times local):

Attorney General Jeff Sessions is pledging to "confront any problems" and "deal with them" in a "proper, fair and appropriate way" in the wake of an inspector general report that criticizes the FBI's handling of the Hillary Clinton email probe.

Sessions said Friday "we're not going to be defensive" about the report's findings, but work to "reaffirm and recommit ourselves to the highest ideals" of the FBI.

The report criticizes former FBI Director James Comey for publicly announcing his recommendation against criminal charges for Clinton. It also faults him for alerting Congress days before the 2016 election that the investigation was being reopened because of newly discovered emails.

Sessions spoke at Lackawanna College in Scranton, Pennsylvania.

President Donald Trump disputed findings by the Justice Department on Friday that former FBI Director James Comey's handling of the Hillary Clinton email probe was not politically motivated, declaring that the FBI was biased "at the top level" and "plotting against my election."

The department's inspector general report, while critical of the FBI and Comey personally, did not find evidence that political bias tainted the investigation of Clinton's email practices in the months and days leading up to Trump's election.

But on Friday, after tweeting that he did a "great service" to the nation by firing Comey, Trump marched out to the White House North Lawn to talk with "Fox & Friends" for more than half an hour, claiming the report "totally" exonerated him, then pointing to accomplishments he said he's achieved and complaining about not getting proper credit.

Then he turned to other reporters and went over the same list for another 20 minutes.

On the inspector general report that found no political bias in the FBI's final conclusions, he said, "The end result was wrong. There was total bias."

"Comey was the ring leader of this whole, you know, den of thieves. It was a den of thieves," he said.

Trump's comments followed the IG's 500-page report that said Comey was "insubordinate" in his handling of the Clinton investigation because he broke agency protocol. The report also rebuked FBI officials for exchanging anti-Trump text messages during the 2016 campaign.

But it said, "We found no evidence that the conclusions by the prosecutors were affected by bias or other improper considerations; rather, we determined that they were based on the prosecutors' assessment of the facts, the law and past department practice."

Trump's supporters have argued that the findings are proof of political bias at the FBI's highest levels that then tainted the Russia investigation, first led by the FBI and now by special counsel Robert Mueller. Mueller's probe includes a look into whether Trump himself tried to obstruct justice by firing Comey.

Trump said Friday, as he has before, that the Mueller probe, too, "has been totally discredited."

"The IG Report is a total disaster for Comey, his minions and sadly, the FBI," Trump tweeted earlier. "Comey will now officially go down as the worst leader, by far, in the history of the FBI. I did a great service to the people in firing him. Good Instincts."

Trump's personal lawyer, Rudy Giuliani, told "Fox & Friends" that the report casts doubt on whether Trump will ever agree to an interview with Mueller's team because "why would he get interviewed by a corrupt investigation?"

Trump himself said he had "reservations."

Thursday's report documents in painstaking detail one of the most consequential investigations in modern FBI history and reveals how the bureau, which for decades has endeavored to stand apart from politics, came to be entangled in the 2016 presidential election. It underscores efforts by FBI and Justice Department leaders to juggle developments in the Clinton investigation — she had used private email for government business while secretary of state — with a separate probe that was then unknown to the American public into potential coordination between the Trump campaign and Russia.

Clinton supporters believe Comey's actions, far from hurting Trump, may well have torpedoed her chance of becoming president.

The IG found the FBI director erred when he announced in July 2016 that Clinton had been "extremely careless" with classified material but would not be charged with any crime, and again months later when Comey told Congress just days before the election that the investigation into Clinton's emails had been reopened. Comey concealed from the Justice Department his plans to make a public announcement until the morning he did so, even though such statements are normally handled by the Justice Department, if at all, the report says.

"We found that it was extraordinary and insubordinate for Comey to do so, and we found none of his reasons to be a persuasive basis for deviating from well-established Department policies in a way intentionally designed to avoid supervision by department leadership over his actions," the report says.

Trump supporters, and then the president himself, quickly focused on the report's recounting of anti-Trump text messages from two FBI officials who worked the Clinton probe and later the Russia case, including one in which an agent says, "We'll stop it," with regard to a possible Trump victory.

The report suggests that text from Peter Strzok, who was later dropped from Mueller's team, "implies a willingness to take official action to impact the presidential candidate's electoral prospects." It did not find evidence that those views seeped into the investigation.

FBI Director Chris Wray told reporters the FBI accepted the report's findings and was making changes, including requiring further training for FBI employees and re-emphasizing the importance of objectivity. In a New York Times opinion piece released after the report, Comey said he disagreed with some conclusions but respected the watchdog's work.

Also criticized in the report was Comey's decision, despite the discouragement of the Justice Department, to reveal to Congress that the FBI was reopening the investigation following the discovery of new emails.

The FBI obtained a warrant nine days before the presidential election to review those emails, found on the laptop of former Rep. Anthony Weiner, D-N.Y., the husband of top Hillary Clinton aide Huma Abedin and ultimately determined there was nothing that changed its original conclusion.

The report faulted the FBI for failing to act with more urgency in reviewing emails from Weiner's laptop, saying the inaction had "potentially far-reaching consequences." Clinton supporters say her name could have been cleared well before the election had the FBI moved faster to review the emails. Comey said had he known earlier about the laptop's import it might have affected his decision to notify Congress.

The report also notes that Comey, despite chiding Clinton for mishandling government business, occasionally used personal email himself to discuss FBI matters.

"But my emails," she said, reacting in a three-word tweet.

Jezebel: Jeff Sessions Warns Law Enforcement About Children and Other Dangers (Stassa Edwards)

<https://theslot.jezebel.com/jeff-sessions-warns-law-enforcement-about-children-and-1826865227>

A day after Jeff Sessions defended the Trump administration's policy of separating migrant children from their parents by citing a verse from the New Testament, the attorney general spoke about immigration and the Department of Justice's commitment to "restoring the rule of law in our immigration system" in Scranton, Pennsylvania.

During his speech, Sessions recited from a well-rehearsed script, repeating talking points central to the administration's worldview and subsequent policies. Sessions warned of the "tens of thousands" of undocumented workers crossing American borders, conflating immigrants with criminals. He spoke of the "shootings, stabbings, and beatings," as well as the rapes and murders committed by MS-13, the Trump administration's preferred monster. Sessions warned in his speech that the gang was "recruiting illegal aliens as young as 15." Danger, it seems, lurked in every corner. He warned, too, that the "porous" Southwest border was impacting the rest of the United States, telling law enforcement in the audience that the lack of security at the border "makes your job that much harder."

But if Sessions was keen to warn of the dangers at the border, he was also eager to say that the danger often has an innocent face—positing a clear relationship between crime and undocumented children. Though he did not address the administration's policy of family separation directly, he warned of undocumented teens being recruited by MS-13 and spoke of dangerous drug-running teens at the Texas border. "As just one example, in April, we arrested a teen trying to enter the country carrying 14 pounds of fentanyl across the border," Sessions said. "Fentanyl kills more Americans than any other drug." He continued: "It killed about 20,000 Americans in 2016. A fatal dose is about three milligrams—which means that the 14 pounds smuggled by that illegal alien could potentially be enough to kill millions of people," juxtaposing, in clear terms, the "illegal alien"—foreign, if not subhuman—doing the killing and the "people" doing the dying.

In a series of swift sentences, Sessions transformed nearly all undocumented immigrants into criminals—rapists and murders who are also responsible, he implied, for the opioid crisis. Sessions's language is by now familiar, central to the administration's policies on immigration built on a foundation of racist rhetoric in which foreigners are coded as innately criminal, no matter their age.

Sessions went on to point fingers at "politicians and activists who think that having any border at all—any limit whatsoever—is mean-spirited, unkind, or even bigoted" for their share of this apparent crisis of criminality. Enemies were everywhere.

He conspiratorially pointed to "powerful, influential politicians" who support anti-American sanctuary policies, including Keith Ellison, Ohio Governor John Kasich, Hillary Clinton, and Philadelphia mayor Jim Kenny. Sessions only mentioned Clinton by name—the others were

referred to by their titles: the mayor of Philadelphia, the current governor of Ohio (Sessions failed to mention that Kasich is also a Republican), and the vice chair of the Democratic National Committee emphasizing that what he deemed to be radical ideologies had infiltrated American politics. Sessions implied that each is unAmerican because they either support open borders, sanctuary policies like Kenny or, in Kasich's case, support Deferred Action for Childhood Arrivals.

"Sanctuary cities intentionally keep criminals in this country," Sessions said. He was particularly interested in Philadelphia, which he treated as a hotbed of crime committed by undocumented workers. "Philadelphia is not giving "sanctuary" to Americans they're giving sanctuary to foreign criminals who are illegally in this country."

Shortly before Sessions began his address in Pennsylvania, Donald Trump also blamed the administration's violent immigration policies on politicians who, like those Sessions spoke of, are supposedly willing to sacrifice America's security.

In his impromptu press conference on early Friday, following a friendly chat with Fox News, Trump blamed the administration's family separation policy on Democrats. "I hate the children being taken away," Trump said. "The Democrats have to change the law, that's their law," he added. (It is not a Democratic-backed law.) When pressed by a reporter, he insisted that Congress didn't have the votes to change the policy. "We need ten votes. We can't get it through because of the Democrats," he insisted, adding that the policy couldn't be changed through executive policy, though this is precisely how it came to be policy in the first place. "The children can be taken care of quickly, beautifully and immediately. The Democrats forced that law upon our nation."

"I hate it," he added before insisting that Democrats are preventing the construction of the wall, something that Trump has insisted is a necessity for safety since his campaign. Hours later, Sessions drove home the same point, sounding the warning on open border enemies, of teens carrying drugs, and a "stampede" of immigrants at the border. The administration is chaotic in most things, but it is, with frightening consistency, disciplined in justifying its own cruelty.

Times Leader: Sessions talks immigration at Lackawanna College; protest staged (Brigid Edmunds-Lawrence)

<https://www.timesleader.com/news/708135/sessions-talks-immigration-at-lackawanna-college-protest-staged>

SCRANTON The scenes inside and outside of Lackawanna College's Angeli Hall on Friday couldn't have been more different as U.S. Attorney General Jeff Sessions made a stop at the school.

Inside the hall of the college, local law enforcement officers and cadets gathered to hear remarks from Sessions on the importance of local law enforcement.

"I'm proud of what you're doing," Sessions said to the cadets.

"It's an honor for me to be with you."

On the outside, protesters held signs that read "Love thy immigrant neighbor" while singing "God Bless America" and chanting "Sessions, Sessions, you can't hide, we can see your racist side."

Sessions commended the work of local law enforcement in relation to the opioid crisis.

"This district is doing some great work," he said.

Sessions then segued into law enforcement's role in immigration, specifically how local law enforcement should support ICE officers and a general defense of ICE.

"I respect those officers," Sessions said.

"ICE officers get criticized for simply enforcing the law."

And it's the controversy surrounding families being separated at the border that inspired a lot of people to protest outside the college.

Hal Donahue, of Scranton, said he heard about the protest on social media.

"What America is doing is ruining our reputation," he said.

The retired military member said he has attended numerous protests in the area and said he thinks it's important to send the message "enough."

"This is not who we are."

Sessions said the Trump administration supports the work ICE is doing, and that they want to "restore the rule of law in our immigration system."

“It’s not so much an individual case of an individual person as much as it is restoring the integrity of the entire process.”

He added that this means enforcing the laws, and that crime surrounding the border and immigrants has increased over the last few decades.

Sessions added that individuals entering the country illegally make the job of local law enforcement harder and increasingly less safe. He commented on the number of people in the country illegally in the country and the state.

“There’s an estimated 11 million in the country today. That’s the size of the state of Georgia. Pennsylvania alone has more than 180,000 illegal aliens,” he said.

“And the problem is growing. From 2009 to 2014, 50,000 aliens moved to Pennsylvania.”

Sessions criticized Philadelphia for being a sanctuary city and called those who have criticized the administration’s handling of immigration “radicals,” but said the administration is not “hostile” toward immigration.

“We’re not against immigration,” he said. “We have to have limits. There’s nothing mean-spirited about it.”

Outside, protesters continued chanting, with drivers beeping in support.

Jonathan Wilson, 33, of Scranton, held a sign that read “Scranton made by immigrants.”

Wilson said he felt it was important to come out and support families trying to make a better life in the country.

The Times Tribune: Protesters chant "shame, shame, shame" as Sessions departs Scranton
(Kathleen Bolus)

<http://www.thetimes-tribune.com/news/protesters-chant-shame-shame-shame-as-sessions-departs-scranton-1.2350228>

SCRANTON As U.S. Attorney General Jeff Sessions’ motorcade made its way out of Lackawanna College, the peaceful crowd of protesters who spent much of this afternoon singing, erupted.

“Shame, Shame, Shame” they chanted as his fleet of large black SUVs made their way out of Scranton.

Sessions was in the city today to address Lackawanna College Police Academy cadets, of whom 19 are set to graduate tonight. His address started around 11:30 a.m. and lasted about 30 minutes. About 200 people, including cadets, attended the speech. The protestors were outside the college since around 10 a.m.

Temple Hesed Rabbi Daniel Swartz said the rally organized itself.

Around 200 people, many holding up signs against some of Sessions’ aggressive immigration policies and waving international flags, crowded in front of Albright Memorial Library. When Sessions finished his speech inside, the crowd move to the Washington Avenue side of the college to make their presence known to the polarizing attorney general.

“Silence is compliance,” Swartz said of why he helped organize the rally. “We wanted to show people how united Scranton can be.”

Lynn Moran, of Newton Twp., was one of a few supporters of Sessions on Vine Street.

“I like him, I like what he has recently done,” she said, adding “it’s everybody’s right to speak up.”

Moran agreed with his immigration policies about domestic abuse and gangs.

Wearing a red Make America Great Again hat and holding up a T-shirt in support of U.S. Rep. Lou Barletta, R-11, Hazleton, Moran hoped to get a glimpse of Sessions as he drove out of town.

Bishop Joseph C. Bambera condemned the separation of asylum-seeking immigrant children and parents, one day before U.S. Attorney General Jeff Sessions’ visit to Scranton.

Sessions who will deliver remarks at 11:15 a.m. today at Lackawanna College on the subjects of immigration and law enforcement defends aggressive Trump administration policy that results in immigrant children being separated from their parents after entering the country illegally.

“If people don’t want to be separated from their children, they should not bring them with them,” Sessions said in a recent interview with conservative radio host Hugh Hewitt.

The statement issued by Bambera on Thursday, which specifically addresses foreign nationals seeking asylum in the U.S., is a stark contrast to the attorney general's position.

“Sadly, current immigration policies have reached a critical point, with children and families with children who are seeking asylum being separated from one another,” the bishop’s statement reads. “These individuals are fleeing violence and chaos in their homelands, only to face policies that are destroying their families and unduly burdening their children.”

The statement goes on to call the practice of separating children from their parents an “affront to the right to life.”

“While our borders must be protected and we must support the rule of law, the U.S. Conference of Catholic Bishops has asserted that ‘at its core, asylum is an instrument to preserve the right to life,’” the bishop’s statement continues. “We must do all that we can to preserve and respect this right.”

Meanwhile, the Associated Press reports that, while speaking in Fort Wayne, Indiana on Thursday, Sessions invoked the Bible while pushing back against criticism he had received over the immigration policy.

“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,” Sessions said, per the AP report. “Orderly and lawful processes are good in themselves and protect the weak and lawful.”

People opposed to the aforementioned immigration policy, including members of various faith backgrounds and members of the area’s Latino community, plan to hold a peaceful rally at the college this morning in support of immigrant families and children. That rally will take place from 10:30 to 11:30 a.m. at North Washington Avenue and Vine Street in Scranton.

Scranton police will be in the area but no roads are expected to be closed, Chief Carl Graziano said, noting his officers will monitor the situation but he expects the rally to be peaceful and not require a significant police presence.

The Times Tribune: Sessions discusses immigration, opioid epidemic at Lackawanna College (Jeff Horvath)

<http://www.thetimes-tribune.com/news/sessions-discusses-immigration-opioid-epidemic-at-lackawanna-college-1.2349715>

SCRANTON - U.S. Attorney General Jeff Sessions discusses immigration, the opioid epidemic, open borders and sanctuary cities during his 40-minute speech at Lackawanna College.

SCRANTON - U.S. Attorney General Jeff Sessions addresses police academy cadets and others on immigration and law enforcement.

SCRANTON - U.S. Attorney General Jeff Sessions has arrived at Lackawanna College to address police academy cadets and others on immigration and law enforcement.

SCRANTON - Lackawanna College Police Academy cadets and others fill Angeli Hall at Lackawanna College.

SCRANTON - Dozens of protesters line the street near Lackawanna College, shortly before U.S. Attorney Jeff Session's visit to Scranton this morning.

Many protesters are holding signs opposing the Trump administration's immigration policy.

Sessions will speak about immigration and law enforcement at 11:15 a.m. to cadets at the college.

Citizen Voice: Bishop Bambera criticizes separating immigrant parents, children ahead of AG Sessions' visit (Jeff Horvath)

<http://www.citizensvoice.com/bishop-bambera-criticizes-separating-immigrant-parents-children-ahead-of-ag-sessions-visit-1.2349724>

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“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,” Sessions said, per the AP report. “Orderly and lawful processes are good in themselves and protect the weak and lawful.”

People opposed to the aforementioned immigration policy, including members of various faith backgrounds and members of the area’s Latino community, plan to hold a peaceful rally at the college this morning in support of immigrant families and children. That rally will take place from 10:30 to 11:30 a.m. at the corner of North Washington Avenue and Vine Street in Scranton.

Scranton police will be in the area but no roads are expected to be closed, Chief Carl Graziano said, noting his officers will monitor the situation but he expects the rally to be peaceful and not require a significant police presence.

Whitaker, Matthew (OAG)

From: Whitaker, Matthew (OAG)
Sent: Tuesday, July 10, 2018 7:42 AM
To: Morrissey, Brian (OAG); Tucker, Rachael (OAG); Bumatay, Patrick (OAG); Hamilton, Gene (OAG)
Cc: Barnett, Gary E. (OAG); Cutrona, Danielle (OAG)
Subject: Fwd: ***SCOTUS*** Judge Brett M. Kavanaugh: Background Information and Talking Points
Attachments: Kavanaugh Packet for Public.pdf; ATT00001.htm

FYSA

Begin forwarded message:

From: "McGinley, William J. EOP/WHO (b) (6)"
Date: July 9, 2018 at 9:40:05 PM EDT
To: "McGinley, William J. EOP/WHO (b) (6)"
Cc: "Shah, Raj S. EOP/WHO (b) (6)", "Sanders, Sarah H. EOP/WHO" (b) (6), "Gidley, Hogan H. EOP/WHO" (b) (6), "Schlapp, Mercedes V. EOP/WHO" (b) (6) >
Subject: ***SCOTUS*** Judge Brett M. Kavanaugh: Background Information and Talking Points

Cabinet Colleagues,

Please find attached background information and talking points regarding the President's SCOTUS nominee Judge Brett M. Kavanaugh. Please distribute this packet to your comms and press shops and do not hesitate to contact us with any questions.

Best,
Bill

William J. McGinley
Cabinet Secretary
The White House

(b) (6) | E (b) (6)

Judge Brett M. Kavanaugh

Federal Judicial Service

Judge, U.S. Court of Appeals for the D.C. Circuit

Nominated by President George W. Bush on January 25, 2006, to a seat vacated by Hon. Laurence H. Silberman; confirmed on May 26, 2006.

Education

Yale College, B.A., *cum laude*, 1987

Yale Law School, J.D., 1990

Professional History

Law clerk, Judge Walter K. Stapleton, U.S. Court of Appeals for the Third Circuit, 1990-1991

Law clerk, Judge Alex Kozinski, U.S. Court of Appeals for the Ninth Circuit, 1991-1992

Bristow Fellow, Office of the Solicitor General, U.S. Department of Justice, 1992-1993

Law Clerk, Associate Justice Anthony M. Kennedy, Supreme Court of the United States, 1993-1994

Associate, Office of Independent Counsel Ken Starr, 1994-1997, 1998

Partner, Kirkland & Ellis, LLP, 1997-1998, 1999-2001

Associate Counsel, President George W. Bush, 2001-2003; Senior Associate Counsel, 2003

Assistant to the President and Staff Secretary, President George W. Bush, 2003-2006

Samuel Williston Lecturer in Law, Harvard Law School, 2009-present

Judge Brett M. Kavanaugh
U.S. Court of Appeals for the D.C. Circuit

- Judge Kavanaugh is the single most qualified person in the country to serve on the Supreme Court. His credentials are impeccable. He currently sits on the D.C. Circuit the “Second Highest Court in the Land” and serves as the Samuel Williston Lecturer in Law at Harvard Law School. He graduated from Yale Law School and clerked for Justice Kennedy.
- Judge Kavanaugh has a proven track record as the type of jurist that President Trump has promised to put on the Supreme Court. With over 300 published opinions, what you see is what you get: a judge who will apply the law as written and enforce the text, structure, and original understanding of the Constitution.
- Judge Kavanaugh’s respect for people threatened by government overreach has demonstrated itself again and again, and he has often rejected attempts by the federal government to impose onerous regulations on private citizens.
- Judge Kavanaugh is a true “judge’s judge.” He’s a thought-leader among his peers on the appellate courts and deeply respected by the Supreme Court. The Supreme Court has endorsed his opinions more than a dozen times, including Kavanaugh dissents that have become the law of the land. His opinions are regularly cited by courts across the country. Of his 48 clerks, 39 have gone on to clerk at the Supreme Court. And one of his clerks (Britt Grant) is even on the President’s list of potential Supreme Court nominees.
- Together with Justice Gorsuch and others, Judge Kavanaugh coauthored *The Law of Judicial Precedent*, a lengthy treatise on the role and importance of *stare decisis*.
- Judge Kavanaugh has devoted his life to public service. He has spent 25 of the last 28 years serving the American people, most notably as Associate Independent Counsel, Associate White House Counsel, Assistant and Staff Secretary to President George W. Bush, and of course as a judge.
- Judge Kavanaugh is active in his community. He coaches CYO (Catholic Youth Organization) basketball, acts as a reader at his church, serves meals to needy families, and tutors children at local elementary schools.

Judge Brett M. Kavanaugh
U.S. Court of Appeals for the D.C. Circuit

Brett M. Kavanaugh has served for over a decade as a federal judge on the U.S. Court of Appeals for the D.C. Circuit referred to as the “Second Highest Court in the Land” building a first-rate judicial record and reputation.

Judge Kavanaugh is a brilliant jurist with impeccable legal credentials and a clear, effective writing style. He is universally respected for his intellect, persuasiveness, and ability to build consensus. He understands that the role of a judge is to faithfully interpret the law, not to legislate from the bench. His authoritative legal opinions are known to shape the law and are often cited by judges around the country.

Alongside his long career of public service, he is a youth basketball coach, a church volunteer, a family man, and a mentor in local schools. He stays active, playing basketball and running. His mother, Maryland Circuit Court Judge Martha Kavanaugh, blazed a trail for women in the legal profession. He and his wife Ashley have two school-aged children.

Judge Kavanaugh is the best of the best, who builds consensus and decides cases based on the law, not personal policy preferences.

Judge Kavanaugh once wrote, “The judge’s job is to interpret the law, not to make the law or make policy. So read the words of the statute as written. Read the text of the Constitution as written, mindful of history and tradition. Don’t make up new constitutional rights that are not in the text of the Constitution. Don’t shy away from enforcing constitutional rights that are in the text of the Constitution.”

Judge Kavanaugh has an impressive career of public service.

Judge Kavanaugh was confirmed by the U.S. Senate on May 26, 2006, to the U.S. Court of Appeals for the D.C. Circuit. Sixteen current Senators including one sitting Democrat voted to confirm him.

Prior to serving on the court, Judge Kavanaugh had broad experience in private practice and in government service. He served in the White House as Senior Associate White House Counsel and eventually as Staff Secretary to President George W. Bush. Earlier in his career, he served as Associate Counsel to the Independent Counsel, Ken Starr; a Bristow fellow in the Office of Solicitor General; and a partner at Kirkland & Ellis LLP, where he specialized in appellate litigation.

Judge Kavanaugh’s academic credentials are superb.

After graduating with honors from Yale College in 1987, Judge Kavanaugh graduated from Yale Law School in 1990, where he was a Notes Editor on the *Yale Law Journal*. He clerked for Justice Anthony Kennedy of the Supreme Court, Ninth Circuit Judge Alex Kozinski, and Third Circuit Judge Walter Stapleton.

Judge Brett M. Kavanaugh

Judge Kavanaugh has impeccable academic credentials and professional experience.

- Yale College, B.A., *cum laude*; Yale Law School, J.D.
- Law Clerk to Justice Kennedy, Judge Stapleton (3d Cir.), Judge Kozinski (9th Cir.)
- Bristow Fellow, Office of the Solicitor General, U.S. Department of Justice
- Assistant to the President and Staff Secretary; Senior Associate White House Counsel; Associate White House Counsel
- Partner, Kirkland & Ellis LLP
- Associate Independent Counsel, authored parts of the Starr Report
- Samuel Williston Lecturer in Law, Harvard Law School

Judge Kavanaugh is an All-American Judge with a commitment to his country and community.

- Life-long member of the D.C. community
- Avid sports fan, who plays and coaches basketball and runs marathons
- Involved in his community through extensive charity work

Judge Kavanaugh has an outstanding judicial record from his 12 years on the bench.

- Exactly the sort of judge the President promised, and exactly what the American people want: follows the law, not his policy preferences.
- A judge's judge:
 - The Supreme Court has endorsed his opinions more than a dozen times
 - His 100 most-cited opinions have been cited by more than 210 judges across the country
 - More than 50 circuit court opinions discuss or cite one of his concurrences or dissents

Judge Kavanaugh is a mainstream judge who should be easily confirmed.

- Senators from both parties told the White House they wanted a real judge with outstanding credentials, who will respect precedent
- Judge Kavanaugh is all of that and then some
- Confirmed to the D.C. Circuit with bipartisan support

The Nomination Process

Top Line: The nomination of Judge Brett Kavanaugh resulted from the most thorough, wide-ranging selection process in history.

- No Administration has ever launched a more thorough selection process for a Supreme Court nominee.
- President Trump chose from a public list of 25 of the finest legal minds in our country last updated in November 2017, after the confirmation of Neil Gorsuch and after the President had confirmed a number of his own lower court nominees.
- A team of lawyers from the White House Counsel's Office and the Department of Justice studied and analyzed the writings and backgrounds of these candidates.
- Starting immediately after Justice Kennedy's announcement that he was taking senior status, President Trump, the Vice President, and the White House Counsel met and spoke with numerous Senators Republican and Democrat over the past two weeks, seeking their advice.
- Dozens of Senators provided their advice. Many asked the President to pick a nominee who has impeccable credentials, a brilliant legal mind, and has exhibited integrity, humility, and a judicial temperament in his or her career.
- President Trump, working with the Vice President and the White House Counsel, narrowed the list over the ten days since Justice Kennedy's announcement.
- The President selected Judge Brett Kavanaugh a mainstream judge with impeccable credentials who has twelve years of distinguished service on the U.S. Court of Appeals for the D.C. Circuit.
- During the selection process, Judge Kavanaugh made no commitments on positions he would take on particular legal issues, and he was not asked to do so. As a Justice, he will decide cases independently and according to the law, exactly as he has done on the D.C. Circuit.
- President Trump has nominated a mainstream candidate with a proven record of deciding cases carefully and with due respect for precedent. He should be swiftly confirmed to the Supreme Court.

Reuveni, Erez R. (CIV)

From: Reuveni, Erez R. (CIV)
Sent: Monday, July 23, 2018 2:49 PM
To: Whitaker, Matthew (OAG); Bolitho, Zachary (ODAG); Powell, SeLena Y (ODAG); Parker-Bissex, Rachel (OASG); Gannon, Curtis E. (OLC); Champoux, Mark (OLP); Wall, Jeffrey B. (OSG)
Cc: Stanton, Allison (CIV); Lim, Daniel W. (CIV); Press, Joshua S. (CIV); Peachey, William (CIV); Kisor, Colin (CIV); Flentje, August (CIV)
Subject: 17 States WDWA challenge to family separation policy
Attachments: 1 -Complaint.pdf; 15-1 - Appendix A.pdf
Importance: High

Good afternoon,

(b)(5) AWP
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Erez

Erez Reuveni
Assistant Director
United States Department of Justice
Office of Immigration Litigation – District Court Section
Post Office Box 868 | Ben Franklin Station | Washington, DC 20044

(b)(6) | (b)(6) | (b)(6)

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON;
COMMONWEALTH OF
MASSACHUSETTS; STATE OF
CALIFORNIA; STATE OF MARYLAND;
STATE OF OREGON; STATE OF NEW
MEXICO; COMMONWEALTH OF
PENNSYLVANIA; STATE OF NEW
JERSEY; STATE OF IOWA; STATE OF
ILLINOIS; STATE OF MINNESOTA;
STATE OF RHODE ISLAND;
COMMONWEALTH OF VIRGINIA;
STATE OF NEW YORK; STATE OF
VERMONT; STATE OF NORTH
CAROLINA; STATE OF DELAWARE;
and THE DISTRICT OF COLUMBIA,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA;
DONALD TRUMP, in his official capacity
as President of the United States of America;
U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; U.S.
CUSTOMS AND BORDER
PROTECTION; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; U.S.
DEPARTMENT OF HEALTH AND

NO.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

1 HUMAN SERVICES; OFFICE OF
2 REFUGEE RESETTLEMENT; KIRSTJEN
3 NIELSEN, in her official capacity as
4 Secretary of the U.S. Department of
5 Homeland Security; THOMAS HOMAN, in
6 his official capacity as Acting Director of
7 U.S. Immigration and Customs
8 Enforcement; KEVIN K. MCALEENAN, in
9 his official capacity as Commissioner of
10 U.S. Customs and Border Protection; ALEX
11 AZAR, in his official capacity as Secretary
12 of U.S. Department of Health and Human
13 Services; SCOTT LLOYD, in his official
14 capacity as Director of Office of Refugee
15 Resettlement; and JEFFERSON
16 BEAUREGARD SESSIONS III, in his
17 official capacity as the Attorney General of
18 the United States,
19
20 Defendants.

11 I. INTRODUCTION

12
13 1. The States of Washington, California, Maryland, Oregon, New Mexico, New
14 Jersey, Iowa, Illinois, Minnesota, Rhode Island, New York, Vermont, North Carolina, and
15 Delaware; the Commonwealths of Massachusetts, Pennsylvania, and Virginia; and the District
16 of Columbia (collectively, the States) bring this action to protect the States and their residents
17 against the Trump Administration's practice of refusing entry to asylum applicants who present
18 at Southwestern border ports of entry and its cruel and unlawful policy of forcibly separating
19 families who enter the country along our Southwestern border.

20
21 2. Widespread news reports, as well as interviews of detainees in Seattle and
22 elsewhere, confirm that families fleeing violence and persecution in their home countries who
23 try to present themselves at Southwestern ports of entry to seek asylum are being refused entry
24 into the United States. Border officials are unlawfully turning away these families on the pretext
25 that the United States is "full" or no longer accepting asylum seekers. This unlawful practice
26

1 | exacerbates the trauma already suffered by refugee families while simultaneously artificially
2 | increasing illegal entry violations.

3 | 3. For those families that do enter the United States along the Southwestern border,
4 | immigration officials have implemented the Trump Administration’s policy of forcibly
5 | separating parents from their children regardless of the family’s circumstances or the needs of
6 | the children. As of June 20, 2018, the new policy had already resulted in the separation of over
7 | two thousand children from their parents at the Southwestern border, most recently at a rate of
8 | 50-70 families separated *every day*. Defendants have taken children as young as infants from
9 | their parents, often with no warning or opportunity to say goodbye, and providing no information
10 | about where the children are being taken or when they will next see each other. The States’
11 | interviews of detainees in their respective jurisdictions confirm the gratuitous harm that this
12 | policy inflicts on parents and children and the immediate and deleterious impact it has on
13 | families and communities.

14 | 4. As of June 25, 2018, emerging reports suggest that immigration officials are now
15 | using the children taken from their parents as leverage to coerce parents to withdraw their asylum
16 | claims.

17 | 5. Defendants have repeatedly and publicly admitted that a policy of intentionally
18 | separating immigrant children from their parents would be “cruel, “horrible,” and “antithetical
19 | to child welfare.” But they have alternately claimed that they have no such policy, or that it is
20 | somehow mandated by federal law or prior court decisions.

21 | 6. In truth, however, Defendants have embraced a policy of separating parents from
22 | their children for the express purpose of deterring immigration along the Southwestern border
23 |
24 |
25 |
26 |

1 (the “Policy”). No law or court decision requires such separation. Rather, Defendants have
2 chosen to adopt the Policy as part of their “zero tolerance” or “100 percent prosecution” approach
3 to individuals who enter the country unlawfully, irrespective of circumstances, and to then use
4 such misdemeanor criminal charges to detain parents indefinitely in federal facilities that cannot
5 accommodate families.
6

7 7. Hundreds of children are left to languish in makeshift detention facilities where
8 staff are sometimes told not to comfort them until a placement is found for the child.
9 Defendants have moved the children and parents to different locations all over the country. While
10 the parents are held in federal facilities to await further immigration proceedings, their children
11 are sent elsewhere to group shelters or family placements.
12

13 8. Defendants have made clear that the purpose of separating families is not to
14 protect children, but rather to create a public spectacle designed to deter potential immigrants
15 from coming to the United States. As Counselor to the President Kellyanne Conway said
16 recently: “Nobody likes seeing babies ripped from their mothers’ arms . . . but we have to make
17 sure that DHS’ laws are understood through the soundbite culture that we live in.” *KellyAnne*
18 *Conway: ‘Nobody likes’ Policy Separating Migrant Kids at the Border* (June 17, 2018) available
19 at [https://www.nbcnews.com/politics/first-read/conway-nobody-likes-policy-separating-](https://www.nbcnews.com/politics/first-read/conway-nobody-likes-policy-separating-migrant-kids-border-n884016)
20 [migrant-kids-border-n884016](https://www.nbcnews.com/politics/first-read/conway-nobody-likes-policy-separating-migrant-kids-border-n884016), attached hereto as Ex. 1. Defendants’ Policy is causing severe,
21 intentional, and permanent trauma to the children and parents who are separated in furtherance
22 of an illegitimate deterrence objective.
23

24 9. On June 20, 2018, President Trump signed an Executive Order purporting to
25 suspend the Policy, but any relief offered by the Order is illusory. The Order says nothing about
26

1 reuniting the families already ripped apart by the federal government, and Trump Administration
2 officials have made clear the Order will have no impact on the thousands of families who have
3 already been traumatized.

4
5 10. Moreover, based on its text and contemporaneous statements by Administration
6 officials, it is clear the Order does not require the end of family separation. In fact, the
7 Administration currently lacks both the capacity and the legal authority to detain families
8 together for indefinite periods of time, which is what the Order contemplates as the alternative
9 to separating families.

10
11 11. On June 21, 2018, as required by the Order, Attorney General Sessions filed an
12 *Ex Parte* Application for relief from the *Flores* Settlement (a 1997 agreement which sets national
13 standards regarding the detention, release, and treatment of all children in DHS custody). That
14 request seeks rescission of *Flores*' protections so that families may be detained indefinitely
15 during the pendency of any immigration proceedings involving their members, a plan that raises
16 the specter of internment camps.

17
18 12. Moreover, the *Flores* application seeks a "determin[ation] that the Agreement's
19 state licensure requirement does not apply to ICE family residential facilities." The government's
20 attempt to modify the *Flores* settlement terms by removing States' licensing authority and
21 jurisdiction over such facilities is a direct attack on the States' sovereign powers.

22
23 13. Neither the Order nor the Administration's *Flores* application offer any assurance
24 that the Administration will not return to a family separation policy when its efforts to intern
25 families together fail. In response to the public outcry against family separation, in recent days
26 President Trump has proposed that Homeland Security simply deport immigrants without

1 hearing or legal process instead of, or perhaps in addition to, interning thousands of families in
2 military facilities.

3 14. The Policy, and the Trump Administration's subsequent attempt to shield their
4 facilities from state licensing standards, is an affront to States' sovereign interests in enforcing
5 their laws governing minimum standards of care for children, declaring the family unit to be a
6 fundamental resource of American life that should be nurtured, and requiring the preservation of
7 the parent-child relationship unless the child's right to basic nurture, health, or safety is
8 jeopardized. The Policy also adversely affects the States' proprietary interests, forcing States to
9 expend resources to remediate the harms inflicted by the Policy, some of which are likely to be
10 permanent. State programs, including child welfare services, social and health services, courts,
11 and public schools are all experiencing fiscal impacts due to family separation that will only
12 increase. The Policy, and the Administration's related conduct, has caused severe and immediate
13 harm to the States and their residents, including parents who are detained, released, or otherwise
14 reside in the States after being forcibly separated from their children; children who are placed in
15 facilities, shelters, sponsor homes, foster care, or who otherwise reside in the States after being
16 separated from their parents; extended families and sponsors in the States; and the States'
17 immigrant communities.

18 15. The Court should declare the practice of refusing to accept asylum seekers who
19 present at Southwestern points of entry and the related Policy of family separation illegal and
20 order Defendants to stop implementing them immediately. The Court should order Defendants
21 to reunite every family separated by these unlawful acts immediately, and to take such other
22 actions as are warranted by the time of hearing. Defendants' conduct has caused real harms to
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1 the States and our residents, harms that will only increase unless Defendants are enjoined from
2 continuing.

3 **II. JURISDICTION AND VENUE**

4 16. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2201(a). The United
5 States' sovereign immunity is waived by 5 U.S.C. § 702.

6
7 17. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and
8 1391(e)(1). Defendants are the United States of America and United States agencies or officers
9 sued in their official capacities. The State of Washington is a resident of this judicial district, and
10 a substantial part of the events or omissions giving rise to this Complaint occurred within the
11 Western District of Washington. For example, as of June 18, 2018, parents who were recently
12 refused entry and then victimized by the Policy were being detained at the Federal Detention
13 Center SeaTac, which is located in King County. At that time, a number of children who were
14 separated from their parents pursuant to the Policy also were being detained in Seattle and other
15 nearby locations.
16

17 18. The States bring this action to redress harms to their sovereign, proprietary, and
18 *parens patriae* interests.

19 **III. PARTIES**

20 **A. Plaintiffs**

21
22 19. The Plaintiff States of Washington, California, Maryland, Oregon, New Mexico,
23 New Jersey, Iowa, Illinois, Minnesota, Rhode Island, New York, Vermont, North Carolina,
24 Delaware, and the Commonwealths of Massachusetts, Pennsylvania, and Virginia, represented
25 by and through their Attorneys General, are sovereign states of the United States of America.
26

1 The District of Columbia, represented by and through its Attorney General, is a municipal
2 corporation organized under the Constitution of the United States and the local government for
3 the territory constituting the permanent seat of the federal government.

4
5 20. The States are aggrieved and have standing to bring this action because of the
6 injuries to the States caused by the Policy, including immediate and irreparable injuries to their
7 sovereign, proprietary, and quasi-sovereign interests.

8 21. Nothing in the June 20 Executive Order remedies these harms, and the June 21
9 application to modify *Flores* is a direct attack on the sovereign powers of the States.

10 **B. Defendant Federal Agencies and Officers**

11 22. Defendant the United States of America includes government agencies and
12 departments responsible for the implementation of the Immigration and Nationality Act (INA)
13 and the admission, detention, and removal of non-citizens who are traveling or returning to the
14 United States via air, land, and sea ports across the United States.

15
16 23. Defendant Donald Trump is the President of the United States, and he is sued in
17 his official capacity.

18 24. Defendant Department of Homeland Security (DHS) is a federal cabinet agency
19 responsible for implementing and enforcing the INA. DHS is a Department of the Executive
20 Branch of the U.S. Government, and is an agency within the meaning of 5 U.S.C. § 552(f).

21
22 25. Defendant Immigration and Customs Enforcement (ICE) is the component
23 agency of DHS that is responsible for carrying out removal orders; operating adult immigration
24 detention facilities; and contracting for the detention of immigrants in removal proceedings,
25 including with public and private operators of detention centers, jails, and prisons.
26

1 26. The U.S. Customs and Border Protection (CBP) is an Operational and Support
2 Component agency within DHS. CBP is responsible for detaining and/or removing non-citizens
3 arriving at air, land, and sea ports across the United States.

4 27. Defendant U.S. Citizenship and Immigration Services (USCIS) is a component
5 agency of DHS that, through its Asylum Officers, conducts interviews of certain individuals
6 apprehended at the border to determine whether they have a credible fear of persecution and
7 should be permitted to apply for asylum.

8 28. Defendant U.S. Department of Health and Human Services (HHS) is a
9 department of the executive branch of the U.S. government.

10 29. Defendant Office of Refugee Resettlement (ORR) is a component of HHS which
11 provides care for and placement for unaccompanied noncitizen children.

12 30. Defendant Kirstjen Nielsen is the Secretary of DHS. She is sued in her official
13 capacity.

14 31. Defendant Thomas Homan is the acting Director of ICE and is sued in his official
15 capacity.

16 32. Defendant Kevin K. McAleenan is the Commissioner of CBP and is sued in his
17 official capacity.

18 33. Defendant Alex Azar is the Secretary of HHS and is sued in his official capacity.

19 34. Defendant Scott Lloyd is Director of ORR and is sued in his official capacity.

20 35. Defendant Jefferson Beauregard Sessions III is sued in his official capacity as the
21 Attorney General of the United States. In this capacity, he has responsibility for the
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1 administration of the immigration laws pursuant to 8 U.S.C. § 1103 and oversees the Executive
2 Office of Immigration Review.

3 IV. ALLEGATIONS

4 A. Federal Immigration Policy Has Traditionally Emphasized Family Reunification, 5 Recognizing that Children Belong with their Families

6 36. When DHS, typically through ICE or CBP, detains an undocumented child who
7 is traveling alone, *i.e.*, unaccompanied by a parent, the relevant federal agencies follow an
8 established process. Specifically, ICE or CBP may detain an unaccompanied alien child (UAC)
9 for up to 72 hours, as other federal agencies locate an appropriate shelter facility for that child.
10 8 U.S.C. § 1232(b)(3). ICE or CBP then must turn the child over to the ORR for shelter
11 placement. *Id.*

12 37. Once in ORR custody, children are placed in ORR-funded and supervised
13 shelters, where staff must attempt to locate a parent and determine if family reunification is
14 possible. If ORR is unable to find a parent, ORR staff will try to locate another family member,
15 relative, family friend, or caretaker in the United States to serve as a sponsor who can care for
16 the child during the pendency of any subsequent immigration proceeding.

17 38. Unaccompanied children in ORR custody for whom no sponsor placement can
18 be made are moved to secondary ORR-contracted and state-licensed group care facilities, which
19 can be anywhere in the country. In such cases, if ORR assesses that the child has a pathway to
20 legal immigration status, ORR will place the child in an ORR-contracted and state-licensed long
21 term foster care program while the immigration process continues. If ORR determines that a
22 pathway does not exist, the child may remain in a shelter or ORR-contracted and state-licensed
23 group care during removal proceedings.
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1 39. Thus, unaccompanied children typically arrive in the individual states in three
2 ways: they may be placed initially in a state-licensed shelter located in the state while ORR
3 determines if a family member can be found in the country; they may arrive when ORR releases
4 them to the care of an in-state sponsor while their immigration proceeding goes forward; or they
5 can be moved into a placement in an ORR-contracted and state-licensed long term foster care
6 program as they await their immigration proceeding.
7

8 40. While ORR's initial shelter care placement and long term foster care programs
9 are largely federally funded, an unaccompanied child's in-state placements impose burdens on
10 the receiving state, discussed below.
11

12 **B. After Almost a Year of Threats, Defendants Adopted an Official Policy of**
13 **Separating Families Who Cross the Southwestern Border, Creating a New Class of**
14 **“Unaccompanied” Children**

15 41. For over a year, the Trump Administration has made clear in numerous public
16 statements that it was considering an official Policy to separate families at the Southwestern
17 border in an effort to deter immigrants from Latin America from coming to the United States.

18 42. As early as March 2017, a senior DHS official stated that Defendants were
19 considering a proposal to separate children from their parents at the Southwestern border. *See*
20 *Mary Kay Mallonee, DHS Considering Proposal to Separate Children From Adults at Border*
21 *(March 4, 2017) available at [https://www.cnn.com/2017/03/03/politics/dhs-children-adults-](https://www.cnn.com/2017/03/03/politics/dhs-children-adults-border/)*
22 *[border/](https://www.cnn.com/2017/03/03/politics/dhs-children-adults-border/)*, attached hereto as Ex. 2.

23 43. On March 7, 2017, John Kelly, the then-Secretary of DHS, confirmed that DHS
24 was considering a policy of separating children from their parents: “I am considering that. They
25 will be well cared for as we deal with their parents.” *See Daniella Diaz, Kelly: DHS Considering*
26

1 *Separating Undocumented Children From Their Parents at the Border* (March 7, 2017)
2 available at [https://www.cnn.com/2017/03/06/politics/john-kelly-separating-children-from-
4 parents-immigration-border/index.html](https://www.cnn.com/2017/03/06/politics/john-kelly-separating-children-from-
3 parents-immigration-border/index.html), attached hereto as Ex. 3.

5 44. Then-Secretary Kelly publicly backed away from those statements after harsh
6 criticism from the press, human-rights advocates, and members of Congress. *See* Tal Kopan,
7 *Kelly Says DHS Won't Separate Families at the Border* (March 29, 2017) available at
8 <https://www.cnn.com/2017/03/29/politics/border-families-separation-kelly/index.html> and
9 attached hereto as Ex. 4. An inside source, however, reported that the family separation proposal
10 was still on the table for discussion at DHS as of August 2017. *See* Jonathan Blitzer, *How the*
11 *Trump Administration Got Comfortable Separating Immigrant Kids From Their Parents*, *The*
12 *New Yorker* (May 30, 2018) available at [https://www.newyorker.com/news/news-desk/how-
14 the-trump-administration-got-comfortable-separating-immigrant-kids-from-their-parents](https://www.newyorker.com/news/news-desk/how-
13 the-trump-administration-got-comfortable-separating-immigrant-kids-from-their-parents),
15 attached hereto as Ex. 5.

16 45. In fact, DHS secretly piloted the Policy in the El Paso sector of the border in
17 western Texas from July to November 2017. *See* Dara Lind, *Trump's DHS is Using an*
18 *Extremely Dubious Statistic to Justify Splitting up Families at the Border*, *Vox* (May 8, 2018)
19 available at [https://www.vox.com/policy-and-politics/2018/5/8/17327512/sessions-illegal-
21 immigration-border-asylum-families](https://www.vox.com/policy-and-politics/2018/5/8/17327512/sessions-illegal-
20 immigration-border-asylum-families), attached hereto as Ex. 6.

22 46. It was later reported that between October 2017 and April 2018, 700 families
23 were separated at the Southwestern border, including at least 100 children under the age of four.
24 *See* Ex. 3.

1 47. On February 12, 2018, 33 U.S. Senators also a letter to DHS Secretary Nielsen,
2 concerned that DHS was carrying out “a systematic and blanket policy to separate a child from
3 a parent” upon arrival to the United States a policy the Senators condemned as “cruel” and
4 “grotesquely inhumane.” The letter is attached hereto as Ex. 7. The letter notes that Secretary
5 Nielsen “failed to repudiate” such a policy during a recent Senate Judiciary Committee hearing,
6 and points to “numerous [documented] cases in which parents have been separated from their
7 children.” *Id.*

9 48. In the spring of 2018, an influx of families seeking to enter the United States may
10 have catalyzed the Administration to finally embrace the Policy. In March and April of 2018,
11 the number of families from Latin America apprehended at the Southwestern border increased
12 dramatically, going from 5,475 in February to 8,873 in March (a 62% increase) and 9,653 in
13 April (a 76% increase from February). *See* Southwest Border Migration FY2018, U.S. Dept. of
14 Homeland Security available at <https://www.cbp.gov/newsroom/stats/sw-border-migration>,
15 attached hereto as Ex. 8 *and* Southwest Border Migration FY2017, U.S. Dept. of Homeland
16 Security available at <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017#>,
17 attached hereto as Ex. 9¹.

22 ¹ CBP tracks “apprehensions” and “inadmissibles” separately and adds these together to count
23 “total enforcement actions.” *See* CBP Enforcement Statistics FY2018, U.S. Customs and Border
24 Protection available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>, attached hereto
25 as Ex. 10. “Inadmissibles refers to individuals encountered at ports of entry who are seeking lawful
26 admission into the United States but are determined to be inadmissible, individuals presenting themselves
to seek humanitarian protection under our laws, and individuals who withdraw an application for
admission and return to their countries of origin within a short timeframe.” *Id.* “Apprehensions refers to
the physical control or temporary detainment of a person who is not lawfully in the U.S. which may or
may not result in an arrest.” *Id.*

1 49. The number of family units deemed to be inadmissible went from 3,941 in
2 February to 5,162 in March (a 31% increase) and 5,445 in April (a 38% increase from February).
3 *See* Ex. 8. These numbers include all persons who enter at ports of entry but are deemed to be
4 inadmissible; asylum seekers; and individuals who apply for admission but subsequently return
5 to their countries of origin within a short time frame. *See* Ex. 9. The numbers reflected an
6 increase of 672% in March 2018 in comparison to March 2017, and 697% in April 2018 in
7 comparison to April 2017. *Compare* Exs. 8 and 9.

9 50. According to at least one source, the President's frustration with the rising
10 numbers of Latino immigrants at the Southwestern border in March and April of 2018 was the
11 impetus for publicly adopting the Policy. *See* Ex. 5. When asked what had changed since the
12 prior year when the Administration backed away from adopting such a policy the person
13 pointed to the President: "What you're seeing now is a President's frustration with the fact that
14 the numbers are back up." *Id.*

16 51. In early April 2018, President Trump reportedly expressed frustration with DHS
17 Secretary Nielsen for failing to stop or decrease immigration at the Southwestern border. Several
18 officials stated that one persistent issue was President Trump's belief that Secretary Nielsen and
19 DHS were resisting his direction that parents be separated from their children when crossing
20 unlawfully at the US-Mexico border. *See* Shear and Pearlroth, *Kirstjen Nielsen, Chief of*
21 *Homeland Security, Almost Resigned After Trump Tirade* (May 10, 2018) available at
22 [https://www.nytimes.com/2018/05/10/us/politics/trump-homeland-security-secretary-](https://www.nytimes.com/2018/05/10/us/politics/trump-homeland-security-secretary-resign.html)
23 [resign.html](https://www.nytimes.com/2018/05/10/us/politics/trump-homeland-security-secretary-resign.html), attached hereto as Ex. 11. The President and his aides had been pushing a family
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1 separation policy for weeks as a way to deter families from crossing the Southwestern border
2 illegally. *Id.*

3 52. On April 6, 2018, President Trump issued a memorandum directing Attorney
4 General Sessions and DHS Secretary Nielsen to detail all measures and identify any resources
5 or steps “needed to expeditiously end ‘catch and release’ practices” that allow undocumented
6 immigrants to be released into the community pending resolution of their immigration cases.
7

8 53. That same day, Attorney General Sessions formally announced a
9 “zero-tolerance” policy “for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted
10 illegal entry and illegal entry into the United States by an alien.” *See* Attorney General
11 Announces Zero-Tolerance Policy for Criminal Illegal Entry, U.S. Department of Justice (April
12 6, 2018) *available at* [https://www.justice.gov/opa/pr/attorney-general-announces-zero-
13 tolerance-policy-criminal-illegal-entry](https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry), attached hereto as Ex. 12.
14

15 54. In a memorandum also issued April 6, Attorney General Sessions “direct[ed] each
16 United States Attorney’s Office along the Southwest Border . . . to adopt immediately a
17 zero-tolerance policy for all offenses referred for prosecution under section 1325(a)” and made
18 clear that this directive “superseded any existing policy.” *See* Memorandum for Federal
19 Prosecutors Along the Southwest Border (April 6, 2018), attached hereto as Ex. 13.
20

21 55. On May 7, 2018, DHS adopted an official Policy of “referring 100 percent of
22 illegal Southwest Border crossings to the Department of Justice for prosecution,” and Attorney
23 General Sessions publicized that children would be automatically separated from parents or other
24 adults with whom they were traveling. *See Attorney General Sessions Delivers Remarks
25 Discussing the Immigration Enforcement Actions of the Trump Administration*, Justice News
26

1 (May 7, 2018) available at [https://www.justice.gov/opa/speech/attorney-general-sessions-](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions)
2 [delivers-remarks-discussing-immigration-enforcement-actions](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions), attached hereto as Ex. 14.

3 56. With that, Attorney General Sessions and Secretary Nielsen carried out President
4 Trump's directive: Under the new federal law enforcement priority, all undocumented adults
5 crossing the U.S.-Mexico border at unauthorized locations would be referred by DHS to the
6 Department of Justice. DOJ would then charge each adult with misdemeanor illegal entry or
7 reentry. Everyone so referred would be prosecuted and detained regardless of familial
8 circumstances or asylum claims, and children would be automatically separated from their
9 parents and transferred to the custody of ORR for placement elsewhere.

10
11 57. Accordingly, Defendants have thus created a new category of "unaccompanied"
12 children those who came into the country with a parent but were, pursuant to the Policy,
13 forcibly separated by ICE or CBP immediately thereafter.

14
15 58. Perhaps emboldened by the directive, DHS officers at ports of entry along the
16 Southwestern border have been refusing to let immigrants present themselves and request
17 asylum, turning people away because the United States is "full." *See* Alfredo Corchado, *Asylum*
18 *Seekers Reportedly Denied Entry at Border as Trump Tightens 'Zero Tolerance' Immigration*
19 *Policies* (June 6, 2018) available at
20 [https://www.dallasnews.com/news/immigration/2018/06/06/reports-turning-back-asylum-](https://www.dallasnews.com/news/immigration/2018/06/06/reports-turning-back-asylum-seekers-border-crossings-trump-tightens-grip-zero-tolerance-immigration-policies)
21 [seekers-border-crossings-trump-tightens-grip-zero-tolerance-immigration-policies](https://www.dallasnews.com/news/immigration/2018/06/06/reports-turning-back-asylum-seekers-border-crossings-trump-tightens-grip-zero-tolerance-immigration-policies), attached
22 hereto as Ex. 15.

23
24 59. One report describes immigrants who were turned away on the bridge in El Paso
25 by CBP officers before they reached the border checkpoint, so they were unable to make their
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1 | asylum request at the port of entry. *Id.* Ruben Garcia, founder of a nonprofit that assists
2 | immigrants in El Paso explains: “If you look indigenous and you look Central American, they
3 | will stop you . . . They never ask why they are coming. They just say we can’t receive you.”
4 | *Id.* When asked why they are refusing to allow immigrants to reach checkpoints to request
5 | asylum, CBP officials state that centers are “full.” *Id.*
6 |

7 | 60. Recent interviews with detained parents held in federal facilities in Seattle
8 | confirm these reports. For example, one mother presented herself and her 15-year old son at the
9 | Laredo, Texas port of entry and requested asylum for herself and safe passage for her American-
10 | citizen son. Officials at the port of entry detained her, separated her from her son, and told her
11 | that the United States “will not give [her] asylum” and that she “w[ould] not see [her] son again
12 | until he turns 18” because he would be taken to a shelter or given to an American family for
13 | adoption. Another mother claiming asylum was told, in front of her 14-year-old daughter, that
14 | she would be “punished with jail time” for having come to the United States.
15 |

16 | 61. The effect of this conduct is an increasing influx of entrants at locations other
17 | than ports of entry, which Defendants construe as violations of 8 U.S.C. § 1325 and its
18 | implementing regulations. The adults are then routed into the criminal system while the children
19 | are turned over to ORR for placement thereby separating the family and implementing the
20 | Policy.
21 |

22 | 62. Since announcing the Policy, Defendants have repeatedly acknowledged its
23 | existence and cruelty. For example, President Trump, tweeting on May 26, 2018, referred to the
24 | Policy as a “horrible law.” The May 26, 2018 tweet is attached hereto as Ex. 16.
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1 63. On May 29, 2018, Devin O'Malley, a Justice Department spokesman, recapped
2 the Policy, telling reporters that suspected crossers "will not be given a free pass," and will face
3 criminal prosecution and federal detention "irrespective of whether or not they have brought a
4 child with them." See Ted Hesson, *White House's Miller blames Democrats for border crisis*,
5 Politico (May 29, 2018) available at [https://www.politico.com/story/2018/05/29/stephen-miller-](https://www.politico.com/story/2018/05/29/stephen-miller-democrats-border-574537)
6 [democrats-border-574537](https://www.politico.com/story/2018/05/29/stephen-miller-democrats-border-574537), attached hereto as Ex. 17.

8 64. On June 16, 2018, it was reported that Senior Advisor to the President Stephen
9 Miller was a driving force in adoption and implementation of the Policy. See Chas Danner,
10 *Separating Families at the Border Was Always Part of the Plan* (June 17, 2018) available at
11 [http://nymag.com/daily/intelligencer/2018/06/separating-families-at-border-was-always-part-](http://nymag.com/daily/intelligencer/2018/06/separating-families-at-border-was-always-part-of-the-plan.html)
12 [of-the-plan.html](http://nymag.com/daily/intelligencer/2018/06/separating-families-at-border-was-always-part-of-the-plan.html), attached hereto as Ex. 18. While others acknowledge the controversial nature
13 of the Policy, Mr. Miller unapologetically embraced it, calling it "a simple decision by the
14 administration The message is that no one is exempt from immigration law." *Id.*

16 65. On June 17, 2018, Counselor to the President Kellyanne Conway acknowledged
17 the existence of the Policy in an interview with NBC's "Meet the Press," stating, "As a mother,
18 as a Catholic, as somebody who has a conscience . . . I will tell you that nobody likes this policy."
19 See Ex. 1. She continued, "Nobody likes seeing babies ripped from their mothers' arms, from
20 their mothers' wombs, frankly, but we have to make sure that DHS' laws are understood through
21 the soundbite culture that we live in." *Id.*

23 66. On June 18, 2018, President Trump characterized the Policy as one of the United
24 States' "horrible and tough" immigration laws. See Hains, Tim, *President Trump: "The United*
25 *States Will Not be a Migrant Camp"*, "Not On My Watch" (June 18, 2018) available at
26

1 <https://www.realclearpolitics.com/video/2018/06/18/president-trump-the-united-states-will-not-be-a-migrant-camp.html>, attached hereto as Ex. 19.

3 67. Also on June 18, 2018, in remarks before the National Sheriffs' Association
4 (NSA), Attorney General Sessions promoted the deterrent effect of family separation: "We
5 cannot and will not encourage people to bring their children or other children to the country
6 unlawfully by giving them immunity in the process." See Luis Sanchez, *Sessions on separating
7 families: If we build a wall and pass legislation, we won't have these 'terrible choices'*, The Hill
8 (June 18, 2018) available at <http://thehill.com/homenews/administration/392785-sessions-on-separating-families-if-we-build-a-wall-and-pass>, attached hereto as Ex. 20.

11 68. And in her remarks to the NSA, DHS Secretary Nielsen also confirmed the
12 existence of the Policy, stating: "Illegal actions have and must have consequences. No more
13 free passes, no more get out of jail free cards." See Tal Kopan, *'We will not apologize': Trump
14 DHS chief defends immigration policy* (June 18, 2018) available at
15 <https://www.cnn.com/2018/06/18/politics/kirstjen-nielsen-immigration-policy/index.html>,
16 attached hereto as Ex. 21.

18 69. The Policy has resulted in thousands of brutal familial separations.

19 70. For example, during a briefing call on June 15, 2018, DHS officials admitted that
20 1,995 children were separated from 1,940 adults at the U.S.-Mexico border from April 19
21 through May 31, 2018. The adults were all referred for prosecution. See *How Trump Family
22 Separation Policy Became What it is Today* (June 14, 2018) available at
23 <https://www.pbs.org/newshour/nation/how-trumps-family-separation-policy-has-become-what-it-is-today>, attached hereto as Ex. 22.

1 71. According to DHS data released on June 18, 2018 by Senator Dianne Feinstein,
2 federal immigration officials separated 2,342 children from adults at the border between May 5
3 and June 9, 2018. *See* Louis Nelson, *Defiant Trump refuses to back off migrant family*
4 *separations*, Politico (June 18, 2018) available at
5 <https://www.politico.com/story/2018/06/18/trump-immigration-child-separations-650875>,
6
7 attached hereto as Ex. 23.

8 **C. The President’s Executive Order Does Not End Family Separation**

9 72. On June 20, 2018, President Trump issued an Executive Order entitled,
10 “Affording Congress an Opportunity to Address Family Separation” (the Order). The Order is
11 attached hereto as Ex. 24. While purporting to suspend the practice of separating families, the
12 Order offers illusory relief. Indeed, the language of the Order itself does not actually require an
13 end to family separation, and in fact, it implicitly recognizes that the Policy will continue.

14 73. By its own terms, the Order states that it does not confer any enforceable right or
15 benefit on any person.

16 74. The Order appears to direct the Secretary of Homeland Security to detain families
17 together “during the pendency of any criminal proceedings for improper entry or immigration
18 proceedings involving their members,” while continuing the practice of prosecuting and
19 detaining all unauthorized border crossers.

20 75. At the same time, the Order acknowledges that Defendants do not have the
21 resources or facilities necessary to effectuate its terms. Indeed, every provision of the Order is
22 to be carried out only “where appropriate and consistent with law and available resources.”
23 These terms are undefined, leaving familial detention largely discretionary. Likewise, the Order
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1 repeatedly affirms that family unity is “subject to the availability of appropriations,” but provides
2 no parameters on when appropriations will be sought or even how much funding is needed.

3 76. Similarly, the Order directs the Secretary of Defense to provide existing available
4 facilities to house immigrant families, or to construct them, but again there is no indication that
5 appropriate federal facilities exist and are available, or that construction of new family
6 internment facilities is feasible.

7 77. The Order also acknowledges that Defendants cannot lawfully carry out its terms
8 until they receive a court order “that would permit” the family detention scheme contemplated.
9 Because almost every provision in the Order is subject to the availability of non-existent
10 resources and legal authority for indefinite detention that is contrary to settled law, it fails to
11 provide any actual relief.

12 78. The Order also is silent as to the thousands of families already separated by the
13 Policy. It does nothing to require their reunification or redress the harms inflicted on those
14 families. As a spokesperson for HHS’ Administration for Children and Families explained,
15 “There will not be a grandfathering of existing cases ... I can tell you definitively that is going
16 to be policy.” See Michael D. Shear, Abby Goodnough and Maggie Haberman, *Trump Retreats*
17 *on Separating Families, but Thousands May Remain Apart*, (June 20, 2018) available at
18 [https://www.nytimes.com/2018/06/20/us/politics/trump-immigration-children-executive-](https://www.nytimes.com/2018/06/20/us/politics/trump-immigration-children-executive-order.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=a-lede-package-region®ion=top-news&WT.nav=top-news)
19 [order.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=a-](https://www.nytimes.com/2018/06/20/us/politics/trump-immigration-children-executive-order.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=a-lede-package-region®ion=top-news&WT.nav=top-news)
20 [lede-package-region®ion=top-news&WT.nav=top-news](https://www.nytimes.com/2018/06/20/us/politics/trump-immigration-children-executive-order.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=a-lede-package-region®ion=top-news&WT.nav=top-news), attached as Ex. 25.

21 79. Defendants have confirmed that the Order will not end family separation,
22 ostensibly because only Congress can reverse the Policy. Notably, the Order poses a striking
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1 contrast with the Administration’s previous statements that Congressional legislation is the sole
2 means of ending family separation, including President Trump’s explicit statement that “You
3 can’t do it through executive order.” See “*Trump said only legislation could stop family*
4 *separation. He just issued an executive order,*” the Washington Post (June 20, 2018) *clip*
5 *available at* [https://www.washingtonpost.com/video/politics/trump-said-only-legislation-could-](https://www.washingtonpost.com/video/politics/trump-said-only-legislation-could-stop-family-separation-hes-about-to-issue-an-executive-order/2018/06/20/c4f93aea-74a9-11e8-bda1-18e53a448a14_video.html?utm_term=.d6843e5acc54)
6 [stop-family-separation-hes-about-to-issue-an-executive-order/2018/06/20/c4f93aea-74a9-11e8-](https://www.washingtonpost.com/video/politics/trump-said-only-legislation-could-stop-family-separation-hes-about-to-issue-an-executive-order/2018/06/20/c4f93aea-74a9-11e8-bda1-18e53a448a14_video.html?utm_term=.d6843e5acc54)
7 [bda1-18e53a448a14_video.html?utm_term=.d6843e5acc54](https://www.washingtonpost.com/video/politics/trump-said-only-legislation-could-stop-family-separation-hes-about-to-issue-an-executive-order/2018/06/20/c4f93aea-74a9-11e8-bda1-18e53a448a14_video.html?utm_term=.d6843e5acc54), and Adam Edelman, *Trump signs*
8 *order stopping his policy of separating families at border* (June 20, 2018) *available at*
9 [https://www.nbcnews.com/politics/immigration/trump-says-he-ll-sign-order-stopping-](https://www.nbcnews.com/politics/immigration/trump-says-he-ll-sign-order-stopping-separation-families-border-n885061)
10 [separation-families-border-n885061](https://www.nbcnews.com/politics/immigration/trump-says-he-ll-sign-order-stopping-separation-families-border-n885061), attached hereto as Ex. 26.

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13 80. Likewise, just days prior to issuance of the Order, Defendants stated numerous
14 times their position that only Congress could end a policy of separating families. For example,
15 on June 18, 2018, Secretary Nielsen announced: “Until these loopholes are closed by Congress,
16 it is not possible, as a matter of law, to detain and remove whole family units who arrive illegally
17 in the United States. Congress and the courts created this problem, and Congress alone can fix
18 it. Until then, we will enforce every law we have on the books to defend the sovereignty and
19 security of the United States.” See Matthew Nussbaum, *Trump falsely claimed for days that he*
20 *couldn’t end family separations* (June 20, 2018) *available at*
21 <https://www.politico.com/story/2018/06/20/trump-false-claims-family-separations-656011>,
22 attached hereto as Ex. 27.

23
24 81. Also on June 18, 2018, White House Press Secretary Sarah Huckabee Sanders
25 stated: “There’s only one body here that gets to create legislation and it’s Congress. Our job is
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1 to enforce it, and we would like to see Congress fix it. That’s why the President has repeatedly
2 called on them to work with him to do just that.” *Id.*

3 82. And on June 20, 2018, contemporaneous with announcing the Order, Vice
4 President Pence claimed that changing the law was the only way to end family separation: “I
5 think the American people want the Democrats to stop the obstruction, to stop standing in the
6 way of the kind of reforms at our border that will end the crisis of illegal immigration. We can
7 solve this issue of separation.” *See Vice President Mike Pence: Democrats Can Fix Family*
8 *Separation at Border* (June 20, 2018) available at [https://kdkradio.radio.com/articles/vice-](https://kdkradio.radio.com/articles/vice-president-mike-pence-democrats-can-fix-family-separation-border)
9 [president-mike-pence-democrats-can-fix-family-separation-border](https://kdkradio.radio.com/articles/vice-president-mike-pence-democrats-can-fix-family-separation-border), attached hereto as Ex. 28.
10

11 83. When President Trump signed the Order, Vice President Pence and Secretary
12 Nielsen again called on Congress to end separating families at the border; Vice President Pence
13 suggested that the Order is only applicable “in the immediate days forward” and “call[ed] on
14 Congress to change the laws” for a more permanent fix. *See* clip at [https://www.c-](https://www.c-span.org/video/?447373-1/president-trump-signs-executive-order-halting-family-separation-policy)
15 [span.org/video/?447373-1/president-trump-signs-executive-order-halting-family-separation-](https://www.c-span.org/video/?447373-1/president-trump-signs-executive-order-halting-family-separation-policy)
16 [policy](https://www.c-span.org/video/?447373-1/president-trump-signs-executive-order-halting-family-separation-policy).
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18 84. Later that day, at a briefing organized by the White House, Gene Hamilton, a
19 counselor to Attorney General Sessions, sidestepped a question about whether a family that
20 crosses the border now would be separated, stating that an “implementation phase” would occur,
21 but that he was not sure precisely what DHS or HHS would do in the immediate future. Mr.
22 Hamilton echoed President Trump’s, Nielsen’s, and Sessions’ statements that “Congress needs
23 to provide a permanent fix for this situation.” Mr. Hamilton stated that if Congress does not act,
24 it would be up to the *Flores* judge to decide whether the Administration could keep families
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1 together. See Charlie Savage, *Explaining Trump's Executive Order on Family Separation*, (June
2 20, 2018) available at [https://www.nytimes.com/2018/06/20/us/politics/family-separation-
3 executive-order.html](https://www.nytimes.com/2018/06/20/us/politics/family-separation-executive-order.html), attached hereto as Ex. 29.

4
5 **D. Pursuant to the Order, the Attorney General Has Launched an Attack on State
6 Sovereignty**

7 85. The Order directs the Attorney General to “promptly file a request with the U.S.
8 District Court for the Central District of California to modify the Settlement Agreement in *Flores*
9 *v. Sessions*,” making rescission of *Flores*’ protections a predicate to the maintenance of family
10 unity.

11 86. The *Flores* Agreement, which has been in place since 1997, “sets out nationwide
12 policy for the detention, release, and treatment of minors in the custody of the INS,” including
13 both accompanied and unaccompanied minors. Stipulated Settlement Agreement, ¶ 9, attached
14 hereto as Ex. 30. Among other things, *Flores* prevents the DHS from detaining children in
15 restricted facilities for long periods and it requires federal detention centers to meet state
16 licensing requirements for childcare facilities.

17 87. As Vice President Pence previously conceded, the *Flores* agreement provides
18 only two options for the long term placement of families (1) parental detention and family
19 separation, or (2) keeping families together, by releasing them into the community. See clip
20 available at <https://www.c-span.org/video/?c4736625/pence-options-law>).

21 88. On June 21, 2018, Attorney General Sessions filed an *ex parte* application
22 seeking relief from the *Flores* Settlement Agreement to allow the federal government to detain
23 families indefinitely at non-licensed facilities. *Flores, et al. v. Sessions, et al.*, Case No. CV 85-
24 4544-DMG (C.D. Cal.), Dkt. 435-1 at 1, 13, attached hereto as Ex. 31.
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1 89. In his application, Attorney General Sessions admits that mass internment of
2 families by the federal government is currently illegal: “this Court’s construction of the Flores
3 Settlement Agreement eliminates the practical availability of family detention across the nation
4 . . .” Ex. 31 at 2. “Under current law and legal rulings, including this Court’s, it is not possible
5 for the U.S. government to detain families together during the pendency of their immigration
6 proceedings. It cannot be done.” *Id.* at 3.

8 90. Nevertheless, Attorney General Sessions argues that indefinitely detaining
9 families is necessary for deterrence. Specifically, he asserts that, without family detention, there
10 is “a powerful incentive for aliens to enter this country with children.” *Id.* at 1. Attorney General
11 Session claims that, “[u]ndeniably the limitation on the option of detaining families together and
12 marked increase of families illegally crossing the border are linked.” *Id.* at 2. “[D]etaining
13 these individuals dispels such expectations, and deters others from unlawfully coming to the
14 United States.” *Id.* at 13 (internal citations omitted).

16 91. Attorney General Sessions also requests an exemption from state licensing
17 requirements, “because of ongoing and unresolved disputes over the ability of States to license
18 these types of facilities.” Ex. 31 at 17-18.

19 92. The district court and the Ninth Circuit in *Flores* rejected almost identical
20 arguments advanced by the federal government in 2015. *See Flores v. Lynch*, 212 F. Supp. 3d
21 907, 913 (C.D. Cal. 2015), *aff’d in part, rev’d in part and remanded*, 828 F.3d 898 (9th Cir.
22 2016); *Flores v. Lynch*, 828 F.3d 898, 910 (9th Cir. 2016). At that time, the government
23 requested that the trial court modify the *Flores* agreement to allow DHS to hold female-headed
24 families with their children indefinitely in family detention centers in Texas and New Mexico.
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26

1 Rather than grant that request, the district court confirmed that *Flores* requires that “Defendants
2 must house children who are not released in a non-secure facility that is licensed by an
3 appropriate state agency to care for dependent children.” Case No. CV 85-4544-DMG (C.D.
4 Cal.), Dkt. 177 at 12. The court stated: “The fact that the [Texas and New Mexico] family
5 residential centers cannot be licensed by an appropriate state agency simply means that, under
6 the Agreement, [children] ... cannot be housed in these facilities except as permitted by the
7 Agreement.” *Id.* at 12-13.

9 93. The district court also found that the alleged “influx” of immigrants crossing the
10 U.S.-Mexico border did not constitute changed circumstances warranting the requested
11 modification and rejected the government’s stated rationale that the “family detention policy
12 [would] deter[] others who would have come.” Case No. CV 85-4544-DMG (C.D. Cal.), Dkt.
13 177 at 23. The Ninth Circuit affirmed, stating: “The Settlement expressly anticipated an influx
14 . . . and, even if the parties did not anticipate an influx of this size, we cannot fathom how a
15 ‘suitably tailored’ response to the change in circumstances would be to exempt an entire category
16 of migrants from the Settlement, as opposed to, say, relaxing certain requirements applicable to
17 all migrants.” *Flores v. Lynch*, 828 F.3d 898, 910 (9th Cir. 2016).

18
19
20 **E. Defendants’ Recent Statements Call Into Question the Administration’s
Commitment to the Rule of Law**

21 94. Neither the Order nor the *Flores* application offer any assurance that the
22 Administration will not once again return to a family separation policy when its efforts to inter
23 families together fail.

24 95. To the contrary, on June 25, 2018, Attorney General Sessions told an audience in
25 Reno, NV that DOJ would continue carrying out President Trump’s “zero-tolerance” directive
26

1 because to do otherwise “would encourage more adults to bring more children illegally on a
2 dangerous journey.” The same day, CBP Commissioner Kevin McAleenan stated that his
3 agency would stop referring parents with children for prosecution but that this is a “temporary”
4 halt. See Shannon Pettypiece and Toluse Olorunnipa, *Border Patrol Halts Prosecution of*
5 *Families Crossing Illegally* (June 25, 2018) available at
6 [https://www.bloomberg.com/news/articles/2018-06-25/border-patrol-halts-prosecution-of-](https://www.bloomberg.com/news/articles/2018-06-25/border-patrol-halts-prosecution-of-families-crossing-illegally)
7 [families-crossing-illegally](https://www.bloomberg.com/news/articles/2018-06-25/border-patrol-halts-prosecution-of-families-crossing-illegally).
8

9 96. Further, the Trump Administration’s statements from June 20, 2018-June 26,
10 2018 raise the specter of further unconstitutional and unlawful acts.

11 97. For example, in response to the public outcry against family separation, the
12 Administration appears to be preparing to intern thousands of families in military facilities. As
13 Commissioner McAleenan explained, he is unable to refer parents for prosecution without
14 separating them from their children due to lack of resources, but that he and his agency are
15 working on a plan to resume criminal referrals. See Shannon Pettypiece and Toluse Olorunnipa,
16 *Border Patrol Halts Prosecution of Families Crossing Illegally* (June 25, 2018) available at
17 [https://www.bloomberg.com/news/articles/2018-06-25/border-patrol-halts-prosecution-of-](https://www.bloomberg.com/news/articles/2018-06-25/border-patrol-halts-prosecution-of-families-crossing-illegally)
18 [families-crossing-illegally](https://www.bloomberg.com/news/articles/2018-06-25/border-patrol-halts-prosecution-of-families-crossing-illegally).
19

20 98. On June 21, 2018, at DHS’s request, the Pentagon agreed to host up to 20,000
21 unaccompanied migrant children on military bases. See Dan Lamothe, Seung Min Kim and Nick
22 Miroff, *Pentagon will make room for up to 20,000 migrant children on military bases*, the
23 *Washington Post* (June 21, 2018) available at
24 <https://www.washingtonpost.com/news/checkpoint/wp/2018/06/21/pentagon-asked-to-make->
25 [-](https://www.washingtonpost.com/news/checkpoint/wp/2018/06/21/pentagon-asked-to-make-)
26

1 [room-for-20000-migrant-children-on-military-bases/?utm_term=.decab089f684](https://www.reuters.com/article/us-usa-immigration-military/pentagon-eyes-temporary-camps-for-immigrants-at-two-bases-idUSKBN1JL015), attached

2 hereto as Ex. 32.

3 99. Defense Secretary Jim Mattis confirmed on June 24, 2018, that the military is
4 preparing to construct camps for migrants on at least two military bases. See Phil Stewart,
5 *Pentagon eyes temporary camps for immigrants at two bases*, Reuters (June 24, 2018) available
6 at [https://www.reuters.com/article/us-usa-immigration-military/pentagon-eyes-temporary-](https://www.reuters.com/article/us-usa-immigration-military/pentagon-eyes-temporary-camps-for-immigrants-at-two-bases-idUSKBN1JL015)
7 [camps-for-immigrants-at-two-bases-idUSKBN1JL015](https://www.reuters.com/article/us-usa-immigration-military/pentagon-eyes-temporary-camps-for-immigrants-at-two-bases-idUSKBN1JL015), attached hereto as Ex. 33. Moreover, a
8 planning document from the United States Navy details “temporary and austere” tent cities that
9 would be able to house 25,000 migrants on abandoned airfields. See Philip Elliott, *Exclusive:*
10 *Navy Document Shows Plan to Erect ‘Austere’ Detention Camps*, *Time* (June 22, 2018)
11 [http://time.com/5319334/navy-detainment-centers-zero-tolerance-immigration-family-](http://time.com/5319334/navy-detainment-centers-zero-tolerance-immigration-family-separation-policy/)
12 [separation-policy/](http://time.com/5319334/navy-detainment-centers-zero-tolerance-immigration-family-separation-policy/), attached hereto as Ex. 34.

13
14
15 100. Emerging reports as of June 25, 2018, suggest that immigration officials are using
16 the children taken from their parents as leverage to coerce parents to withdraw their asylum
17 claims. The family reunification Fact Sheet released by the Department of Homeland Security
18 on June 23, 2018, provides for family reunification only for adults “who are subject to removal”
19 so that they may be “reunited with their children for the purposes of removal.” See Fact Sheet:
20 Zero Tolerance Prosecution and Family Reunification (June 23, 2018) available at
21 <https://content.govdelivery.com/accounts/USDHS/bulletins/1f98ad8>, attached hereto as Ex. 35.
22 In other words, parents who hope to be quickly reunited with their children must abandon their
23 own asylum claims and agree to withdraw their children’s claims to remain in the United States.
24 See Dara Lind, *Trump will reunite separated families but only if they agree to deportation*,

25
26

1 Vox (June 25, 2018) available at [https://www.vox.com/2018/6/25/17484042/children-parents-](https://www.vox.com/2018/6/25/17484042/children-parents-separate-reunite-plan-trump)
2 [separate-reunite-plan-trump](https://www.vox.com/2018/6/25/17484042/children-parents-separate-reunite-plan-trump), attached hereto as Ex. 36.

3 101. Parents have felt compelled to act accordingly. On June 24, 2018, a DHS official
4 stated that parents separated from their children “were quickly given the option to sign
5 paperwork leading to their deportation. Many chose to do so.” The June 24, 2018 tweet is
6 available at <https://twitter.com/jacobsoboroff/status/1010862394103328771>, and attached
7 hereto as Ex. 37. This is consistent with other accounts of parents signing voluntary deportation
8 paperwork out of “desperation” because officials had suggested that it would lead to faster
9 reunification with their children. *See, e.g.,* Jay Root and Shannon Najmabadi, *Kids in exchange*
10 *for deportation: Detained migrants say they were told they could get kids back on way out of*
11 *U.S.*, Texas Tribune (June 24, 2018) available at [https://www.texastribune.org/2018/06/24/kids-](https://www.texastribune.org/2018/06/24/kids-exchange-deportation-migrants-claim-they-were-promised-they-could/?utm_campaign=trib-social-buttons&utm_source=twitter&utm_medium=social)
12 [exchange-deportation-migrants-claim-they-were-promised-they-could/?utm_campaign=trib-](https://www.texastribune.org/2018/06/24/kids-exchange-deportation-migrants-claim-they-were-promised-they-could/?utm_campaign=trib-social-buttons&utm_source=twitter&utm_medium=social)
13 [social-buttons&utm_source=twitter&utm_medium=social](https://www.texastribune.org/2018/06/24/kids-exchange-deportation-migrants-claim-they-were-promised-they-could/?utm_campaign=trib-social-buttons&utm_source=twitter&utm_medium=social), attached hereto as Ex. 38.

14 102. Likewise, on June 24, 2018, a senior administrative official speaking on the
15 condition of anonymity confirmed that defendants do not plan to reunite families until after a
16 parent has lost his or her deportation case, effectively punishing parents who may otherwise
17 pursue an asylum claim or other relief request and creating tremendous pressure to abandon such
18 claims so that parents may be reunited with kids. *See* Maria Saccherri, Michael Miller and
19 Robert Moore, *Sen. Warren visits detention center, says no children being returned to parents*
20 *there*, The Washington Post (June 24, 2018) available at
21 <https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants->
22 <https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants->
23 <https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants->
24 <https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants->
25 <https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants->
26 <https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants->

1 [are-willing-to-give-up-asylum-claims-lawyers-say/2018/06/24/c7fab87c-77e2-11e8-80be-](https://www.washingtonpost.com/news/immigration/wp/2018/06/24/are-willing-to-give-up-asylum-claims-lawyers-say/2018/06/24/c7fab87c-77e2-11e8-80be-6d32e182a3bc_story.html)
2 [6d32e182a3bc_story.html](https://www.washingtonpost.com/news/immigration/wp/2018/06/24/are-willing-to-give-up-asylum-claims-lawyers-say/2018/06/24/c7fab87c-77e2-11e8-80be-6d32e182a3bc_story.html), attached hereto as Ex. 39.

3 103. In recent days, President Trump has proposed deporting immigrants without
4 hearing or legal process as his favored alternative. On June 21, 2018 President Trump stated:
5 “We shouldn’t be hiring judges by the thousands, as our ridiculous immigration laws demand,
6 we should be changing our laws, building the Wall, hire Border Agents and Ice and not let people
7 come into our country based on the legal phrase they are told to say as their password.” See
8 <https://mobile.twitter.com/realDonaldTrump/status/1009770941604298753>.

9
10 104. On June 24, 2018, President Trump again proposed that immigrants who cross
11 into the United States should be sent back immediately without due process or an appearance
12 before a judge: “We cannot allow all of these people to invade our Country. When somebody
13 comes in, we must immediately, with no Judges or Court Cases, bring them back from where
14 they came. Our system is a mockery to good immigration policy and Law and Order. Most
15 children come without parents...” See Katie Rogers and Sheryl Gay Stolberg, *Trump Calls for*
16 *Depriving Immigrants Who Illegally Cross Border of Due Process Rights*, The New York Times
17 (June 24, 2018) available at [https://www.nytimes.com/2018/06/24/us/politics/trump-](https://www.nytimes.com/2018/06/24/us/politics/trump-immigration-judges-due-process.html)
18 [immigration-judges-due-process.html](https://www.nytimes.com/2018/06/24/us/politics/trump-immigration-judges-due-process.html), attached hereto as Ex. 40.

19
20 105. On June 25, 2018, President Trump continued: “Hiring manythousands [sic] of
21 judges, and going through a long and complicated legal process, is not the way to go will
22 always be dysfunctional [sic]. People must simply be stopped at the Border and told they cannot
23 come into the U.S. illegally. Children brought back to their country.....” The June 25, 2018
24
25
26

1 tweet is available at <https://twitter.com/realDonaldTrump/status/1011228265003077632>, and
2 attached hereto as Ex. 41.

3 106. On June 25, 2018, White House press secretary Sarah Huckabee Sanders
4 confirmed that CPB's halt of prosecution referrals "is a temporary solution. This isn't going to
5 last. . . This will only last a short amount of time, because we're going to run out of space, we're
6 going to run out of resources to keep people together." Secretary Sanders reiterated: "We're
7 not changing the policy . . . We're simply out of resources. And at some point, Congress has to
8 do what they were elected to do, and that is secure our border, that is stop the crime coming into
9 our country." Secretary Sanders dodged questions regarding President Trump's recent
10 suggestion that immigrants be afforded no due hearing or due process prior to deportation. *See*
11 *Press Briefing by Press Secretary Sarah Sanders (June 25, 2018), available at*
12 [https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-](https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-062518/)
13 [062518/](https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-062518/).

14
15
16 **F. Defendants' Policy Causes Devastating Harm To Children and Parents**

17 107. Separating families when a child's safety is not at risk causes immediate, acute
18 trauma as well as foreseeable long term damage and harm to both the parents and the children.
19 The negative effects and consequences of the Policy are likely to be long-lasting and in some
20 cases debilitating.

21
22 108. Unless required to protect a child's safety, forced separation from their parents is
23 likely to cause immediate and extreme psychological harm to young children, and the resulting
24 cognitive and emotional damage can be permanent. Parental separation is a traumatic loss for
25 the child; as a result they are likely to experience post-traumatic symptoms such as nightmares,
26

1 and other manifestations of anxiety and depression, all of which are likely to increase in severity
2 the longer the separation lasts and lead to the potential development of problematic coping
3 strategies in both the near and long term. This trauma may be exacerbated for children who are
4 fleeing persecution or violence in their home countries.

5
6 109. Observations by those who have seen children recently separated pursuant to
7 Defendants' Policy suggest that conditions created by Defendants will further exacerbate the
8 separation trauma. By way of example, after touring a shelter along the Texas border to Mexico,
9 Dr. Colleen Kraft, President of the American Academy of Pediatrics, described a "screaming"
10 girl, "no older than 2" who could not be comforted because shelter workers had been told they
11 are not allowed to touch the children, not even to hold a crying child and convey some semblance
12 of compassion. *See Immigrant children: What a doctor saw in a Texas shelter*, The Washington
13 Post (June 17, 2018) available at [https://www.washingtonpost.com/news/post-](https://www.washingtonpost.com/news/post-nation/wp/2018/06/16/america-is-better-than-this-what-a-doctor-saw-in-a-texas-shelter-for-migrant-children/?utm_term=.e1e5566675e9)
14 [nation/wp/2018/06/16/america-is-better-than-this-what-a-doctor-saw-in-a-texas-shelter-for-](https://www.washingtonpost.com/news/post-nation/wp/2018/06/16/america-is-better-than-this-what-a-doctor-saw-in-a-texas-shelter-for-migrant-children/?utm_term=.e1e5566675e9)
15 [migrant-children/?utm_term=.e1e5566675e9](https://www.washingtonpost.com/news/post-nation/wp/2018/06/16/america-is-better-than-this-what-a-doctor-saw-in-a-texas-shelter-for-migrant-children/?utm_term=.e1e5566675e9), attached hereto as Ex. 42.

16
17 110. These reports are also consistent with the observations of State employees who
18 recently interviewed separated children living in Seattle. Every child displayed significant
19 distress when relaying their experience and broke down when describing their separation. Some
20 reported ongoing nightmares, others were so traumatized they could not continue the brief
21 interviews.

22
23 111. Similarly, parents who arrive together with their children at the U.S. border and
24 then are separated from their children by the U.S. government are likely to experience immediate
25 and acute psychological injury as a result. Under the Policy, many parents are being separated
26

1 from their children suddenly without the chance to prepare the child or even say goodbye,
2 without knowing where they or their children will be taken, without any guarantee of
3 reunification, and often without contact with their children or with long gaps in that contact.
4 When parents and children are allowed to speak, it is only briefly ten minutes or so by
5 telephone.
6

7 112. These otherwise fit parents are likely to experience deterioration of their mental
8 and physical health in the aftermath of the forcible separation from their children with symptoms
9 including anxiety, depression, PTSD, and other trauma-related disorders. In some cases, parental
10 trauma from separation from their children will become unbearable because their available
11 coping mechanisms may be overwhelmed by the sudden loss of the important role of parent and
12 protector of the child. Indeed, at least one parent, distraught after officials pried his 3-year-old
13 son from his arms, is reported to have committed suicide following the separation. *See* Nick
14 Miroff, *A family separated at the border, and this distraught father took his own life*, (June 9,
15 2018) available at https://www.washingtonpost.com/world/national-security/a-family-was-separated-at-the-border-and-this-distraught-father-took-his-own-life/2018/06/08/24e40b70-6b5d-11e8-9e38-24e693b38637_story.html?utm_term=.96a4606e47c7, attached hereto as Ex.
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17
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19 43.

20
21 113. These general observations were confirmed by interviewers who recently spoke
22 with mothers detained in a federal facility in King County, Washington. The mothers were
23 visibly upset, with some expressing panic and desperation, because they lacked information
24 about their children's safety and did not know whether or when they would see their children
25 again.
26

1 **G. The Policy Is Expressly Intended to Use Traumatized Children and Families to**
 2 **Deter Migration of Latina/o Immigrants and for Political Leverage**

3 114. Defendants have changed public positions on the Policy numerous times over the
 4 last few weeks, but what has remained consistent throughout is Defendants' unambiguous
 5 adoption of a policy at the Southwestern border that uses trauma as deterrence, and their
 6 insistence that Congress overhaul immigration laws to codify President Trump's immigration
 7 agenda, including building a wall at the U.S.-Mexico border. *See* JM Rieger, *The Trump*
 8 *Administration Changed its Story on Family Separation no Fewer than 14 Times Before Ending*
 9 *the Policy* (June 20, 2018) available at [https://www.washingtonpost.com/news/the-](https://www.washingtonpost.com/news/the-fix/wp/2018/06/20/the-trump-administration-changed-its-story-on-family-separation-no-fewer-than-14-times-before-ending-the-policy/?utm_term=.6719a188344f)
 10 [fix/wp/2018/06/20/the-trump-administration-changed-its-story-on-family-separation-no-fewer-](https://www.washingtonpost.com/news/the-fix/wp/2018/06/20/the-trump-administration-changed-its-story-on-family-separation-no-fewer-than-14-times-before-ending-the-policy/?utm_term=.6719a188344f)
 11 [than-14-times-before-ending-the-policy/?utm_term=.6719a188344f](https://www.washingtonpost.com/news/the-fix/wp/2018/06/20/the-trump-administration-changed-its-story-on-family-separation-no-fewer-than-14-times-before-ending-the-policy/?utm_term=.6719a188344f), Ex. 44 (collecting
 12 contradictory statements). Confirmation of these two goals is reflected in statements from a year
 13 ago and continued even after issuance of the Executive Order.

15 115. As early as March 7, 2017, then-Secretary of DHS John Kelly confirmed that the
 16 Policy was intended to “to deter movement” along the Southwestern border. *See* Ex. 3. Later
 17 that year, a source who attended a DHS meeting to discuss ways to “deter immigrants from
 18 coming to the U.S. illegally” reported that the Policy was still being considered, but kept getting
 19 “bogged down” because of how “difficult and controversial it was.” *See* Ex. 4.

21 116. On December 5, 2017, Kirstjen Nielsen replaced John Kelly as DHS Secretary.

22 117. On February 8, 2018, 75 members of Congress wrote a letter to DHS Secretary
 23 Nielsen expressing “deep[] concern that the Department of Homeland Security (DHS) is
 24 separating families, including parents and their minor children . . . along the U.S.-Mexico
 25 border.” DHS’ “reported justification of this practice as a deterrent to family migration suggests
 26

1 a lack of understanding about the violence many families are fleeing in their home countries”
2 and “[m]ore pointedly, the pretext of deterrence is not a legally sufficient basis for separating
3 families.” The letter is attached hereto as Ex. 45.

4
5 118. The letter details two complaints filed in December 2017 that confirmed DHS
6 was “intentionally separating families for purposes of deterrence and punishment.” In particular,
7 the second complaint documented “instances of infants and toddlers as young as one and two
8 years old separated from their parents and rendered ‘unaccompanied’” among these was “a
9 father separated from his one-year-old son, Mateo, despite presenting appropriate documents to
10 establish their relationship.” *Id.*

11
12 119. Attorney General Sessions has confirmed that the Policy is intended to deter other
13 families from entering the United States. For example, on April 6, 2018, he issued a warning to
14 immigrants crossing the Southwestern border that “illegally entering this country will not be
15 rewarded, but instead will be met with the full prosecutorial powers of the Department of Justice”
16 and children “will be separated from [their parents].” *See* Ex. 12.

17
18 120. In May 2018, DHS announced the results of its pilot at the El Paso border sector
19 from July to November 2017. Its report later found to be inaccurate further confirms that
20 deterrence is the primary purpose of the Policy. When asked about the Policy, DHS reported that
21 “[t]he number of illegal crossings between ports of entry of family units dropped by 64 percent.
22 This decrease was attributed to the prosecution of adults amenable to prosecution for illegal entry
23 while risking the lives of their children. Of note, the numbers began rising again after the
24 initiative was paused.” *See* Ex. 6. Notably, public reporting suggests that, based on DHS’ own
25 statistics, these numbers are wrong and that there was, in fact, a 64% *increase* in apprehensions.
26

1 *Id.*; *see also* US Border Patrol Southwest Border Apprehensions by Section FY2017, U.S.
2 Customs and Border Protection *available at* [https://www.cbp.gov/newsroom/stats/usbp-sw-](https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions-fy2017#field-content-tab-group-tab-9)
3 [border-apprehensions-fy2017#field-content-tab-group-tab-9](https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions-fy2017#field-content-tab-group-tab-9), attached hereto as Ex. 46 and US
4 Border Patrol Southwest Border Apprehensions by Section FY2018, U.S. Customs and Border
5 Protection *available at* [https://www.cbp.gov/newsroom/stats/usbp-sw-border-](https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions#field-content-tab-group-tab-1)
6 [apprehensions#field-content-tab-group-tab-1](https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions#field-content-tab-group-tab-1), attached hereto as Ex. 47.
7

8 121. On May 11, 2018, White House Chief of Staff John Kelly was interviewed by
9 National Public Radio. When asked whether he was in favor of the Policy, he acknowledged that
10 “the vast majority of the people that move illegally into United States are not bad people.
11 They’re not criminals. They’re not MS-13. . . . They’re not bad people. They’re coming here
12 for a reason. And I sympathize with the reason. . . . But a big name of the game is deterrence.”
13 *See* White House Chief of Staff John Kelly’s Interview with NPR (May 11, 2018) *available at*
14 [https://www.npr.org/2018/05/11/610116389/transcript-white-house-chief-of-staff-john-kellys-](https://www.npr.org/2018/05/11/610116389/transcript-white-house-chief-of-staff-john-kellys-interview-with-npr)
15 [interview-with-npr](https://www.npr.org/2018/05/11/610116389/transcript-white-house-chief-of-staff-john-kellys-interview-with-npr), transcript attached hereto as Ex. 48. He noted that the Policy “would be a
16 tough deterrent” but that “this is a technique that no one hopes will be used extensively or for
17 very long.” *Id.*
18

19 122. On June 5, 2018, Attorney General Sessions was asked whether it was “absolutely
20 necessary” to “separate parents from children when they are detained or apprehended at the
21 border.” He responded, “yes” and “[i]f people don’t want to be separated from their children,
22 they should not bring them with them. We’ve got to get this message out.” *See* Hugh Hewitt,
23 US Attorney General Jeff Sessions on Children Separated From Parents at Border, F-1 Visas For
24 PRC Students, and Masterpiece Cakeshop Decision (June 5, 2018) *available at*
25
26

1 <http://www.hughhewitt.com/attorney-general-jeff-sessions-on-the-immigration-policies->
2 [concerning-children-apprehended-at-the-border-and-f-1-visas/](http://www.hughhewitt.com/attorney-general-jeff-sessions-on-the-immigration-policies-), transcript attached hereto as Ex.
3 49.

4 123. On June 14, 2018, Attorney General Sessions quoted a Bible verse ostensibly to
5 justify the Policy to leaders of the faith community and added: “Having children does not give
6 you immunity from arrest and prosecution.” See Adam Edelman, *Sessions Cites Bible in Defense*
7 *of Breaking up Families, Blames Migrant Parents* (June 14, 2018) available at
8 <https://www.nbcnews.com/politics/immigration/sessions-cites-bible-defense-breaking->
9 [families-blames-migrant-parents-n883296](https://www.nbcnews.com/politics/immigration/sessions-cites-bible-defense-breaking-), attached hereto as Ex. 50.

10 124. Public statements suggest that the Trump Administration intends to use the
11 Policy as a negotiating tool to force congressional acquiescence to its proposed immigration
12 legislation. For example, President Trump tweeted on May 26, 2018 that Democrats should “end
13 the horrible law that separates children from their [sic] parents once they cross the Border.” The
14 May 26, 2018 tweet is available at
15 <https://twitter.com/realDonaldTrump/status/1000375761604370434>, and attached hereto as Ex.
16 51.

17 125. On May 29, 2018 Senior Advisor to the President Stephen Miller confirmed that
18 families are intentionally being traumatized for political gain: “If we were to have those
19 [Republican sponsored] fixes in federal law, the migrant crisis emanating from Central America
20 would largely be solved in a very short period of time,” and “[f]amilies would then therefore be
21 able to be kept together and could be sent home expeditiously and safely.” See Ted Hesson,
22 *White House’s Miller Blames Democrats for border crisis*, Politico (May 29, 2018) available at
23
24
25
26

1 <https://www.politico.com/story/2018/05/29/stephen-miller-democrats-border-574537>, attached
2 hereto as Ex. 52.

3 126. On June 16, 2018, President Trump confirmed that he is using the Policy to push
4 lawmakers to enact immigration legislation more in line with his own agenda: “Democrats can
5 fix their forced family breakup at the Border by working with Republicans on new legislation.”
6 See Kate Sullivan, *Trump suggests separation of families at border is a negotiating tool* (June
7 16, 2018) available at [https://www.cnn.com/2018/06/16/politics/trump-separation-families-](https://www.cnn.com/2018/06/16/politics/trump-separation-families-negotiating-tool/index.html)
8 [negotiating-tool/index.html](https://www.cnn.com/2018/06/16/politics/trump-separation-families-negotiating-tool/index.html), attached hereto as Ex. 53.

9
10 127. On June 18, 2018, President Trump complained that “[w]e have the worst
11 immigration laws in the entire world. Nobody has such sad, such bad and actually, in many
12 cases, such horrible and tough you see about child separation, you see what’s going on there.”
13 See Ex. 19. He suggested, “[i]f the Democrats would sit down, instead of obstructing, we could
14 have something done very quickly, good for the children, good for the country, good for the
15 world. It could take place quickly.” *Id.* But in the meantime, he stated, “The United States
16 will not be a migrant camp and it will not be a refugee holding facility, it won’t be.” *Id.*

17
18 128. On June 18, 2018, in remarks before the National Sheriffs’ Association, Attorney
19 General Sessions also suggested that if lawmakers would simply acquiesce to President Trump’s
20 demands to fund a wall on the Southwestern border, Defendants would stop separating families:
21 “We do not want to separate parents from their children,” “[i]f we build the wall, if we pass
22 legislation to end the lawlessness, we won’t face these terrible choices.” See Ex. 20.

23
24 129. DHS Secretary Nielsen also linked the Policy with demands the Administration
25 has made on Congress: “We are enforcing the laws passed by Congress, and we are doing all
26

1 that we can in the executive branch to protect our communities. It is now time that Congress act
2 to fix our broken immigration system.” *See* Ex. 21.

3 **H. Defendants’ Family Separation Policy Targets Immigrant Families Based on Their**
4 **National Origin**

5 130. Defendants’ Policy is directed only at “Southwest Border crossings” (*see* Ex. 13),
6 the majority of which consist of immigrants from Latin America. Indeed, in its reports on recent
7 “Southwest Border Apprehensions,” CBP only tracks family unit apprehensions for immigrants
8 from El Salvador, Guatemala, Honduras, and Mexico. *See* U.S. Border Patrol Southwest Border
9 Apprehensions by Sector FY2018, available at [https://www.cbp.gov/newsroom/stats/usbp-sw-](https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions)
10 [border-apprehensions](https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions), attached hereto as Ex. 54. Defendants do not track whether the Policy is
11 impacting family unit migration from any other countries.
12

13 131. Defendants’ stated rationale for adopting the Policy *i.e.*, to deter migration is
14 ineffective and not a legitimate law enforcement tactic. Rather than deter migration, the number
15 of families and unaccompanied children apprehended has steadily increased since Defendants
16 have implemented the Policy. According to Defendants’ own statistics, in March 2018, the
17 number of families apprehended at the Southwestern border was 37,385; in April 2018, 38,278;
18 and in May 2018, 40,344. *See* Ex. 8. The number of family units arriving at ports of entry
19 determined to be inadmissible also stayed relatively stable; in March 2018, the number was
20 5,162, in April, 5,445, and in May 4,718. *Id.*
21

22 132. Defendants also report that U.S. border agents made more than 50,000 arrests in
23 each of the months of March, April and May 2018 “an indication that escalating enforcement
24 tactics by the Trump Administration including separating immigrant parents from their
25 children has not had an immediate deterrent effect.” *See* Nick Miroff, *Border arrests exceed*
26

1 50,000 for third month in a row (June 6, 2018), available at
2 [https://www.washingtonpost.com/world/national-security/border-arrests-exceed-50000-for-](https://www.washingtonpost.com/world/national-security/border-arrests-exceed-50000-for-third-month-in-a-row/2018/06/06/db6f15a6-680b-11e8-bea7-c8eb28bc52b1_story.html?utm_term=.72b8f43a7470)
3 [third-month-in-a-row/2018/06/06/db6f15a6-680b-11e8-bea7-](https://www.washingtonpost.com/world/national-security/border-arrests-exceed-50000-for-third-month-in-a-row/2018/06/06/db6f15a6-680b-11e8-bea7-c8eb28bc52b1_story.html?utm_term=.72b8f43a7470)
4 [c8eb28bc52b1_story.html?utm_term=.72b8f43a7470](https://www.washingtonpost.com/world/national-security/border-arrests-exceed-50000-for-third-month-in-a-row/2018/06/06/db6f15a6-680b-11e8-bea7-c8eb28bc52b1_story.html?utm_term=.72b8f43a7470), attached hereto as Ex. 55.

5
6 133. On May 23, 2018, Steven Wagner, Acting Secretary of the Administration for
7 Children and Families testified before a Senate committee, stating: “In FY 2017, 84 percent of
8 [unaccompanied alien minors] referred to ORR came from Honduras, Guatemala, and
9 El Salvador. To date in FY 2018, 93 percent of referred children come from those countries.” A
10 copy of the Wagner Statement is attached as Ex. 56.

11 134. On April 6, 2018, President Trump signed a memorandum ordering agencies to
12 “expeditiously end” the practice of “catch and release,” a pejorative phrase that refers to the
13 practice of allowing immigrants to be released into the community pending resolution of their
14 immigration cases. *See* Jesse Byrnes, *Trump signs memo ordering end to ‘catch and release’*
15 *practices*, The Hill, available at [http://thehill.com/homenews/administration/382054-trump-](http://thehill.com/homenews/administration/382054-trump-signs-memo-ordering-end-to-catch-and-release-practices)
16 [signs-memo-ordering-end-to-catch-and-release-practices](http://thehill.com/homenews/administration/382054-trump-signs-memo-ordering-end-to-catch-and-release-practices), attached hereto as Ex. 57. For
17 example, the memo orders DHS to submit a report within 45 days “detailing all measures that
18 their respective departments have pursued or are pursuing to expeditiously end ‘catch and
19 release’ practices.” *Id.* It also requests “a detailed list of all existing facilities, including military
20 facilities, that could be used, modified, or repurposed to detain aliens for violations of
21 immigration law” and specifically directs Attorney General Sessions and DHS Secretary
22 Nielsen to identify any resources “that may be needed to expeditiously end ‘catch and release’
23 practices.” *Id.*

1 135. The Policy announced shortly thereafter targets only the immigrants at the
2 Southwestern border, the vast majority of whom are from Latin American countries. *See* Ex. 12.

3 136. In stark contrast to Defendants’ Southwestern border actions, DHS’ updated
4 Northern Border Strategy, announced on June 12, 2018, aims “to facilitate the flow of lawful
5 cross-border trade and travel, and strengthen cross-border community resilience.” Although the
6 Northern Border Strategy is intended, in part, to “safeguard our northern border against terrorist
7 and criminal threats,” the strategy does not demand prosecution and family separation for all
8 unauthorized entrants at the northern border of the United States. *See* Department of Homeland
9 Security Northern Border Strategy *available at*
10 [https://www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-](https://www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-Strategy.pdf)
11 [Strategy.pdf](https://www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-Strategy.pdf), attached hereto as Ex. 58.

12
13
14 137. The Policy is intended to target immigrants by their country of origin and is
15 consistent with the demonstrated anti-Latina/o bias repeatedly shown by President Trump.

16 138. Members of the Trump Administration repeatedly disparaged Latin American
17 countries during the presidential campaign and during the Trump presidency. When Mr. Trump
18 announced his campaign at Trump Tower in June 2015, he announced: “When Mexico sends its
19 people, they’re not sending their best. . . . They’re bringing drugs. They’re bringing crime.
20 They’re rapists.” *See* Z. Byron Wolf, *Trump basically called Mexicans rapists again*, available
21 at <https://www.cnn.com/2018/04/06/politics/trump-mexico-rapists/index.html>, attached hereto
22 as Ex. 59. In that same speech, he first proposed the idea of building a wall along the
23 Southwestern border and “mak[ing] Mexico pay for that wall.”
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1 139. During the first Republican presidential debate, then-candidate Trump again
2 stated his distaste for immigrants from Mexico: “The Mexican government is much smarter,
3 much sharper, much more cunning. And they send the bad ones over because they don’t want
4 to pay for them. They don’t want to take care of them.” See Andrew O’Reilly, *At GOP debate,*
5 *Trump says ‘stupid’ U.S. leaders are being duped by Mexico*, Fox News (Aug. 6, 2015) available
6 at [http://www.foxnews.com/politics/2015/08/06/at-republican-debate-trump-says-mexico-is-](http://www.foxnews.com/politics/2015/08/06/at-republican-debate-trump-says-mexico-is-sending-criminals-because-us.html)
7 [sending-criminals-because-us.html](http://www.foxnews.com/politics/2015/08/06/at-republican-debate-trump-says-mexico-is-sending-criminals-because-us.html), attached hereto as Ex. 60.

9 140. Soon after, on August 25, 2015, then-candidate Trump refused to answer questions
10 about immigration posed by Jorge Ramos, a Mexican-American and the top news anchor at
11 Univision, a Spanish-language news network. After sending his bodyguard to physically remove
12 Mr. Ramos, then-candidate Trump derisively told Mr. Ramos to “Go back to Univision.” See Phillip
13 Rucker, *First, Trump booted Univision anchor Jorge Ramos out of his news conference. Then things*
14 *got interesting*, The Washington Post, (Aug. 25, 2015) available at
15 [https://www.washingtonpost.com/news/post-politics/wp/2015/08/25/first-trump-booted-](https://www.washingtonpost.com/news/post-politics/wp/2015/08/25/first-trump-booted-univision-anchor-jorge-ramos-out-of-his-news-conference-then-things-got-interesting/?utm_term=.33965c195aca)
16 [univision-anchor-jorge-ramos-out-of-his-news-conference-then-things-got-](https://www.washingtonpost.com/news/post-politics/wp/2015/08/25/first-trump-booted-univision-anchor-jorge-ramos-out-of-his-news-conference-then-things-got-interesting/?utm_term=.33965c195aca)
17 [interesting/?utm_term=.33965c195aca](https://www.washingtonpost.com/news/post-politics/wp/2015/08/25/first-trump-booted-univision-anchor-jorge-ramos-out-of-his-news-conference-then-things-got-interesting/?utm_term=.33965c195aca), attached hereto as Ex. 61.

19 141. In May 2016, then-candidate Trump referred to anti-Trump protestors who
20 carried the Mexican flag as “criminals” and “thugs.” Donald Trump, “The protestors in New
21 Mexico were thugs who were flying the Mexican Flag.” The May 25, 2016 tweet is attached
22 hereto as Ex. 62. Donald Trump, “Many of the thugs that attacked peaceful Trump supporters
23 in San Jose were illegals.” The June 4, 2016 tweet is attached hereto as Ex. 63.
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1 142. In June 2016, then-candidate Trump impugned the integrity of a federal judge
2 presiding over a lawsuit against one of his businesses. Trump commented that Judge Gonzalo
3 Curiel’s rulings against him “[H]as to do with perhaps that I’m very, very strong on the border.
4 . . . Now, he is Hispanic, I believe. He is a very hostile judge to me.” See Jose A. DelReal and
5 Katie Zezima, *Trump’s personal, racially tinged attacks on federal judge alarm legal experts*,
6 The Washington Post (June 1, 2016) available at
7 [https://www.washingtonpost.com/politics/2016/06/01/437ccae6-280b-11e6-a3c4-
8 0724e8e24f3f_story.html?utm_term=.c82ec7177a13](https://www.washingtonpost.com/politics/2016/06/01/437ccae6-280b-11e6-a3c4-0724e8e24f3f_story.html?utm_term=.c82ec7177a13), attached hereto as Ex. 64.

9
10 143. U.S. House Speaker Paul Ryan publicly rebuked his own party’s presumptive
11 presidential nominee, stating: “Claiming a person can’t do the job because of their race is sort
12 of like the textbook definition of a racist comment. I think that should be absolutely disavowed.
13 It’s absolutely unacceptable.” See Tom Kertscher, *Donald Trump’s racial comments about
14 Hispanic judge in Trump University case*, Politifact (June 8, 2016) available at
15 [http://www.politifact.com/wisconsin/article/2016/jun/08/donald-trumps-racial-comments-
16 about-judge-trump-un/](http://www.politifact.com/wisconsin/article/2016/jun/08/donald-trumps-racial-comments-about-judge-trump-un/), attached hereto as Ex. 65.

17
18 144. In an interview with CBS News on June 5, 2016, then-candidate Trump reiterated
19 his views, noting that “[Judge Curiel]’s a member of a club or society very strongly, pro-Mexican,
20 which is all fine. But I say he’s got bias.” See CBS News, *Transcript of Face the Nation* (June
21 5, 2016) available at [https://www.cbsnews.com/news/face-the-nation-transcripts-june-5-2016-
22 trump/](https://www.cbsnews.com/news/face-the-nation-transcripts-june-5-2016-trump/), attached hereto as Ex. 66. Judge Curiel is a member of the San Diego Chapter of the La
23 Raza Lawyers Association. See Michelle Ye Hee Lee, *Trump Supporters’ False Claim That
24 Trump U Judge Is a Member of a Pro-immigrant Group*, The Washington Post (June 7, 2016)
25
26

1 available at [https://www.washingtonpost.com/news/fact-checker/wp/2016/06/07/trump-](https://www.washingtonpost.com/news/fact-checker/wp/2016/06/07/trump-supporters-false-claim-that-trump-u-judge-is-a-member-of-a-pro-immigrant-group/?utm_term=.07b5b0148791)
2 [supporters-false-claim-that-trump-u-judge-is-a-member-of-a-pro-immigrant-](https://www.washingtonpost.com/news/fact-checker/wp/2016/06/07/trump-supporters-false-claim-that-trump-u-judge-is-a-member-of-a-pro-immigrant-group/?utm_term=.07b5b0148791)
3 [group/?utm_term=.07b5b0148791](https://www.washingtonpost.com/news/fact-checker/wp/2016/06/07/trump-supporters-false-claim-that-trump-u-judge-is-a-member-of-a-pro-immigrant-group/?utm_term=.07b5b0148791), attached hereto as Ex. 67.

4 145. On August 21, 2015, two men urinated on a sleeping Latino man and then beat him
5 with a metal pole. They later told police that “Donald Trump was right; all these illegals need to
6 be deported.” When asked about the incident, then-candidate Trump failed to condemn the men,
7 instead describing them as “passionate.” See Adrian Walker, *‘Passionate’ Trump fans behind*
8 *homeless man’s beating?* (Aug. 21, 2015) available at
9 [https://www.bostonglobe.com/metro/2015/08/20/after-two-brothers-allegedly-beat-homeless-](https://www.bostonglobe.com/metro/2015/08/20/after-two-brothers-allegedly-beat-homeless-man-one-them-admiringly-quote-donald-trump-deporting-illegals/I4NXR3Dr7litLi2NB4f9TN/story.html)
10 [man-one-them-admiringly-quote-donald-trump-deporting-](https://www.bostonglobe.com/metro/2015/08/20/after-two-brothers-allegedly-beat-homeless-man-one-them-admiringly-quote-donald-trump-deporting-illegals/I4NXR3Dr7litLi2NB4f9TN/story.html)
11 [illegals/I4NXR3Dr7litLi2NB4f9TN/story.html](https://www.bostonglobe.com/metro/2015/08/20/after-two-brothers-allegedly-beat-homeless-man-one-them-admiringly-quote-donald-trump-deporting-illegals/I4NXR3Dr7litLi2NB4f9TN/story.html), attached hereto as Ex. 68. Specifically, Trump
12 stated, “[i]t would be a shame . . . I will say that people who are following me are very passionate.
13 They love this country and they want this country to be great again. They are passionate.” *Id.*

14 146. In October 2016, during a presidential debate, then-candidate Trump responded
15 to a question about immigration by stating: “We have some bad hombres here and we’re going
16 to get them out.” See Katie Zezima, *Trump on immigration: There are ‘bad hombres’ in the*
17 *United States*, *The Washington Post* (Aug. 30, 2017) available at
18 [https://www.washingtonpost.com/news/post-politics/wp/2016/10/19/trump-on-immigration-](https://www.washingtonpost.com/news/post-politics/wp/2016/10/19/trump-on-immigration-there-are-bad-hombres-in-the-united-states/?utm_term=.e24f12fed08a)
19 [there-are-bad-hombres-in-the-united-states/?utm_term=.e24f12fed08a](https://www.washingtonpost.com/news/post-politics/wp/2016/10/19/trump-on-immigration-there-are-bad-hombres-in-the-united-states/?utm_term=.e24f12fed08a), attached hereto as Ex.
20 69.

21 147. On January 27, 2017, newly-inaugurated President Trump and Mexico’s
22 President Peña Nieto discussed President Trump’s proposal for a border wall over the phone.
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1 During that transcribed conversation, President Trump again referred to “hombres” stating:
2 “You have some pretty tough hombres in Mexico that you may need help with, and we are
3 willing to help you with that big-league. But they have to be knocked out and you have not done
4 a good job of knocking them out.” See Greg Miller *et. al.*, *Full Transcripts of Trump’s Calls*
5 *with Mexico and Australia*, The Washington Post (Aug. 3, 2017) available at
6 [https://www.washingtonpost.com/world/national-security/you-cannot-say-that-to-the-press-](https://www.washingtonpost.com/world/national-security/you-cannot-say-that-to-the-press-trump-urged-mexican-president-to-end-his-public-defiance-on-border-wall-transcript-reveals/2017/08/03/0c2c0a4e-7610-11e7-8f39-eeb7d3a2d304_story.html?utm_term=.85f36aa7a876)
7 [trump-urged-mexican-president-to-end-his-public-defiance-on-border-wall-transcript-](https://www.washingtonpost.com/world/national-security/you-cannot-say-that-to-the-press-trump-urged-mexican-president-to-end-his-public-defiance-on-border-wall-transcript-reveals/2017/08/03/0c2c0a4e-7610-11e7-8f39-eeb7d3a2d304_story.html?utm_term=.85f36aa7a876)
8 [reveals/2017/08/03/0c2c0a4e-7610-11e7-8f39-](https://www.washingtonpost.com/world/national-security/you-cannot-say-that-to-the-press-trump-urged-mexican-president-to-end-his-public-defiance-on-border-wall-transcript-reveals/2017/08/03/0c2c0a4e-7610-11e7-8f39-eeb7d3a2d304_story.html?utm_term=.85f36aa7a876)
9 [eeb7d3a2d304_story.html?utm_term=.85f36aa7a876](https://www.washingtonpost.com/world/national-security/you-cannot-say-that-to-the-press-trump-urged-mexican-president-to-end-his-public-defiance-on-border-wall-transcript-reveals/2017/08/03/0c2c0a4e-7610-11e7-8f39-eeb7d3a2d304_story.html?utm_term=.85f36aa7a876), attached hereto as Ex. 70.

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11 148. In August 2017, President Trump pardoned Joe Arpaio, the former Arizona
12 sheriff who oversaw operations that consistently targeted and harassed Latino residents in
13 Maricopa County. After a thorough investigation, the U.S. Department of Justice issued a report
14 in 2011 finding that Mr. Arpaio’s office had committed numerous civil rights violations by, *inter*
15 *alia*, conducting immigration sweeps that routinely violated the Fourth Amendment; detaining
16 Latino residents based on fabricated charges; placing Spanish-speaking inmates in solitary
17 confinement as punishment for not speaking English; refusing to accept requests for basic
18 services written in Spanish; pressuring Latino inmates to sign deportation forms; and referring
19 to Latino inmates as “wetback,” “Mexican bitches,” and “stupid Mexicans.” See Letter/Report,
20 attached hereto as Ex. 71. The report found that Mr. Arpaio’s own actions “promoted a culture
21 of bias in his organization and clearly communicated to his officers that biased policing would
22 not only be tolerated, but encouraged.” *Id.*

1 149. A federal judge ruled twice that Mr. Arpaio’s deputies unlawfully deprived
2 detainees of food and medical care, and tortured inmates by locking them in unbearably hot
3 solitary confinement cells in violation of the Eighth Amendment. *See* Mark Joseph Stern, *White*
4 *Nationalist Rule is Already Here* (Aug. 15, 2017), available at [http://www.slate.com/news-and-](http://www.slate.com/news-and-politics/2018/06/district-court-judge-rules-that-trump-administration-child-separations-would-be-unconstitutional.html)
5 [politics/2018/06/district-court-judge-rules-that-trump-administration-child-separations-would-](http://www.slate.com/news-and-politics/2018/06/district-court-judge-rules-that-trump-administration-child-separations-would-be-unconstitutional.html)
6 [be-unconstitutional.html](http://www.slate.com/news-and-politics/2018/06/district-court-judge-rules-that-trump-administration-child-separations-would-be-unconstitutional.html), attached hereto as Ex. 72. The vast majority of individuals jailed by
7 Mr. Arpaio’s office were Latinos detained on suspicion of being undocumented. *Id.* In issuing
8 the pardon, President Trump stated that Mr. Arpaio “has done a lot in the fight against illegal
9 immigration. He’s a great American patriot and I hate to see what has happened to him.” *Id.*
10

11 150. In February 2018, President Trump referred to nations such as El Salvador as
12 “shithole countries” in a meeting with lawmakers, and suggested that the U.S. preferred to
13 receive immigrants from countries like Norway. *See* David Boddiger, *Trump falsely links*
14 *Central American Immigrants to Drug Trafficking, Again* (Feb. 3, 2018) available at
15 [https://splinternews.com/trump-falsely-links-central-american-immigrants-to-drug-](https://splinternews.com/trump-falsely-links-central-american-immigrants-to-drug-1822692216)
16 [1822692216](https://splinternews.com/trump-falsely-links-central-american-immigrants-to-drug-1822692216), attached hereto as Ex. 73.
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18 151. That same month, President Trump said of undocumented immigrants from
19 Mexico and Central America, “You know they’re bad. They’re pouring in from El Salvador,
20 Honduras, Mexico, all over.” *See* Ex. 73. He added, “These countries are not our friends.” *Id.*
21

22 152. In April 2018, President Trump expressed repeated frustration with immigration
23 numbers at the Southwestern border, and made a number of racially charged comments around
24 the time he issued the memorandum directing DHS Secretary Nielsen and Attorney General
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1 Sessions to end catch-and-release practices. For example, President Trump again insinuated that
2 Mexican immigrants are rapists. *See* Ex. 59.

3 153. President Trump also commented multiple times about a “caravan” of Central
4 American immigrants aiming to reach the Southwestern border, many of whom planned on
5 seeking asylum. He stated that “Mexico has the absolute power to not let these large ‘Caravans’
6 of people enter our country.” *See* Edgard Garrido, *Migrant ‘caravan’ that angers Trump nears*
7 *U.S.-Mexico border*, Reuters (April 23, 2018), available at [https://www.reuters.com/article/us-](https://www.reuters.com/article/us-usa-immigration-caravan/migrant-caravan-that-angers-trump-nears-u-s-mexico-border-idUSKBN1HU2ZB)
8 [usa-immigration-caravan/migrant-caravan-that-angers-trump-nears-u-s-mexico-border-](https://www.reuters.com/article/us-usa-immigration-caravan/migrant-caravan-that-angers-trump-nears-u-s-mexico-border-idUSKBN1HU2ZB)
9 [idUSKBN1HU2ZB](https://www.reuters.com/article/us-usa-immigration-caravan/migrant-caravan-that-angers-trump-nears-u-s-mexico-border-idUSKBN1HU2ZB), attached hereto as Ex. 74. The “caravans” are an apparent reference to a
10 contingent of Latin American immigrants traveling through Mexico. *Id.* President Trump stated:
11 “If it reaches our border, our laws are so weak and so pathetic . . . it’s like we have no border.”
12 *See* Klein, Starr, Shoichet, *Trump: ‘We’re going to be guarding our border with the military’*
13 *until wall complete* (April 3, 2018) available at
14 <https://www.cnn.com/2018/04/03/politics/trump-border-wall-military/index.html>, attached
15 hereto as Ex. 75. He added, “[t]he caravan makes me very sad that this could happen to the
16 United States.” *Id.*

17 154. After expressing frustration regarding the “caravan,” President Trump announced
18 that he planned to dispatch U.S. troops to guard the U.S.-Mexico border because “we have very
19 bad laws for our border” so “we’re going to do some things militarily, until we can have a wall
20 and proper security we’re going to be guarding our border with the military.” *See* Ex. 75.
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1 155. On June 19, 2018, President Trump tweeted that without strong border policies
2 “illegal immigrants” would “pour into and infest our Country.” See
3 <https://twitter.com/realDonaldTrump/status/1009071403918864385>.

4 156. On June 20, 2018, shortly after signing the Executive Order, at a rally in Duluth,
5 Minnesota amid chants of “Build the Wall,” President Trump repeated: “They’re not sending
6 their finest. We’re sending them the hell back. That’s what we’re doing.” See Katie Rogers and
7 Jonathan Martin, *‘We’re Sending them the Hell Back,’ Trump Says of Securing the County’s*
8 *Borders*, The New York Times (June 20, 2018) available at
9 <https://www.nytimes.com/2018/06/20/us/politics/trump-minnesota-rally.html>, attached hereto
10 as Ex. 76.

11
12 **I. The Policy Has Been Widely Denounced by the United Nations, Professional**
13 **Organizations, Public Figures, and Religious Leaders**

14 157. The United Nations High Commissioner for Human Rights has called for an end
15 to the Policy, saying, “The thought that any state would seek to deter parents by inflicting such
16 abuse on children is unconscionable. I call on the United States to immediately end the practice
17 of forcible separation of these children.” See Stephanie Nebehay, *U.N. rights boss calls for an*
18 *end to Trump’s policy of family separation*, (June 18, 2018) available at
19 [https://www.reuters.com/article/us-un-rights/un-rights-boss-calls-for-end-to-trumps-policy-of-](https://www.reuters.com/article/us-un-rights/un-rights-boss-calls-for-end-to-trumps-policy-of-family-separation-idUSKBN1JE0NA)
20 [family-separation-idUSKBN1JE0NA](https://www.reuters.com/article/us-un-rights/un-rights-boss-calls-for-end-to-trumps-policy-of-family-separation-idUSKBN1JE0NA), attached hereto as Ex. 77. A spokesperson for the U.N.
21 also said that the Policy “amounts to arbitrary and unlawful interference in family life, and is a
22 serious violation of the rights of the child.” See Nick Cumming-Bruce, *Taking Migrant Children*
23 *From Parents Is Illegal, U.N. Tells U.S.*, available at
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1 <https://www.nytimes.com/2018/06/05/world/americas/us-un-migrant-children-families.html>,

2 attached hereto as Ex. 78.

3 158. Numerous professional and religious organizations have also denounced the
4 Policy. On June 12, 2018, the American Bar Association (ABA) expressed “strong opposition”
5 to Defendants’ “separation of children from their parents when arriving at the southern border,”
6 calling the practice “unfair, inhumane, and, in the end, ineffective.” *See* ABA letter attached
7 hereto as Ex. 79 (noting “that the primary purpose of the ‘zero tolerance’ Policy is to serve as a
8 deterrent for migrant parents” at the Southwestern border, and “that family separation is not a
9 collateral consequence of regular law enforcement” but “an explicitly intentional goal.”).

10
11 159. The Policy has also been widely condemned by the medical community. For
12 example, the American Association of Pediatrics (AAP) recently denounced Defendants’ Policy,
13 writing: “Separating children from their parents contradicts everything we stand for as
14 pediatricians protecting and promoting children’s health. In fact, highly stressful experiences,
15 like family separation, can cause irreparable harm, disrupting a child’s brain architecture and
16 affecting his or her health. This type of prolonged exposure to serious stress - known as toxic
17 stress - can carry lifelong consequences for children.” *See* AAP Statement Opposing Separation
18 of Mothers and Children at the Border (March 4, 2017), *available at* [https://www.aap.org/en-](https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/immigrantmotherschildreparation.aspx)
19 [us/about-the-aap/aap-press-room/Pages/immigrantmotherschildreparation.aspx](https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/immigrantmotherschildreparation.aspx), attached
20 hereto as Ex. 80; *See also* AAP Statement Opposing Separation of Children and Parents at the
21 Border (May 8, 2018), *available at* [https://www.aap.org/en-us/about-the-aap/aap-press-](https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx)
22 [room/Pages/StatementOpposingSeparationofChildrenandParents.aspx](https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx), attached hereto as Ex.
23 81; The American Academy of Family Physicians also released a statement in opposition, urging
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1 the federal government to “withdraw its policy” and “instead, give priority to supporting families
2 and protecting the health and well-being of the children within those families.” *See* American
3 Academy of Family Physicians Statement Regarding the United States Department of Homeland
4 Security’s Policy to Separate Children from Adult Caregivers available at
5 [https://www.aafp.org/dam/AAFP/documents/advocacy/prevention/equality/ST-](https://www.aafp.org/dam/AAFP/documents/advocacy/prevention/equality/ST-DHSPolicyChild-AdultSeparation-061618.pdf)
6 [DHSPolicyChild-AdultSeparation-061618.pdf](https://www.aafp.org/dam/AAFP/documents/advocacy/prevention/equality/ST-DHSPolicyChild-AdultSeparation-061618.pdf), attached hereto as Ex. 82. Further, the American
7 Medical Association “strongly urge[d]” the Defendants to withdraw the Policy, writing, “It is
8 well known that childhood trauma and adverse childhood experiences created by inhumane
9 treatment often create negative health impacts that can last an individual’s entire lifespan.” *See*
10 *AMA Urges Administration to Withdraw “Zero Tolerance” Policy (June 20, 2018)* available at
11 <https://www.ama-assn.org/ama-urges-administration-withdraw-zero-tolerance-policy>, attached
12 hereto as Ex. 83.
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15 160. On June 13, 2018, Daniel Cardinal DiNardo of the United States Conference of
16 Catholic Bishops (USCCB) “join[ed] Bishop Joe Vásquez, Chairman of USCCB’s Committee
17 on Migration, in condemning the continued use of family separation at the U.S./Mexico border:
18 “Families are the foundational element of our society” and separating parent from child “is not
19 the answer” to “protecting our borders.” *See* *A Statement from Daniel Cardinal DiNardo, United*
20 *States Conference of Catholic Bishops, (June 13, 2018)* available at
21 <http://www.usccb.org/news/2018/18-098.cfm>, attached hereto as Ex. 84.
22

23 161. Likewise, the Southern Baptist Convention recently passed a resolution affirming
24 that immigrants be treated “with the same respect and dignity as those native born,” and
25 emphasizing “maintaining the priority of family unity.” *See* Sasha Ingber, *Faith Leaders Oppose*
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1 *Trump's Immigration Policy of Separating Children From Parents*, available at
2 [https://www.npr.org/2018/06/16/620651574/faith-leaders-oppose-trumps-immigration-policy-](https://www.npr.org/2018/06/16/620651574/faith-leaders-oppose-trumps-immigration-policy-of-separating-children-from-paren)
3 [of-separating-children-from-paren](https://www.npr.org/2018/06/16/620651574/faith-leaders-oppose-trumps-immigration-policy-of-separating-children-from-paren), attached hereto as Ex. 85.

4
5 162. Prominent figures from both political parties have denounced the Policy. For
6 example, on June 17, 2018, former First Lady Laura Bush wrote: “Our government should not
7 be in the business of warehousing children in converted box stores or making plans to place them
8 in tent cities in the desert outside of El Paso. These images are eerily reminiscent of the Japanese
9 American internment camps of World War II, now considered to have been one of the most
10 shameful episodes in U.S. history.” See Laura Bush: *Separating Children from Their Parents at*
11 *the Border Breaks my Heart*, The Washington Post, available at
12 [https://www.washingtonpost.com/opinions/laura-bush-separating-children-from-their-parents-](https://www.washingtonpost.com/opinions/laura-bush-separating-children-from-their-parents-at-the-border-breaks-my-heart/2018/06/17/f2df517a-7287-11e8-9780-b1dd6a09b549_story.html?utm_term=.84b533c697a8)
13 [at-the-border-breaks-my-heart/2018/06/17/f2df517a-7287-11e8-9780-](https://www.washingtonpost.com/opinions/laura-bush-separating-children-from-their-parents-at-the-border-breaks-my-heart/2018/06/17/f2df517a-7287-11e8-9780-b1dd6a09b549_story.html?utm_term=.84b533c697a8)
14 [b1dd6a09b549_story.html?utm_term=.84b533c697a8](https://www.washingtonpost.com/opinions/laura-bush-separating-children-from-their-parents-at-the-border-breaks-my-heart/2018/06/17/f2df517a-7287-11e8-9780-b1dd6a09b549_story.html?utm_term=.84b533c697a8), attached hereto as Ex. 86. Likewise, Jeb
15 Bush, former Florida Governor, recently stated: “Children shouldn’t be used as a negotiating
16 tool.” The June 18, 2018 tweet is attached hereto as Ex. 87.

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18 163. At least one federal court has found that Defendants’ practice of separating
19 immigrant families “arbitrarily tears at the sacred bond between parent and child” and “is brutal,
20 offensive, and fails to comport with traditional notions of fair play and decency.” *Ms. L. v. U.S*
21 *Immigration & Customs Enf’t*, No. 18-cv-0428 DMS, 2018 WL 2725736, at *12 (S.D. Cal.
22 June 6, 2018).

1 **J. Defendants’ Policy Harms the States’ Sovereign Interests**

2 164. Defendants’ Policy and subsequent actions harm the States’ sovereign interests
3 by interfering with their licensing authority and rendering the States unable to honor their own
4 policies favoring family unity.

5
6 165. Even for residential facilities that are federally funded, States have sovereign
7 responsibility for the licensing, inspection, and monitoring of out-of-home care providers (i.e.,
8 providers who care for children away from their parents). The States conduct periodic licensing
9 monitoring visits to these facilities, meeting with the staff and children in their care, to ensure
10 that these facilities meet minimum safety standards, including background check approvals,
11 facility safety standards, and ensuring the facilities provide necessary and appropriate care to the
12 children.

13
14 166. For example, in Washington State, any agency that cares for children on a 24-hour
15 basis away from their parents must be licensed. *See, e.g.* RCW 74.15.020, 74.15.090. Under
16 RCW 74.15.030(7) and .080, the state’s department of social and health services has the
17 authority and duty to access and inspect the facility’s records for the purpose of determining
18 whether or not there is compliance with state licensing requirements. *See also* ch. 388-145 WAC
19 (the licensing requirements for group homes and youth shelters). These licensing requirements
20 apply to all private facilities, even those operated by a private agency contracting with the federal
21 government.

22
23 167. In the Commonwealth of Massachusetts, no “agency or institution of the federal
24 government” may operate a “[foster care] placement agency, group care facility, or temporary
25 shelter facility” for children unless licensed by the Department of Early Education and Care
26

1 (EEC). Mass. Gen. Laws Ch. 15D, § 1A, 6. EEC “may, at any reasonable time, visit and inspect
2 any facility” subject to such licensure. *Id.*, § 9.

3 168. Likewise, New York State has licensing and oversight responsibilities over the
4 facilities where immigrant children who are separated from their parents are placed. Specifically,
5 the Bureau of Child Welfare and Community Services (“CWCS”) of the New York State Office
6 of Children and Family Services (“OCFS”) has regulatory, licensing, inspection and supervisory
7 authority over residential programs that care for foster children. N.Y. Soc. Serv. Law §§ 460-b,
8 460-c, 462-a. OCFS issues operating certificates to non-profit agencies in New York State that
9 provide residential care in a congregate setting to UACs, including the children who have been
10 separated from their parents at the border. OCFS, as the licensing state agency of child residential
11 programs in New York, retains the authority to conduct building, equipment, fire and safety
12 inspections of these facilities. Also, OCFS has the statutory authority to establish regulatory
13 standards for the certification or approval of foster homes, and the authority of an agency to
14 certify or approve foster homes. N.Y. Soc. Serv. Law §§ 378, 460-a, N.Y. Not-for-Profit Corp.
15 Law § 404(b). Provider agencies in New York that contract with ORR place UACs in foster
16 homes that the agency has approved or certified pursuant to this authority from the state.
17

18 169. In the State of North Carolina, “[n]o person shall operate, establish or provide
19 foster care for children or receive and place children in residential care facilities, family foster
20 homes, or adoptive homes without first applying for a licensure to the Department” of Health
21 and Human Services]. N.C. Gen. Stat. § 131D-10.3. In addition to other powers and duties, the
22 North Carolina Department of Health and Human Services also has the authority to “[i]nspect
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1 facilities and obtain records, documents, and other information necessary to determine
2 compliance with” North Carolina law and regulations. *Id.* § 131D-10.6(6).

3 170. Likewise, Delaware licenses, registers, and monitors all residential and
4 nonresidential childcare facilities including . . . child placement and adoption agencies . . .”
5 29 *Del. C.* § 9003 (7). Delaware’s monitoring scheme includes the right of entrance, inspection,
6 and access to the papers of childcare facilities operating within Delaware and entities that operate
7 within Delaware and place children in other states. 31 *Del. C.* §§ 343, 344. In certain
8 circumstances, a violation of Delaware’s childcare licensing requirements may constitute a
9 criminal act. 31 *Del. C.* § 345.

10
11 171. Other States have similar licensing authority and statutory regimes. These
12 provisions are intended to protect children from substandard housing and care, and are essential
13 to the wellbeing of minors placed in facilities located in the States.

14
15 172. The United States’ *Ex Parte* Application for relief from the *Flores* Settlement is
16 a frontal attack on that sovereign interest. That request seeks rescission of *Flores*’s protections
17 and a “determin[ation] that the Agreement’s state licensure requirement does not apply to ICE
18 family residential facilities.” The United States has thus sought to extinguish state licensing
19 powers over federally contracted out-of-home care providers, leaving those facilities wholly
20 unregulated at the local level. The government’s attempt to modify the *Flores* settlement terms
21 by removing States’ licensing authority and jurisdiction interferes with the States’ sovereign
22 powers.

23
24 173. Moreover, each of the States is required to respect family integrity absent a
25 finding that a parent is unfit or unavailable to care for a child. Here, the federal government has
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1 intentionally separated parents from children and is leaving it to the States' court systems to
2 establish alternative guardianships for them, or relying on state-licensed foster care facilities to
3 care for the children, rendering the States unable to enforce the legal mandates and public
4 policies that require keeping families together unless the best interests of the child dictate
5 otherwise.
6

7 174. For example, the **State of Washington** has a longstanding public policy affirming
8 the importance of family integrity and the primacy of the parent-child relationship. Wash. Rev.
9 Code § 13.34.020 “declares that the family unit is a fundamental resource of American life which
10 should be nurtured” and mandates “that the family unit should remain intact unless a child’s right
11 to conditions of basic nurture, health, or safety is jeopardized.” Wash. Rev. Code § 26.09.002
12 likewise “recognizes the fundamental importance of the parent-child relationship to the welfare
13 of the child” and requires “that the relationship between the child and each parent [] be fostered
14 unless inconsistent with the child’s best interests.” Similarly, Washington’s child abuse and
15 neglect law, contained in chapter 26.44 RCW, enshrines the state’s policy that “[t]he bond
16 between a child and his or her parent . . . is of paramount importance[.]” RCW 26.44.010. Under
17 Washington law, the state is justified to intervene in that relationship only when a child is
18 deprived of the right to conditions of minimal nurture, health, and safety.
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21 175. Washington also has recognized that children in government custody have
22 substantive due process rights under the U.S. Constitution. *See Braam v State of Washington*,
23 150 Wn.2d 689, 81 P.3d 851 (2003) (foster children possess substantive due process rights).
24 While these rights are not coextensive with parental rights in every context, Washington
25 recognizes a child’s constitutional rights “to be free from unreasonable risk of harm, including a
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1 risk flowing from the lack of basic services, and a right to reasonable safety.” *Id.* The intentional
2 exposure of a child to an unreasonable risk of harm, including physical or mental injury, violates
3 these rights.

4
5 176. Washington has also declared that practices that discriminate against any of its
6 inhabitants because of race, creed, color, or national origin are matters of public concern that
7 threaten the rights and proper privileges of the State and harm the public welfare, health, and
8 peace of the people. *See* Wash. Rev. Code § 49.60.010.

9
10 177. **The Commonwealth of Massachusetts** has long committed itself to the
11 promotion and safeguarding of the family unit. Massachusetts law, for example, notes that “the
12 family is the best source of child rearing,” 110 C.M.R. 1.02, and holds that “the policy of this
13 commonwealth [is] to direct its efforts, first, to the strengthening and encouragement of family
14 life for the care and protection of children.” Mass. Gen. Laws c. 119, § 1. Normally, therefore,
15 “the interest of the child is best served by a stable, continuous environment with his or her own
16 family.” *Adoption of Frederick*, 405 Mass. 1, 4 (1989). As a result, the Commonwealth allows
17 “state intervention into a family unit [to] be used only when it is clearly needed to protect a
18 child.” 110 C.M.R. 1.02.

19
20 178. The Commonwealth of Massachusetts has also long protected the civil rights and
21 liberties of its residents, outlawing practices that harm or discriminate individuals based on race,
22 color, religious creed, or national origin. *See, e.g.*, Mass. Gen. Laws c. 151B, § 4; c. 151C, § 2;
23 c. 76, § 5; and c. 272, § 98.

24
25 179. **The State of Oregon** has statutorily codified a number of deeply-rooted public
26 concerns that are grossly undermined by defendants’ unlawful actions, thus harming Oregon’s

1 sovereign interests. Oregon recognizes the intrinsic value of family relationships and prioritizes
2 protecting them. For example, Or. Rev. Stat. § 419B.007 states the policy of Oregon is to
3 “preserve family life” by “stabilizing the family.” In addition, Oregon has declared there is a
4 “strong preference” that children live “with their own families.” Or. Rev. Stat. § 419B.090(5).
5 Similarly, custody determinations are based on the best interest of the child, including “[t]he
6 emotional ties between the child and other family members” as well as “[t]he desirability of
7 continuing an existing relationship.” *Id.* Oregon thus places great value on the parent-child
8 relationship, on “interaction, companionship, interplay and mutuality, that fulfilled the child’s
9 psychological needs for a parent” in addition to a child’s physical needs. Or. Rev. Stat. § 109.119
10 (10)(a).
11

12 180. Oregon further recognizes that children are individuals who have legal rights.
13 Among those rights are “freedom from...emotional abuse or exploitation.” Or. Rev. Stat. §
14 419B.090(1). To that end, Oregon has enacted laws and policies to protect children’s rights. For
15 example, “[i]t is the policy of the State of Oregon to safeguard and promote each child’s right to
16 safety, stability and well-being and to safeguard and promote each child’s relationships with
17 parents, siblings, grandparents, other relatives and adults with whom a child develops healthy
18 emotional attachments.” Or. Rev. Stat. § 419B.090(3).
19

20 181. Moreover, Oregon acknowledges the importance of due process rights afforded
21 to parents facing “interference” with their right to “direct the upbringing of their children”
22 because the policy of Oregon is to “guard the liberty interest of parents protected by the
23 Fourteenth Amendment to the United States Constitution and to protect the rights and interests
24 of children.” Or. Rev. Stat. § 419B.090(4). Oregon requires appointment of legal counsel for
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1 parents whenever due process so requires, and courts must consider “[t]he duration of and degree
2 of invasiveness of the interference with the parent-child relationship” that could result from legal
3 proceedings as well as the “effects” the proceedings may have on later proceedings or events
4 that may interfere with the parent-child relationship. Or. Rev. Stat. § 419B.205(1). Pursuant to
5 Or. Rev. Stat. § 419B.165, a child taken into custody must be released to a parent unless a court
6 order prevents it or there is probable cause to believe the child may be endangered by immediate
7 release.
8

9 182. When parents and children are separated, Oregon prioritizes a child’s existing
10 relationships in considering placement alternatives. For example, “there shall be a preference
11 given to placement of the child or ward with relatives and persons who have a caregiver
12 relationship with the child.” Or. Rev. Stat. § 419B.192(1). Oregon law also recognizes the value
13 of sibling relationships and requires state social agencies to make “diligent efforts” to keep
14 siblings together when they have been separated from their parents. Or. Rev. Stat. §
15 419B.192(2).
16

17 183. Children separated from families in Oregon are entitled to participate in age and
18 developmentally appropriate activities. Specifically, this includes activities that are reflective
19 of and promote “development of cognitive, emotional, physical and behavioral capacities that
20 are typical for an age or age group.” Or. Rev. Stat. § 419B.194(a)(A). Moreover, Oregon
21 requires appropriate activities for a specific child separated from family “based on the
22 developmental stages attained by the child.” Or. Rev. Stat. § 419B.194(a)(B). In making these
23 determinations, the “reasonable and prudent parent standard” applies. Or. Rev. Stat. §
24 419B.194(b). The standard is characterized by “careful and sensible parental decisions that
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1 maintain the health, safety and best interests of a child or ward while encouraging the emotional
2 and developmental growth of the child or ward...” *Id.*

3 184. Oregon has also codified anti-discrimination policies that protect all Oregon
4 residents from disparate treatment based on race, color, religion, sex, sexual orientation, national
5 origin, marital status or age. Or. Rev. Stat. § 659A.403(1). Further, it is unlawful for any person
6 to deny another full and equal accommodations, advantages, facilities, and privileges of any
7 place of public accommodation. Or. Rev. Stat. § 659A.403(3).

9 185. The **State of California** similarly has a long history of preserving the integrity of
10 the family unit and the parent-child relationship. For example, California Welfare and
11 Institutions Code section 11205 declares “the family unit is of fundamental importance to society
12 in nurturing its members,” and states “[e]ach family has the right and responsibility to provide
13 sufficient support and protection of its children.” California’s policy to “preserve and strengthen
14 a child’s family ties whenever possible” and to remove a child from the custody of his or her
15 parents “only when necessary for his or her welfare or for the safety and protection of the public”
16 is delineated in California Welfare and Institution Code section 201, subdivision (a), and section
17 16000, subdivision (a).

19 186. California’s interests in protecting the physical, emotional and psychological
20 health of minors and in preserving and fostering the parent-child relationship “are extremely
21 important interests that rise to the level of ‘compelling interests’ for purposes of constitutional
22 analysis.” *American Academy of Pediatrics v. Lungren*, 16 Cal. 4th 307, 348 (1997).

1 187. It is California policy that social services programs must prevent or reduce
2 inappropriate institutional care by providing community-based care, home-based care, or other
3 forms of less intensive care. Cal. Welf. & Inst. Code § 13003(4).

4 188. In California, per statute, any out-of-home placement of children must be in the
5 “least restrictive family setting,” and should promote “normal childhood experiences that [are]
6 suited to meet the child's or youth's individual needs.” Cal. Welf. & Inst. Code § 16000(a).

7 189. California also has robust constitutional and statutory protections against
8 discrimination. For example, the California Constitution protects against discrimination on the
9 basis of race, creed, color or national or ethnic origin. Cal. Const. art. I, § 8. California law also
10 protects against discrimination on the basis of ancestry, citizenship, primary language, and
11 immigration status. Cal. Civ. Code § 51. California is also committed to developing strategic
12 policies and plans regarding health issues affecting immigrants and refugees. Cal. Health & Saf.
13 Code § 131019.5.

14 190. **The State of New Mexico’s** laws embody a public policy dedicated to the
15 preservation of the family unit. NMSA 1978, Sec. 32A-1-3 (2009). To “the maximum extent
16 possible, children in New Mexico shall be reared as members of a family unit.” *Id.* See also
17 NMSA 1978, Section 40-15-3 (2005) (“It is the policy of the state that its laws and programs
18 shall: support intact, functional families and promote each family's ability and responsibility to
19 raise its children; strengthen families in crisis and at risk of losing their children, so that children
20 can remain safely in their own homes when their homes are safe environments and in their
21 communities...help halt the breakup of the nuclear family[.]”). Further, New Mexico’s Family
22 Preservation Act clearly indicates the purpose of the Act is to “confirm the state’s policy of
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1 support for the family” as a “institution” and that the Act is “intended to serve as a benchmark
2 against which other legislation may be measured to assess whether it furthers the goals of
3 preserving and enhancing families in New Mexico.” NMSA 1978, Section 40-15-2 (2005). New
4 Mexico case law affirms there is a clearly established right to familial integrity embodied in the
5 Fourteenth Amendment. *Oldfield v. Benavidez*, 1994-NMSC-006, ¶ 14, 116 N.M. 785.

7 191. The New Mexico Children’s Code also ensures that New Mexican parents have
8 substantial due process protections prior to losing the right to care of and custody of their own
9 children. *See* NMSA 1978, Section 32A-4-28. The sole fact that a parent is incarcerated is not
10 a basis for terminating parental rights. *Id.* A parent's fundamental liberty interest in the care,
11 custody, and management of their children is well established. *See State ex rel. Children, Youth*
12 *& Families Dep't v. Mafin M.*, 2003 NMSC 015, ¶ 18, 133 N.M. 827, 70 P.3d 1266; *State ex*
13 *rel. Children, Youth & Families Dep't v. Joe R.*, 1997 NMSC 038, ¶ 29, 123 N.M. 711, 945
14 P.2d 76. “[T]he parent-child relationship is one of basic importance in our society ... sheltered
15 by the Fourteenth Amendment against the State's unwarranted usurpation, disregard, or
16 disrespect.” *State ex rel. Children, Youth & Families Dep't v. Anne McD.*, 2000 NMCA 020, ¶
17 22, 128 N.M. 618, 995 P.2d 1060 (alteration in original) (internal quotation marks and citation
18 omitted). Thus, we have recognized that process is due when a proceeding affects or interferes
19 with the parent-child relationship. *State ex rel. Children, Youth & Families Dep't v. Stella P.*,
20 1999 NMCA 100, ¶ 14, 127 N.M. 699, 986 P.2d 495; *State ex rel. Children, Youth & Families*
21 *Dep't v. Rosa R.*, 1999 NMCA 141, ¶ 13, 128 N.M. 304, 992 P.2d 317 (recognizing that
22 constitutionally adequate procedures must be in place before the State can investigate or
23 terminate the parent-child relationship).
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1 192. New Mexico custody determinations are also driven by the best interests of the
2 child. *See Schuermann v. Schuermann*, 1980-NMSC-027, ¶ 6, 94 N.M. 81 (“In any proceeding
3 involving custody, the courts' primary concern and consideration must be for the child's best
4 interests.”) (citing NMSA 1978, Section 40-4-9(A) (1977)). “In any case in which a judgment
5 or decree will be entered awarding the custody of a minor, the district court shall, if the minor is
6 under the age of fourteen, determine custody in accordance with the best interests of the child.”
7
8 *Id.*

9 193. The laws of the State of New Mexico dictate that the best interests of a child, if
10 not properly within the custody of their parents, then lies in the custody of other family members.
11 This policy is not only rooted in the best interests of children generally, but is designed to protect
12 both family unity as well as unique cultural heritage. Under the State’s Kinship Guardianship
13 Act, family members have a protected interest in raising a child when neither parent is available.
14 NMSA 1978, Section 40-10B-2 (2001). Where the United States’ policy of family separation
15 does not provide a meaningful opportunity for children who are separated from their parents to
16 unite with other members of their family, it is direct contravention of the laws of this state and
17 the policy principles that underlying those laws. Further, because “a kinship guardian possesses
18 the same legal rights and responsibilities of a biological parent,” members of separated children’s
19 families should be afforded the opportunity to seek custody of their relatives. *State ex rel.*
20 *Children, Youth & Families Dep’t v. Djamila B.*, 2015-NMSC-003. To reiterate, any policy or
21 practice of the federal government that would serve to deny or otherwise disrupt any family
22 member’s ability to take custody of their child relative is an affront to the laws of a sovereign
23 state and the views of the people therein.
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1 194. New Mexico’s Children’s Code is structured to promote child safety, recognize
2 cultural diversity, and to ensure that civil and criminal justice systems are coordinated. NMSA
3 1978, Section 32A-1-3 (2009). All children are to be provided services sensitive to their cultural
4 needs. *Id.*; *see also* NMSA 1978, Section 32A-18-1 (2009) (requiring cross-cultural training
5 for all caregivers and service-providers under the children’s code). Families seeking asylum do
6 not face allegations of abuse, neglect, or a crime that allows children to be removed from the
7 custody of their parents under New Mexico law. In New Mexico, the mental and physical
8 wellbeing of children is paramount. NMSA 1978, Section 32A-1-3(A)(2009). Children removed
9 from the home in New Mexico because of a parent’s criminal behavior are afforded due process
10 and representation of counsel in every proceeding other than probation. *State v. Doe*, 1977-
11 NMCA-234, 91 N.M. 232, 572 P.2d 960, cert. denied 91 N.M. 249, 572 P.2d 1257 (1978). *See*
12 *also* NMSA 1978, § 32A-1-7. *State ex rel. Children, Youth & Families Dept. v. Lilli L.*, 1996-
13 NMCA-014, ¶ 14, 121 N.M. 376. “[F]ailure to appoint either counsel or a guardian ad litem to
14 protect the interests of a minor may constitute a denial of due process, thereby invalidating such
15 proceedings.”
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18 195. The **State of New Jersey** has a longstanding public policy confirming the
19 importance of family integrity and the primacy of the parent-child relationship. New Jersey law
20 declares that “the preservation and strengthening of family life is a matter of public concern as
21 being in the interest of the general welfare.” N.J. Stat. Ann. § 30:4C-1(a). It also includes a
22 mandate “to make reasonable efforts ... to preserve the family in order to prevent the need for
23 removing the child” from his or her parents, and to return the child safely to his or her parents if
24 possible. N.J. Stat. Ann. § 30:4C-11.1. In determining whether removal of a child is required,
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1 “the health and safety of the child shall be of paramount concern to the court.” N.J. Stat. Ann.
2 § 30:4C-11.2. Moreover, any proceeding which may result in even a temporary loss of custody
3 of a child implicates a parent’s state constitutional right to appointed counsel. *In re*
4 *Guardianship of Dotson*, 72 N.J. 112, 123 (1976).

5
6 196. New Jersey has also long protected the civil rights and civil liberties of its
7 residents, including by prohibiting discrimination on the basis of race, creed, color, or national
8 origin. *See, e.g.*, N.J. Stat. Ann. § 10:5-12.

9 197. The **State of Rhode Island** has a longstanding public policy affirming the
10 importance of family integrity and the primacy of the parent-child relationship. For example,
11 R.I. Gen. Law § 42-72-2 (1979) declares that “the state has a basic obligation to promote,
12 safeguard and protect the social well-being and development of the children of the state through
13 a comprehensive program providing for” such items as “the strengthening of the family unit”
14 and “making the home safe for children by enhancing the parental capacity for good child care
15 and services to children and their families to prevent the unnecessary removal of children from
16 their homes”. *See* R.I. Gen. Laws § 42-72-2 (1979).

17
18 198. Rhode Island has declared that practices that discriminate against any of its
19 persons within the state on the basis of race, color, religion, sex, disability, age, or country of
20 ancestral origin are matters of public concern that threaten the rights and proper privileges of the
21 State and harm the public welfare, health, and peace of the people. *See*. R.I. Gen. Laws § 42-
22 112-1 (1990).

23
24 199. The **State of Vermont** has a fundamental, sovereign interest in the welfare of
25 children and families. Vermont has the authority and obligation to intervene where children are
26

1 “without proper parental care or subsistence, education, medical, or other care necessary for
2 [their] well-being.” 33 V.S.A. § 5102(3)(B). That duty includes bearing “such expenses for the
3 proper care, maintenance, and education of a child, including the expenses of medical, surgical,
4 or psychiatric examination or treatment” as deemed necessary in connection with juvenile care
5 proceedings. 33 V.S.A. § 5116(a). Vermont authorities owe a corollary duty “to preserve the
6 family and to separate a child from his or her parents only when necessary to protect the child
7 from serious harm or in the interests of public safety.” 33 V.S.A. § 5101(a)(3).

9 200. Where children require foster care, Vermont strives to ensure their placement in
10 a healthy, loving environment through strict licensing requirements. *See* 33 V.S.A. § 4905; Vt.
11 Admin. Code § 12-3-501. The Vermont Department of Children and Families closely regulates
12 not only the child’s physical environment but also the individuals who may be entrusted to care
13 for the child. *See* Vt. Admin. Code §§ 12-3-501:20; 12-3-501:40.

15 201. Vermont has long protected its residents from discrimination on the basis of race,
16 color, and national origin irrespective of their citizenship status. *See, e.g.*, 9 V.S.A. §§ 4502-
17 4503 (public accommodations and housing); 21 V.S.A. § 495 (employment); and 13 V.S.A. §
18 1455 (bias-motivated crimes). Vermont continues to reaffirm this commitment through
19 legislation. *See, e.g.*, Vermont Act. 5 (S. 79) (March 28, 2017) (“In Vermont, we celebrate the
20 rich cultural heritage and diversity of our residents. . . . All Vermont residents should be free
21 from discrimination on the basis of their sex, sexual orientation, gender identity, marital status,
22 race, color, religion, national origin, immigration status, age, or disability.”).

24 202. The **State of Minnesota**’s public policy also affirms the importance of family
25 integrity. For example, Minnesota Statutes section 252.32 declares that it is the State’s policy
26

1 “that all children are entitled to live in families that offer safe, nurturing, permanent relationships,
2 and that public services be directed toward preventing the unnecessary separation of children
3 from their families.” Minn. Stat. § 252.32, subd. 1. In addition, Minnesota Statutes section
4 260C.001 recognizes the importance of “preserv[ing] and strengthen[ing] the child’s family ties
5 whenever possible and in the child’s best interests” Minn. Stat. § 260C.001, subd. 1(b)(3).
6

7 203. Minnesota has also declared that the State’s public policy is that persons be free
8 from discrimination in employment, housing and real property, public accommodations, public
9 services, and education on the basis of, among other things, race, color, creed, or national origin.
10 Minn. Stat. § 363A.02, subd. 1(a). “Such discrimination threatens the rights and privileges of
11 the inhabitants of this state and menaces the institutions and foundations of democracy.” *Id.*
12 subd. 1(b).
13

14 204. The **State of Iowa** has a longstanding policy that favors the protection of the
15 family unit. The State of Iowa only separates parents and children in the most exceptional of
16 circumstances because when we do so we “inflict[] a unique deprivation of a constitutionally
17 protected liberty interest[.]” *In re M.S.*, 889 N.W.2d 675, 677-78 (Iowa Ct. App. 2016). “An
18 innocent man can be set free. The landowner can be justly compensated. The childless parent
19 has no recourse.” *Id.* To that end, Iowa’s child welfare system strives to ensure that every child
20 receives the care, guidance, and control she needs in her own home, with her own parents,
21 whenever possible. Iowa Code § 232.1. “[T]he custody, care, and nurture of the child reside
22 first in the parents” and it is presumed to be in a child’s best interest to remain in parental custody.
23 *In re M.S.*, 889 N.W.2d 675, 677-78 (Iowa Ct. App. 2016); *In re N.M.*, 528 N.W.2d 94, 96 (Iowa
24 1995). Under Iowa law, a family cannot be broken up simply upon proof that a parent has
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1 “engaged in immoral or illegal conduct[.]” *In re M.S.*, 889 N.W.2d 675, 677-78 (Iowa Ct. App.
2 2016). “Indeed, due process would be violated if the State ‘attempt[ed] to force the breakup of
3 a natural family, over the objections of the parents and their children, without some showing of
4 unfitness’” as a parent. *Id.*

5
6 205. The State of Iowa prohibits discrimination based on race, creed, color, national
7 origin, or religion. *See* Iowa Code chapter 216.

8 206. The **State of Illinois** has a longstanding policy recognizing the importance of
9 maintaining the family relationship.

10 207. The Illinois Juvenile Court Act of 1987, for example, declares that the State
11 should “secure for each minor subject hereto such care and guidance, preferably in his or her
12 own home, as will serve the safety and moral, emotional, mental, and physical welfare of the
13 minor and the best interests of the community; [and] preserve and strengthen the minor’s family
14 ties whenever possible, removing him or her from the custody of his or her parents only when
15 his or her safety or welfare or the protection of the public cannot be adequately safeguarded
16 without removal.” 705 ILCS 405/1-2.

17
18 208. The Illinois Abused and Neglected Child Reporting Act likewise instructs the
19 Department of Children and Family Services to “protect the health, safety, and best interests of
20 the child in all situations in which the child is vulnerable to child abuse or neglect, offer
21 protective services in order to prevent any further harm to the child and to other children in the
22 same environment or family, stabilize the home environment, and preserve family life whenever
23 possible.” 325 ILCS 5/2(a).
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1 209. In addition, the State of Illinois has a longstanding policy affirming the
2 importance of assisting the state’s immigrant population.

3 210. The Illinois Attorney General Act declares that “[i]t is imperative that State
4 government is aware of the needs of the State’s immigrant community and sensitive to the
5 barriers that may prevent them from seeking and obtaining services.” 15 ILCS 205/6.6(a). The
6 Act further directs the Office of the Illinois Attorney General to “assist immigrants by increasing
7 accessibility to the Office and providing outreach services to the community, which will serve
8 to educate immigrants as to their rights and responsibilities as residents of the State.” *Id.*

9 211. **New York State** has a strong interest in family unity. It is the long-established
10 policy and practice of the State to prioritize keeping a child with his or her parent or parents.
11 OCFS operates under the principal that families staying together is the most desired outcome for
12 children. Children are some of the most vulnerable residents in New York State and they best
13 develop their unique potential in a caring and healthy family environment with their birth parents
14 or other relatives. The State’s first obligation is to help the family with services to prevent its
15 break-up, or to quickly reunite the family if the child has already been separated from his parents.
16 That is because the child’s need for a normal family life will usually best be met with his or her
17 birth parent, and parents are entitled to bring up their own children unless the best interests of
18 the child would thereby be endangered. N.Y. Soc. Serv. Law § 384-b(1); N.Y. Exec. Law § 990.

19 212. New York State has a strong interest in promulgating and operating under non-
20 discriminatory policies. In fact, the legislature has declared that non-discrimination is a guiding
21 principal of policy in New York State. New York’s legislature has found that “the state has the
22 responsibility to act to assure that every individual within this state is afforded an equal
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1 opportunity to enjoy a full and productive life and that the failure to provide such equal
2 opportunity, whether because of discrimination, prejudice, intolerance or inadequate education,
3 training, housing or health care not only threatens the rights and proper privileges of its
4 inhabitants but menaces the institutions and foundation of a free democratic state and threatens
5 the peace, order, health, safety and general welfare of the state and its inhabitants.” N.Y. Exec.
6 Law § 290. Thus, it is unlawful to discriminate against any person in New York State on the
7 basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability,
8 predisposing genetic characteristics, familial status, marital status, domestic violence victim
9 status, gender identity, transgender status, and gender dysphoria. N.Y. Exec. Law § 296; 9 N.Y.
10 Comp. Codes R. & Regs. Tit. 9 § 466.13(c)(2)-(3).
11

12
13 213. This principal of non-discrimination is also applied at the agency level. For
14 example, OCFS promulgates regulatory standards that expressly prohibit discrimination or
15 harassment of adults or children involved in child welfare programs and services based on race,
16 creed, color, national origin, age, sex, religion, sexual orientation, gender identity or expression,
17 marital status or disability. N.Y. Comp. Codes R. & Regs. Tit. 10 §§ 421.6, 423.4, 441.24
18

19 214. The **State of Maryland** has longstanding policies affirming the importance of
20 family integrity and of protecting the wellbeing of children to the greatest extent
21 possible. Maryland’s Legislature has declared that “it is the policy of this State to promote
22 family stability, [and] to preserve family unity[.]” Md. Code Ann., Fam. Law § 4-
23 401(1). Maryland’s statute governing custody proceedings for children in need of assistance is
24 intended to “conserve and strengthen the child’s family ties and to separate a child from the
25 child’s parents only when necessary for the child’s welfare,” and to “provide for the care,
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1 protection, safety, and mental and physical development of” children. Md. Code Ann., Cts. &
2 Jud. Proc. § 3-802(a)(3), (1). And under state law, various social programs must be administered
3 to “preserve family unity” or “preserv[e] family integrity.” Md. Code Ann., Health-Gen. § 7-
4 702(b); Code of Md. Regs. 07.02.01.01; Code of Md. Regs. 11.02.13.01.

5
6 215. Maryland also has a public policy prohibiting discrimination against any of its
7 inhabitants because of their race, age, color, creed, or national origin, and has enacted anti-
8 discrimination laws in a wide array of contexts, ranging from public accommodations, *see* Md.
9 Code Ann., State Gov’t §§ 20-304, to employment, *id.* § 20-602, to residential housing, *id.* § 20-
10 702. Maryland law also prohibits any person from retaliating against any person because he or
11 she has exercised or enjoyed the rights granted or protected by Maryland’s anti-discrimination
12 laws, *id.* § 20-708(2).

13
14 216. It is the policy of the State of Maryland, “in the exercise of its police power for
15 the protection of the public safety, public health, and general welfare, for the maintenance of
16 business and good government, and for the promotion of the State’s trade, commerce, and
17 manufacturers,” to “assure all people equal opportunity in receiving employment” regardless of
18 race, color, religion, age, ancestry, or national origin. Md. Code Ann., State Gov’t § 20-602.

19
20 217. The **Commonwealth of Pennsylvania** has a longstanding public policy
21 recognizing the significance of family integrity and the parent-child relationship. For example,
22 Pennsylvania law declares that “[t]he family is the basic institution in society in which our
23 children’s sense of self-esteem and positive self-image are developed and nurtured” and that
24 “[t]hese feelings and values are essential to a healthy, productive and independent life during
25 adulthood.” 62 P.S. § 2172(a)(1). Similarly, Pennsylvania’s Domestic Relations Act states that
26

1 “[t]he family is the basic unit in society and the protection and preservation of the family is of
2 paramount public concern.” 23 Pa.C.S. § 3102(a).

3 218. Pennsylvania law further recognizes that children who are separated from their
4 parents are deprived “of the unique bond which exists in the parent-child relationship, leaving
5 emotional scars on such children which may never fully heal” because “children are better off
6 emotionally when their needs can be met by their biological parents.” 62 P.S. § 2172(a). This
7 reality is recognized throughout Pennsylvania law. For instance, the Commonwealth’s Juvenile
8 Act seeks to “preserve the unity of the family whenever possible” and to separate “the child
9 from parents only when necessary for his welfare, safety or health or in the interests of public
10 safety.” 42 Pa.C.S. § 6301(b).

11
12 219. To separate a child from her family is among the most intrusive acts that the
13 government can initiate. North Carolina has long committed itself to separating families only as
14 a last resort, and only after exhausting other options, and taking all appropriate measures to
15 ensure the safety of children. In North Carolina, protection of the family unit is guaranteed not
16 only by the U.S. Constitution but also by North Carolina law. *Adams v. Tessner*, 354 N.C. 57,
17 60 (N.C. 2001). As a result, taking a child away from its parent requires “a showing that the
18 parent is unfit to have custody.” *Id.* at 62.

19
20 220. Parents of children in North Carolina have due process rights that require
21 “reasonable efforts [to be] made to prevent or eliminate the need for removal of the child” from
22 her parents, but only to allow removal when “necessary to protect the safety and health of the
23 child.” *In re Dula*, 143 N.C. App. 16, 17 (N.C. Ct. App. 2001). A parent’s “right to retain
24 custody of their child and to determine the care and supervision suitable for their child is a
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1 fundamental liberty interest which warrants due process protection.” *In re Montgomery*, 311
2 N.C. 101, 106 (N.C. 1984).

3 221. The people of North Carolina, in their Declaration of Rights, have stated that
4 “[n]o person . . . shall be subjected to discrimination by the State because of race, color, religion,
5 or national origin.” N.C. Const. Art. I, § 19. The State of North Carolina reiterates this
6 commitment in numerous statutes that make it unlawful to discriminate on the basis of, *inter*
7 *alia*, race, color, religion, or national origin. *See, e.g.*, N.C. Gen. Stat. §§ 75B-2, 41A-4, 95-151,
8 126-16, 143-422.2.

9
10 222. In the **State of Delaware**, “parents have the primary responsibility for meeting
11 the needs of their children and the State has an obligation to help them discharge this
12 responsibility . . .” 29 *Del. C.* § 9001. Delaware law explicitly declares that “the State has a
13 basic obligation to promote family stability and preserve the family as a unit...” *Id.* Delaware
14 law also recognizes that preservation of the family as a unit is “fundamental to the maintenance
15 of a stable, democratic society.” 10 *Del. C.* § 902(a). To that end, the state has directed its
16 courts, when possible consistent with the safety of family members, to ensure that homes
17 “remain unbroken.” *Id.* The express statutory child welfare policy of the State is to “serve to
18 advance the interests and secure the safety of the child, while preserving the family unit
19 whenever the safety of the child is not jeopardized.” 16 *Del. C.* § 901.

20
21 223. The State of Delaware has comprehensively prohibited discrimination based on
22 race and national origin in its laws, including the areas of public accommodations (6 *Del. C.* §
23 4501, housing (6 *Del. C.* § 4601), and employment (19 *Del. C.* § 711). While children forcibly
24 separated from their parents pursuant to the Trump Administration’s policy are not presently
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1 located within any facility within the State of Delaware, a business entity that has facilitated such
2 placements has a business location within the State of Delaware. Upon information and belief,
3 this entity has assisted in placing children forcibly separated from their parents in other co-
4 plaintiff States. Should separated children ultimately be placed within Delaware, its education
5 and child welfare systems may be saddled with unanticipated fiscal and operational burdens due
6 to the need to provide care for children who have been psychologically traumatized by
7 involuntary separation from their parents. In order to ensure a complete injunction, to eliminate
8 the chilling effect on the exercise of the fundamental rights of documented and undocumented
9 immigrants presently residing in the State of Delaware, to protect the sovereignty of the State of
10 Delaware by protecting its obligation to assist parents in meeting the needs of children, and to
11 maintain the appropriate licensure and supervision of childcare facilities within the State,
12 Delaware joins this action.
13
14

15 224. The **District of Columbia** is uniquely situated among the Plaintiff States, as it
16 has no sovereign interest to claim as against the Federal Government. *See* Const. art. I, § 8, cl.
17 17; *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 76 (1982); *District of*
18 *Columbia ex rel. Am. Combustion, Inc. v. Transamerica Ins. Co.*, 797 F.2d 1041, 1046 (D.C.
19 Cir. 1986) (Congress acts “as sovereign of the District of Columbia”). Rather, the District asserts
20 its quasi-sovereign interests and its authority to enforce its laws and uphold the public interest
21 under its Attorney General Act, which was intended to incorporate the common law authority of
22 states’ attorneys general. D.C. Code. § 1-301.81. *See also Alfred L. Snapp & Son, Inc. v. Puerto*
23 *Rico ex rel. Barez*, 458 U.S. 592, 608 n.15 (1982) (recognizing that Puerto Rico “has a claim to
24 represent its quasi-sovereign interests in federal court at least as strong as that of any State”).
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K. Defendants' Policy Harms the States' Proprietary Interests

225. The Policy also harms the States' proprietary interests. ORR places thousands of unaccompanied minors with sponsors (adults who can care for the child during the pendency of immigration proceedings) in the States every year. In FY 2016, ORR placed 52,147 individual children in such placements nationwide. In FY 2017, there were 42,497 placements, and so far there have been almost 20,000 in FY 2018 (October-April). *See Unaccompanied Alien Children Released to Sponsors by State (June 30, 2017) available at <https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state>*, attached hereto as Ex 88. These ORR data are inclusive of children who were separated as a result of the Policy.

226. The States are receiving and will continue to receive an increasing number of separated immigrant parents and children if Defendants are allowed to continue implementing their Policy. The federal government's separation of these families and transfer of separated persons into the States places increased burdens on state resources, particularly because of the acute trauma that children and parents have experienced due to Defendants' unlawful policy. Children who have been separated from their parents and are awaiting immigration proceedings (for example the adjudication of an asylum application or adjustment of status) are entitled to access a variety of state-funded programs. Providing the necessary services to address the legal, educational, physical, and psychological needs of parents and children who have been separated will burden the state systems. The following are non-exclusive examples of state systems that are impacted.

1 227. **Courts.** Many of the sponsors of these children will need to obtain guardianship
2 through the States' juvenile and family courts. This is not discretionary: ORR's agreement with
3 sponsors requires "best efforts" to establish such guardianships, and sponsors in many states
4 would be unable to access medical and educational records and make important decisions for the
5 children in their care without such court-ordered guardianships. *See* Sponsor Care Agreement
6 *available* *at*
7 https://www.acf.hhs.gov/sites/default/files/orr/frp_4_sponsor_care_agreement_05_14_18.pdf,
8 and attached hereto as Ex. 89.
9

10 228. Children who have been separated from their parents will also access the State
11 courts to obtain orders necessary for their immigration proceedings. For example, some such
12 children are eligible for Special Immigrant Juvenile Status (SIJS), pursuant to federal law. *See*
13 Immigration and Nationality Act (INA) §203(b)(4); INA §101(a)(27)(j); Trafficking Victims
14 Protection Reauthorization Act of 2008 (TVPRA), P.L. 110-457 §235. In these proceedings, the
15 federal immigration system relies on the expertise of state courts in making determinations
16 regarding a child's welfare, requiring SIJS-eligible children to seek SIJS predicate findings from
17 a state's juvenile court.
18

19 229. **Education.** Public elementary and secondary schools have a constitutional
20 obligation to educate students irrespective of immigration status. *See Plyler v. Doe*, 457 U.S.
21 202 (1982), and various statutory obligations to provide particularized services to high needs
22 students, such as through the Individuals with Disabilities Education Act (IDEA). Children
23 separated from their parents and placed with sponsors will attend the States' public schools and
24 receive a variety of educational services, including special education, ESL programs, mental
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1 health services, and other programs delivered within the school district. Such programs are
2 funded in large part through local levy funds and state dollars. Indeed, state funding for general
3 education delivered in public schools is calculated in part on a per-student basis.

4
5 230. The trauma of forcible separation from a parent renders public schooling more
6 difficult and expensive for the States to provide. Research shows that the experience of trauma
7 may severely undercut a child's ability to learn and function in the classroom. *See* Helping
8 Traumatized Children Learn, available at [https://traumasensitiveschools.org/wp-](https://traumasensitiveschools.org/wp-content/uploads/2013/06/Helping-Traumatized-Children-Learn.pdf)
9 [content/uploads/2013/06/Helping-Traumatized-Children-Learn.pdf](https://traumasensitiveschools.org/wp-content/uploads/2013/06/Helping-Traumatized-Children-Learn.pdf), attached hereto as Ex. 90.
10 Children may require additional mental health services through school guidance counselors and
11 social workers; they may have behavioral problems and trauma-related learning disabilities that
12 would need to be addressed; and they lack the critically important educational advocacy and
13 partnership that parents can provide. Students without parents to care for them are also more
14 likely to arrive at school with housing and food insecurity and require additional attention and
15 resources to address hunger, exhaustion, and increased levels of stress and anxiety.

16
17 231. **Healthcare.** Such children are also often eligible for State-funded healthcare
18 programs, including mental health care treatment. Health care costs will be exacerbated for the
19 states because of the Policy, as children who suffer prolonged and unexpected separation from
20 their parents experience particular health effects, including higher levels of anxiety, more
21 susceptibility to physical and emotional illness, and decreased capacity to manage their
22 emotions. These health effects may result in higher levels of care and increase costs to the state.
23 *See* Burke and Mendoa, *At Least 3 tender age shelters set up for child migrants*, the AP (June
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25
26

1 20, 2018) *available at* <https://apnews.com/dc0c9a5134d14862ba7c7ad9a811160e>, attached
2 hereto as Ex. 91.

3 232. **Other programs.** Many States also have programs that provide services
4 specifically directed at helping immigrants and refugees, as well as programs designed to address
5 the consequences of trauma. Some have limited available group care facilities that they stand to
6 lose to ORR placements because of the increase in separated families.
7

8 233. The plaintiff States are already experiencing some of these proprietary harms.

9 234. **Washington.** For example, ORR places hundreds of unaccompanied minors with
10 sponsors in the state of Washington every year. For FY 2017, the last year for which complete
11 data are available, ORR placed almost 500 children with Washington resident sponsors. As of
12 April 30, 2018, ORR's available data show that Washington has already received 278
13 unaccompanied children during this fiscal year. *See*
14 [https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-](https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state)
15 [state](https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state). *See* Ex. 88.
16

17 235. Washington has almost 300 public school districts and serves well over a million
18 children. Per pupil expenditures for 2016-17, for example, were more than \$11,800 per
19 child. Of this total, slightly more than 90% of school funding came from state and local
20 resources. *See* Statewide Average Financial Tables and Charts *available at*
21 <http://k12.wa.us/safs/PUB/FIN/1617/1617Section1Full.pdf>, attached hereto as Ex. 92. For the
22 2017-19 biennium, state spending for basic education will total over \$22 billion, with over \$16
23 billion allocated to basic general education services.
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1 236. Washington State children residing in households with an income less than 312
2 percent of the federal poverty level are eligible for the Apple Health program, regardless of
3 citizenship and/or documented status. Qualifying children receive access to the full scope of
4 health care coverage including medical, dental, behavioral health, vision, hearing and
5 pharmaceutical benefits. Of the \$7.3 billion that Washington state spent in state fiscal year 2017
6 to support the entire Apple Health program, the cost to cover minor children was \$1.6 billion. In
7 state fiscal year 2017, the cost to cover undocumented immigrant children was \$31 million. The
8 average cost per undocumented child in state fiscal year 2017 was \$1,552 per year.

9
10 237. Washington's Office of Refugee and Immigrant Assistance (ORIA) is part of the
11 State of Washington, Department of Social and Health Services (DSHS). ORIA coordinates and
12 facilitates the provision of services for people who are refugees and immigrants to enable them to
13 achieve economic stability and integrate into Washington communities. To do this, ORIA braids
14 federal funding from the ORR with other federal and state dollars, for a total annual budget of
15 \$27,925,874. This funding provides services to more than 10,000 refugees and immigrants each
16 year through contracts with more than 60 different organizations across the state to offer 11 distinct
17 programs and services. National immigration policies affect the state's access to federal funding.
18 For example, around August of 2014, the nation experienced an influx of unaccompanied
19 immigrant children being apprehended by immigration officials, and ORR reduced
20 Washington's federal funding to provide refugee social services to cover an increase in costs at
21 the national level.

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24 238. **Massachusetts.** Since 2014, ORR has placed 3,803 unaccompanied children
25 with sponsors in Massachusetts. *See* Ex. 88. These numbers are particularly high in part because
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1 of Massachusetts' large population of residents from which UACs most often come (Honduras,
2 Guatemala, and El Salvador, in particular). *See* Office of Refugee Resettlement Facts & Data,
3 *available at* <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>, attached hereto as Ex. 93. For
4 example, Massachusetts has the eighth largest Salvadoran population in the country. *See* Profiles
5 of Boston's Latinos *available at* [http://www.bostonplans.org/getattachment/e0019487-138b-](http://www.bostonplans.org/getattachment/e0019487-138b-4c73-8fe5-fbbd849a7fba)
6 [4c73-8fe5-fbbd849a7fba](http://www.bostonplans.org/getattachment/e0019487-138b-4c73-8fe5-fbbd849a7fba), attached hereto as Ex. 94. These residents are more likely than the
7 general population to become sponsors of UACs because sponsors are often family members.
8

9 239. A non-profit foster care agency in Massachusetts, which is licensed by the
10 Massachusetts Department of Early Education and Care, also provides long term foster care
11 services to UACs in Massachusetts foster homes. *See* Office of Refugee Resettlement Division
12 of Children Services Legal Resource Guide Legal Service Provider List for UAC in ORR Case,
13 *available at* [https://www.acf.hhs.gov/sites/default/files/orr/legal_service_provider_list_for_uac_in_orr_care](https://www.acf.hhs.gov/sites/default/files/orr/legal_service_provider_list_for_uac_in_orr_care_english_092016.pdf)
14 [_english_092016.pdf](https://www.acf.hhs.gov/sites/default/files/orr/legal_service_provider_list_for_uac_in_orr_care_english_092016.pdf), attached hereto as Ex. 95.
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17 240. In Massachusetts, all children regardless of immigration status are entitled to a
18 free public education. On average, per pupil expenditures amount to more than \$16,000. *See*
19 Massachusetts Department of Elementary and Secondary Education School Finance Statistical
20 Comparisons FY13-FY17 Per Pupil Expenditures All Funds, *available at*
21 <http://www.doe.mass.edu/finance/statistics/ppx13-17.html>, attached hereto as Ex. 96. Of this
22 total, over 95 percent comes from state and local funding resources, with 39 percent from the
23 state alone. *See* [https://www.census.gov/data/tables/2016/econ/school-finances/secondary-](https://www.census.gov/data/tables/2016/econ/school-finances/secondary-education-finance.html)
24 [education-finance.html](https://www.census.gov/data/tables/2016/econ/school-finances/secondary-education-finance.html). In Massachusetts' Gateway Cities, where a higher population of
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1 immigrants live, state funding amounts to an even higher percent of total per pupil spending.
2 See <http://www.doe.mass.edu/finance/chapter70/chapter-17.html>. For Fiscal Year 2017, state
3 spending on education programs totaled more than \$7 billion. See
4 <http://massbudget.org/browser/index.php>.

5
6 241. All undocumented children in Massachusetts are eligible for state-funded health
7 insurance through the Children’s Medical Security Plan, MassHealth Limited, or the Health
8 Safety Net. Immigrant children with SIJS and other statuses may be eligible for more robust
9 state-funded health insurance. See *Understanding the Affordable Care Act: Non-Citizens’*
10 *Eligibility for Mass Health & Other Subsidized Health Benefits (March 2018)* available at
11 [https://www.masslegalservices.org/system/files/library/Understanding%20eligibility%20of%20](https://www.masslegalservices.org/system/files/library/Understanding%20eligibility%20of%20non-citizens_0.pdf)
12 [non-citizens_0.pdf](https://www.masslegalservices.org/system/files/library/Understanding%20eligibility%20of%20non-citizens_0.pdf), attached hereto as Ex. 97.

13
14 242. Children separated from their parents pursuant to the Policy will require
15 determinations from the Massachusetts Probate and Family Court or Juvenile Court for purposes
16 of SIJS, see *Recinos v. Escobar*, 473 Mass. 734 (2016), and determinations about guardianship
17 in the best interests of children. Mass. Gen. Laws c. 190B, § 5-206.

18
19 243. Undocumented children and other immigrant children who are not eligible for
20 mental health services through state-funded health insurance programs may qualify for mental
21 health services through the state’s Department of Mental Health (“DMH”). Under its statutory
22 mandate, DMH provides or arranges for the provision of services to residents who meet certain
23 clinical criteria. Mass. Gen. Laws c. 19 § 1. For Massachusetts youth to meet DMH’s clinical
24 criteria, they must have a “serious emotional disturbance...that has lasted or is expected to last
25 at least one year [and] has resulted in functional impairment that substantially interferes with or
26

1 limits the child's [or] adolescent's role or functioning in family, school or community
2 activities....". 104 CMR 20.04(2)(b). Many if not all children separated from their parents under
3 the Policy may suffer from such disturbances.

4 244. **Oregon.** Defendants' Policy also harms Oregon's proprietary interests, because
5 it forces Oregon to expend resources and incur costs that would otherwise not be required. For
6 example, unaccompanied minors detained in Oregon have often suffered severe trauma in their
7 home countries. Children separated from their parents under this Policy have suffered additional
8 trauma from Defendants' actions. Counsel for these minors can and do file petitions with the
9 juvenile court departments of the Oregon Circuit Courts on their behalf to obtain Special
10 Immigrant Juvenile status. This allows the court to transfer custody to the Oregon Department
11 of Human Services, where they can be placed in foster care and receive other necessary services,
12 such as healthcare, education, and other support. This process employs the financial and other
13 resources of the state of Oregon.

14 245. Children in Oregon, including those separated from parents, are entitled to a
15 public education. The cost of that education as of 2016-17 was \$11,715 per student, with 92%
16 from state and local resources.

17 246. Children in Oregon, including those separated from parents, may be eligible for
18 health care funded in part by the state of Oregon. Children separated from parents who may
19 become wards of the state due to forced separation would become eligible for state-funded
20 healthcare at a cost of approximately \$664 per-member per-month. Federal reimbursement is
21 not available for healthcare recipients in this population due to their immigration status. Some
22 children may not become wards of the state and would not have access to any state-funded
23 healthcare at a cost of approximately \$664 per-member per-month. Federal reimbursement is
24 not available for healthcare recipients in this population due to their immigration status. Some
25 children may not become wards of the state and would not have access to any state-funded
26 healthcare at a cost of approximately \$664 per-member per-month.

1 healthcare. The average cost of hospitalization for a child in Oregon is \$9,370. Oregon bears
2 the entire cost of providing healthcare and/or emergency-related care to children separated from
3 their families.

4 247. **California.** ORR places more unaccompanied minors with resident sponsors in
5 California than any other State in the country. For FY 2017, ORR placed 6,268 children with
6 California resident sponsors. As of April 30, 2018, California has already received 2,807
7 unaccompanied children during this fiscal year. *See* Ex. 88.

8 248. In California, any child, including children who have been separated from their
9 parents, is entitled to a free public education. Per pupil expenditures in 2017-18 exceeded
10 \$14,000 per child from all fund sources. Of this total, over 91% came from state and local
11 resources. California has also dedicated educational funds to meeting the needs of
12 unaccompanied immigrant children.

13 249. In California, undocumented children receive healthcare coverage paid for
14 entirely by the State. *See* Cal. Welf. & Inst. Code § 14007.8. These children are also eligible
15 for and benefit from other state funded public health programs.

16 250. Children separated from their parents because of the Policy may require
17 determinations by California courts in order to obtain a guardianship or a predicate order
18 enabling the child to apply for Special Immigrant Juvenile Status. *See* Cal. Prob. Code § 1514;
19 Cal. Civ. Proc. Code § 155.

20 251. The federal government has already placed a number of children separated from
21 their parents pursuant to the Policy at nonprofit facilities in California, including facilities that
22 also serve children in the State child welfare system. In California, both state and county
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1 personnel license and approve homes and facilities for the placement of vulnerable children.
2 Community Care Licensing (CCL) is the division within the California Department of Social
3 Services that has regulatory oversight of the residential facilities for children in California, and
4 is responsible for the health, safety, and welfare of children in out-of-home care facilities,
5 including those facilities who have contacts with ORR to house unaccompanied immigrant
6 children in California. In its role, CCL has three main functions: prevention, compliance, and
7 enforcement.
8

9 252. California's Refugee Programs Bureau is part of the Immigration and Refugee
10 Programs Branch of the California Department of Social Services (CDSS). This Bureau
11 provides assistance to newly arrived refugees to support long term social and economic
12 integration. In FY 2017, at least 12,058 refugees arrived in the state of California, and received
13 assistance from the State in the form of nutrition aid, cash assistance, employment services,
14 immigration legal services, medical services, and educational support. The Bureau administers
15 the Unaccompanied Refugee Minors (URM) Program, the Refugee School Impact Grant (RSIG),
16 and the California Newcomer Education and Well-Being (CalNEW), three programs exclusively
17 for minors. The URM provides foster care, case management, mental health, and medical
18 services to certain unaccompanied minors. Through RSIG and CalNEW, the RPB funds
19 programs in schools to provide supplementary educational and social adjustment support
20 services including academic, English-language acquisition, and mental and well-being supports.
21 The CalNEW is funded exclusively by the State. Combined, these programs help ensure that
22 immigrants coming to California are prepared to be full participants in California society and
23 culture, and that they are able to thrive in their new surroundings.
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1 253. California's Immigration Services Unit is also a part of the Immigration and
2 Refugee Programs Branch of the CDSS. The California Legislature has authorized this program
3 to provide assistance to "persons residing in, or formerly residing in, California," including
4 "[s]ervices to obtain . . . immigration remedies." Cal. Welf. & Inst. Code § 13303(b)(1)(B). The
5 program awards funding to California-based legal services organizations to assist in the
6 representation of undocumented immigrants in their immigration proceedings, including
7 targeted funding for unaccompanied undocumented minors present in California after release
8 from the care and custody of ORR pursuant to Cal. Welf. & Inst. Code § 13300. The State has
9 invested \$12,000,000 in services for unaccompanied minors since State FY 2014-2015. Legal
10 services providers have provided representation to 2,147 minors.

11
12 254. **New Jersey.** ORR released a total of 2,268 Unaccompanied Children (UAC) to
13 sponsors in New Jersey in FY 2017 (October 2016 – September 2017), and an additional 1,053
14 between October 2017 and April 2018. See
15 [https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-](https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state)
16 [state.](https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state) This is more than any other state except Virginia, Texas, New York, Maryland, Florida
17 and California.

18
19 255. **Rhode Island.** In Rhode Island, all children regardless of immigration status are
20 entitled to free public education. Rhode Island has over 300 public schools that serve over
21 142,000 children. Per-pupil expenditures for 2013-14 were more than \$15,000 per child. The
22 majority of these funds come from state and local funding resources. As forcible separation from
23 a parent renders public schooling more difficult and expensive for Rhode Island, Rhode Island
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1 will experience harm. *See* InfoWorks! Rhode Island Education Data Reporting, Rhode Island
2 Public Schools, available at <http://infoworks.ride.ri.gov/state/ri>.

3 256. **Vermont.** In Vermont, all children, regardless of immigration status, are entitled
4 to a free public education. On average, Vermont spends over \$18,000 per pupil each year. *See*
5 Vermont Agency of Education, *Per Pupil Spending: FY 2017 Report* (2018), available at
6 <http://education.vermont.gov/documents/data-per-pupil-spending-fy2017>, attached hereto as
7 Ex. 98.

9 257. Many immigrant children are also eligible to receive free or low-cost health care
10 through Vermont's children's health insurance program, known as Dr. Dynasaur. *See generally*
11 Vt. Health Benefits Eligibility and Enrollment Rules §§ 2.03(b), 7.02(b), 7.03(a)(3), 17.02,
12 17.03, available at [http://humanservices.vermont.gov/on-line-rules/hbee/hbee-all-parts-1-8-](http://humanservices.vermont.gov/on-line-rules/hbee/hbee-all-parts-1-8-adopted-with-toc.pdf)
13 [adopted-with-toc.pdf](http://humanservices.vermont.gov/on-line-rules/hbee/hbee-all-parts-1-8-adopted-with-toc.pdf). The program includes mental health services, which may face increased
14 demand in cases of family separation.

16 258. Since 2014, ORR has placed four unaccompanied minors in Vermont. *See* Ex.
17 88. However, the Policy has seen increasingly large numbers of children scattered across the
18 nation, often in conditions of secrecy. *See* Exs. 23 & 25.

19 259. Vermont's responsibility to protect the welfare of all children living in the State
20 includes those children who are separated from their parents and moved to Vermont pursuant to
21 the Policy. That responsibility includes, when appropriate, commencing juvenile judicial
22 proceedings and incurring significant costs to ensure that children are receiving safe and
23 adequate care. *See generally* 33 V.S.A. §§ 5102, 5103, and 5116.
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1 260. The Policy's negative impact upon immigrants also threatens Vermont's
2 economic interests. For example, in 2014, immigrant households paid \$57.9 million in state and
3 local taxes. Of that amount, undocumented immigrants paid an estimated \$2.9 million in state
4 and local taxes that year. Immigrants also greatly contributed to the economy with over \$462.5
5 million in spending power. *See The Contributions of New Americans in Vermont*, New
6 American Economy (2016), available at [https://research.newamericaneconomy.org/report/the-](https://research.newamericaneconomy.org/report/the-contributions-of-new-americans-in-vermont/)
7 [contributions-of-new-americans-in-vermont/](https://research.newamericaneconomy.org/report/the-contributions-of-new-americans-in-vermont/), attached hereto as Ex. 99. *Undocumented*
8 *Immigrants' State & Local Tax Contributions*, Institute of Tax and Public Policy (2017),
9 available at <https://itep.org/undocumented-immigrants-state-local-tax-contributions-2/>, attached
10 hereto as Ex. 100.
11

12 261. **Minnesota.** For FY 2017, the last year for which complete data are available,
13 ORR placed over 300 children with Minnesota resident sponsors. As of April 30, 2018, ORR's
14 available data show that Minnesota has already received 164 unaccompanied children during
15 this fiscal year. *See Ex. 88.*
16

17 262. In Minnesota, any child, including children who have been separated from their
18 parents, is eligible to a free public education. On average, per pupil expenditures for the current
19 fiscal year is \$12,251 per child. Of this total, approximately 96% comes from state and local
20 resources. If, as may be expected, an immigrant child requires services through the English
21 Learners program, the state funds an additional \$700 or \$950 per child. Children in Minnesota
22 may also require special education, mental health services, and other programs delivered within
23 the school district. Unaccompanied children, including those who are separated from their
24 parents, may also receive child care assistance in certain settings.
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1 263. In addition, unaccompanied children residing in Minnesota, including those who
2 are separated from their parents, are also eligible to receive health care through Minnesota's
3 Emergency Medical Assistance program and support through the Women, Infants, and Children
4 program. They may also receive services through the state's child protection system.
5

6 264. Unaccompanied children in Minnesota, including those who are separated from
7 their parents, may also be involved in state court proceedings related to the unaccompanied
8 child's immigration status or the child's sponsor's legal authority.

9 265. **Iowa.** Likewise, since 2014, ORR has placed 980 unaccompanied children with
10 sponsors in Iowa. *See* Ex. 93.

11 266. In Iowa, all children regardless of immigration status are entitled to a free public
12 education. On average, per pupil expenditures amounted to nearly \$13,000 in federal FY2015.
13 *See* Revenues and Expenditures for Public Elementary and Secondary Education: School Year
14 2014-15 (Fiscal Year 2015) available at <https://nces.ed.gov/pubs2018/2018301.pdf>, attached
15 hereto as Ex. 101. Of this total, 93% came from state and local funding sources, with 53%
16 coming from the state alone. *Id.*
17

18 267. **Illinois.** Illinois's commitment to supporting its immigrant communities is also
19 evidenced by certain state expenditures.
20

21 268. In FY 2018, for example, the Illinois Department of Human Services (DHS) was
22 appropriated approximately \$13,779,400 for various refugee and immigration services. These
23 funds came from General Revenue Funds and other state funds. *See* Pub. Act 100-21, at 15, 450
24 (2017), available at <http://ilga.gov/legislation/publicacts/100/PDF/100-0021.pdf>, attached
25 hereto as Ex. 102. In FY 2019, DHS, the Illinois Office of the Secretary of State, and the Illinois
26

1 Department of Public Health were appropriated approximately \$37,477,900 for various refugee
2 and immigration services. *See* Pub. Act 100-586, at 335, 343 44, 402 03, 433 (2018), *available*
3 *at* <http://ilga.gov/legislation/publicacts/100/PDF/100-0586.pdf>, attached hereto as Ex. 103.

4 269. Services provided by DHS through the Bureau of Refugee and Immigrant
5 Services include helping newly arrived refugees achieve self-sufficiency in the United States
6 and providing outreach and interpretation services to low-income and limited English-proficient
7 individuals requiring supportive services.” *See Refugee & Immigrant Services*, ILL. DEP’T OF
8 HUMAN SERVS., *available at* <http://www.dhs.state.il.us/page.aspx?item=30363> (last visited June
9 22, 2018), and attached hereto as Ex. 104.

10 270. Similarly, within the Illinois Department of Children and Family Services
11 (DCFS) exists the Office of the DCFS Guardian. This Guardian serves as the legal parent of
12 every child in the custody of DCFS, “monitor[ing] and mak[ing] critical decisions based on the
13 child’s best interests regarding major medical treatment, ... and all other decisions requiring
14 parental consent.” *See* ILL. DEP’T OF CHILDREN & FAMILY SERVS., BUDGET BRIEFING FY 2019,
15 at 34 (2018), [https://www2.illinois.gov/dcf/aboutus/newsandreports/Documents/FY19_Budget](https://www2.illinois.gov/dcf/aboutus/newsandreports/Documents/FY19_Budget_Briefing.pdf)
16 [Briefing.pdf](https://www2.illinois.gov/dcf/aboutus/newsandreports/Documents/FY19_Budget_Briefing.pdf), attached hereto as Ex. 105. To that end, the DCFS Guardian, with assistance from
17 the DCFS Special Counsel and the Immigration Services Unit, acquires adjustment of legal
18 status for foreign-born youth who are under its guardianship. *Id.*

19 271. Children reunited with a family member residing in Illinois will likely be entitled
20 to access certain state-funded programs. This is also true for children currently sheltered outside
21 of Illinois who are later reunited with a family member residing in Illinois.

1 272. For example, every child residing in Illinois, including children who have been
2 separated from their parents, is entitled to a free public education. In school year 2015 16,
3 Illinois per-pupil expenditures exceed \$12,900 per child. Of this total, over 92% comes from
4 state and local resources. See ILL. STATE BD. OF EDUC., ILLINOIS STATE REPORT CARD 3 (2017),
5 [http://webprod.isbe.net/ereportcard/publicsite/getReport.aspx?year=2017&code=2017StateRep](http://webprod.isbe.net/ereportcard/publicsite/getReport.aspx?year=2017&code=2017StateReport E.pdf)
6 [ort E.pdf](http://webprod.isbe.net/ereportcard/publicsite/getReport.aspx?year=2017&code=2017StateReport E.pdf), attached hereto as Ex. 106.

8 273. Moreover, separated children enrolled in Illinois schools may receive bilingual
9 support services through Transitional Bilingual Education (TBE) Programs and/or Transitional
10 Programs of Instruction (TPI). These programs help English Learners achieve academically,
11 and provide classroom and other forms of support. In FY 2018 and FY 2019, Illinois
12 appropriated approximately \$65,540,700 and \$48,600,000, respectively to support bilingual
13 education programs in Illinois school districts. See Pub. Act 100-21, at 636 37 (Ex. 102); Pub.
14 Act 100-586, at 491 (Ex. 104). Currently, Illinois school districts receive funding on a per-pupil
15 allocation by level of service ranging from \$304 758 per pupil. See ILL. STATE BD. OF EDUC.,
16 FISCAL YEAR 2018 PROPOSED BUDGET 14, 58 (2017), available at
17 <https://www.isbe.net/Documents/fy2018-budget-book.pdf>, attached hereto as Ex. 107. Children
18 who are reunited with family members located in Illinois who attend Illinois schools are likely
19 to receive such services as English Learners.

22 274. As well, each child who qualifies is entitled to receive free breakfast and lunch
23 pursuant to the Illinois Free Lunch and Breakfast Program, 105 ILCS 125/1. Through this
24 program, the Illinois State Board of Education reimburses all public schools, nonprofit private
25 schools, and residential child care institutions that provided breakfast and lunch to children who
26

1 meet the income-level guidelines. In FY 2018 and FY 2019, the Board of Education received
2 \$9,000,000 in state funding to provide reimbursements. *See* Pub. Act 100-21, at 435, 634 35
3 (Ex. 102); *See* Pub. Act. 100-587, at 39, 450 (2018), *available at*
4 <http://ilga.gov/legislation/publicacts/100/PDF/100-0587.pdf>, attached hereto as Ex. 108.

5
6 Heartland Alliance is a participant in the Free Lunch and Breakfast Program and receives
7 reimbursement from the State of Illinois for breakfasts and lunches provided to unaccompanied
8 children in Illinois.

9 275. Separated children may also be eligible for healthcare programs that are partially
10 or fully funded by the State of Illinois, including Medicaid. In FY 2014, for example, Illinois
11 spent an average of approximately \$2,108 per Medicaid-eligible child. *See* Medicaid Spending
12 Per Enrollee (Full or Partial Benefit), KAISER FAMILY FOUND.,
13 <https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/> (last visited June
14 22, 2018).

15
16 276. In addition, children who have been separated from their parents may access state
17 courts in Illinois in order to obtain Special Immigrant Juvenile Status (SIJS). In order to petition
18 the U.S. Customs and Immigration Services for a SIJS, a child must first obtain an order from a
19 state court finding that it is not in the child's best interests to return to her home country or to
20 the country she last lived in, and that the child cannot be reunited with a parent because of abuse,
21 abandonment, or neglect. As additional children are brought to Illinois as a result of Defendants'
22 child separation policy, Illinois courts will see an increase in the number of orders being sought.

23
24 277. **New York.** In FY 2017, ORR placed 3,938 children with New York resident
25 sponsors. ORR placed another 1,577 UACs with New York resident sponsors from October 2017
26

1 through April 30, 2018. *See* Unaccompanied Alien Children Released to Sponsors by State,
2 available at Ex. 88.

3 278. Once a UAC is placed with a sponsor who resides in New York State, the child
4 is entitled to a variety of services funded by the state, including educational services, early
5 intervention services, and access to healthcare, among others. New York State makes these
6 services available to such children in support of the State's interest in ensuring the health, safety,
7 and well-being of all residents.

9 279. New York State will incur expenses to educate UACs placed within the state
10 because under state law, children ages six through sixteen who reside in New York must attend
11 school and are entitled to attend school up until age twenty-one. Moreover, the IDEA requires
12 the state to provide special education services to students with learning or emotional disabilities.
13 Under this federal law, children aged three to twenty-one are entitled to special education
14 services when clinically warranted. 20 U.S.C. § 1411. New York State law also entitles
15 qualified students to English Language Learner (ELL) services. N.Y. Comp. Codes R. & Regs.
16 Tit. 8, § 154. There are 692 public school districts in New York that serve approximately 2.6
17 million students. While costs will vary depending on the school district's location and the child's
18 needs, the statewide average to educate a student in New York is approximately \$22,000 per
19 year.
20

21
22 280. New York State also provides a robust early intervention program which UACs
23 utilize when placed in New York State communities. The Part C Early Intervention Program
24 (EIP) was created by Congress in 1986 as part of the IDEA. The IDEA authorizes the
25 discretionary EIP for infants and toddlers with disabilities and requires states to provide a free
26

1 appropriate education for all students with disabilities, ages three to twenty-one. 20 U.S.C. §§
2 1411, 1419. Each year, New York's EIP serves over 60,000 children ages zero to three who have
3 moderate to severe developmental delays. The EIP includes 1,279 providers that contract with
4 New York State to bill for EI services. Total annual expenditures for New York's EIP total more
5 than \$644 million across all payers 45% is covered by Medicaid, 2% by commercial insurance,
6 26% by state funds, and 27% by county funds. While EIP costs and services vary based on the
7 child's needs and the intensity of services offered, for the 2017 program year the average cost of
8 services delivered ranged from \$5,820 to \$22,000 per child.
9

10 281. New York State also incurs significant medical expenses for each UAC placed in
11 state. UACs who are placed with sponsors in the community are eligible to enroll in the
12 Children's Health Insurance Program (CHIP) operated by New York's Office of Health
13 Insurance Programs. The yearly cost of CHIP per child is \$2,607.36 and is financed exclusively
14 by New York State.
15

16 282. An influx of UACs also carries with it increased costs for the New York State
17 child welfare system. After a UAC is placed with a sponsor in the community, that placement
18 may be disrupted for a number of reasons. If the child becomes at risk of entering foster care
19 for example, because of allegations of abuse or neglect by the person now legally responsible
20 for the child the child welfare system will provide preventive services to attempt to keep the
21 child safely in the new home; such services are funded, in part, by New York State. If those
22 services are unsuccessful and the child must be removed from the new home, New York State
23 will also partly fund the child's placement and needed services while in the foster system.
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1 283. **Maryland.** For FY 2017, the last year for which complete data are available,
2 ORR placed almost 3,000 children with Maryland resident sponsors the fifth most of any state.
3 As of April 30, 2018, ORR's available data show that Maryland has already received 901
4 unaccompanied children during this fiscal year. *See* Ex. 88. Maryland is one of the states that is
5 receiving children separated from their parents under the Trump Administration's "zero
6 tolerance" policy. *See* Theresa Vargas, "I will kiss their boo-boos" Foster Families provide
7 small comforts (June 22, 2018), attached hereto as Ex. 109; *I really miss my mom: What becomes*
8 *of a 5-year-old in Maryland and the other separated children now?*, The Washington Post (June
9 21, 2018) available at [https://www.washingtonpost.com/local/i-really-miss-my-mom-what-](https://www.washingtonpost.com/local/i-really-miss-my-mom-what-becomes-of-a-5-year-old-in-maryland-and-other-the-separated-children-now/2018/06/21/28afbd54-759d-11e8-9780-b1dd6a09b549_story.html?utm_term=.383bb9cc8a01)
10 [becomes-of-a-5-year-old-in-maryland-and-other-the-separated-children-](https://www.washingtonpost.com/local/i-really-miss-my-mom-what-becomes-of-a-5-year-old-in-maryland-and-other-the-separated-children-now/2018/06/21/28afbd54-759d-11e8-9780-b1dd6a09b549_story.html?utm_term=.383bb9cc8a01)
11 [now/2018/06/21/28afbd54-759d-11e8-9780-](https://www.washingtonpost.com/local/i-really-miss-my-mom-what-becomes-of-a-5-year-old-in-maryland-and-other-the-separated-children-now/2018/06/21/28afbd54-759d-11e8-9780-b1dd6a09b549_story.html?utm_term=.383bb9cc8a01)
12 [b1dd6a09b549_story.html?utm_term=.383bb9cc8a01](https://www.washingtonpost.com/local/i-really-miss-my-mom-what-becomes-of-a-5-year-old-in-maryland-and-other-the-separated-children-now/2018/06/21/28afbd54-759d-11e8-9780-b1dd6a09b549_story.html?utm_term=.383bb9cc8a01), attached hereto as Ex. 110; "Bethany
13 Continues to Work to Reunify Families Separated at the Border," *available at*
14 <https://www.bethany.org/campaigns/refugee>, attached hereto as Ex. 111.

17 284. The Office of Licensing and Monitoring within Maryland's Department of
18 Human Services licenses several organizations that operate shelters at which unaccompanied
19 children including children separated from their parents under the federal government's
20 policy are being placed. At least one such organization receiving children in Maryland is under
21 contract with ORR to provide services for unaccompanied immigrant minors, including children
22 separated from their parents under the policy.

24 285. As the separated children are placed in foster homes, many will enter the
25 Maryland's public school system. Maryland's 24 public school districts served nearly 900,000
26

1 students during the 2016-17 school year. Per pupil expenditures for 2016-17 were over \$13,000
2 per child. Of this total, approximately 95% of school funding came from state and local
3 resources. For the 2016-17 school year, state and local spending for basic education totaled over
4 \$12 billion, with nearly \$5 billion allocated to general instructional expenditures. *See* Selected
5 Financial Data Maryland Public Schools 2016-2017 available at
6 [http://marylandpublicschools.org/about/Documents/DBS/SFD/2016-](http://marylandpublicschools.org/about/Documents/DBS/SFD/2016-2017/SFD20162017Part3.pdf)
7 [2017/SFD20162017Part3.pdf](http://marylandpublicschools.org/about/Documents/DBS/SFD/2016-2017/SFD20162017Part3.pdf), attached hereto as Ex. 112.

9 286. **Virginia.** More than one hundred traumatized, unaccompanied alien children
10 have been transported and are being housed at federal detention centers in Virginia. More than
11 a dozen of those children were separated from their parents at the southern border. *See* Nick
12 Anderson and Marissa J. Lang, *Sen. Tim Kaine tours Virginia shelter housing about 15 separated*
13 *migrant children*, the Washington Post (June 22, 2018) available at
14 [https://www.washingtonpost.com/local/immigration/sen-tim-kaine-tours-virginia-shelter-](https://www.washingtonpost.com/local/immigration/sen-tim-kaine-tours-virginia-shelter-housing-about-15-separated-migrant-children/2018/06/22/7bc1e8f2-763b-11e8-b4b7-308400242c2e_story.html?utm_term=.5be4b43f307c)
15 [housing-about-15-separated-migrant-children/2018/06/22/7bc1e8f2-763b-11e8-b4b7-](https://www.washingtonpost.com/local/immigration/sen-tim-kaine-tours-virginia-shelter-housing-about-15-separated-migrant-children/2018/06/22/7bc1e8f2-763b-11e8-b4b7-308400242c2e_story.html?utm_term=.5be4b43f307c)
16 [308400242c2e_story.html?utm_term=.5be4b43f307c](https://www.washingtonpost.com/local/immigration/sen-tim-kaine-tours-virginia-shelter-housing-about-15-separated-migrant-children/2018/06/22/7bc1e8f2-763b-11e8-b4b7-308400242c2e_story.html?utm_term=.5be4b43f307c), attached hereto as Ex. 113.

18 287. ORR reports that they have placed hundreds of unaccompanied alien children
19 with sponsors in the Commonwealth of Virginia every year. For FY 2017, the last year for which
20 complete data are available, ORR placed 2,888 children with Virginia resident sponsors. As of
21 April 30, 2018, ORR's available data show that Virginia has already received 931
22 unaccompanied alien children during this fiscal year. *See* Ex. 88.

24 288. Under federal law, states and local educational agencies are obligated to provide
25 all children regardless of immigration status with equal access to public education at the
26

1 elementary and secondary level. This includes unaccompanied alien children who may be
2 involved in immigration proceedings. Once these children are released to a sponsor, they have
3 a right to enroll in Virginia schools regardless of their immigration status. In Virginia, some of
4 these unaccompanied alien children under 18 will be classified as homeless under applicable
5 state and federal law. See Va. Code Ann. § 22.1-3. Virginia school divisions are required to
6 immediately enroll homeless students. The Virginia Department of Education provides the state
7 share, and the enrolling local school division is responsible for paying the local share of the cost
8 for educating students enrolled in public schools at a total per pupil statewide average
9 expenditure in excess of \$10,000.

11 289. Unaccompanied alien children may seek a variety of health services in Virginia.
12 For example, they need childhood immunizations and may seek testing and treatment when they
13 present with symptoms of a communicable disease. In Virginia, school divisions are required to
14 help any child classified as homeless obtain necessary physical examinations and
15 immunizations. Va. Code § 22.1-271.2. Moreover, if an unaccompanied alien child needed to be
16 hospitalized for emergency care, including psychiatric care, then Virginia would provide and
17 bear the cost of that care in part by absorption of costs by state-owned hospitals.

19 290. ORR places hundreds of unaccompanied minors with sponsors in the State of
20 North Carolina every year. For FY 2017, ORR placed approximately 1,290 children with North
21 Carolina-resident sponsors. As of April 30, 2018, ORR's available data show that North
22 Carolina has already received 565 unaccompanied children during this fiscal year. *See* Ex. 88.

24 291. **North Carolina.** The State of North Carolina has 11 State Refugee and Health
25 Coordinators that are coordinated and organized through the State's Department of Health and
26

1 Human Services Refugee Services program. North Carolina's Refugee Services program
2 integrates federal funding from ORR with other federal and state funding. The program services
3 thousands of refugees across the State of North Carolina.

4
5 292. **District of Columbia.** ORR places hundreds of unaccompanied minors with
6 sponsors in the District of Columbia every year. For FY 2017, the last year for which complete
7 data are available, ORR placed almost 300 children with District of Columbia resident sponsors.
8 As of April 30, 2018, ORR's available data show that the District of Columbia has already
9 received more than 80 unaccompanied children during this fiscal year. *See* Ex. 88.

10 293. In the District of Columbia, any child, including children who have been
11 separated from their parents, is entitled to a free public education. The District spends almost
12 \$10,000 per child in D.C Public Schools. The overwhelming share of the money spent on public
13 education in the District comes from local taxes, fees, and resources. *See, e.g.,*
14 [https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DCOCFO_FY17_Bu](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DCOCFO_FY17_Budget_vol_3.pdf)
15 [dget_vol_3.pdf](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DCOCFO_FY17_Budget_vol_3.pdf).

17 294. The District of Columbia offers comprehensive health insurance coverage to
18 eligible children who have been separated from their parents through the Immigrant Children's
19 Program, which provides coverage equal to that offered by Medicaid, including: doctor visits,
20 immunizations, mental health services, dental, vision, and prescription drugs. *See* Department of
21 Health Care Finance DHCF Immigrant Children's Program *available at*
22 <https://dhcf.dc.gov/service/immigrant-childrens-program>, attached hereto as Ex. 114.
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24
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1 **L. Defendants' Policy Harms the States' Quasi-Sovereign Interests**

2 295. States have a quasi-sovereign interest in protecting the health, safety, and well-
3 being of their residents, including protecting their residents from harms to their physical,
4 psychological, emotional, or economic health. The States' interests in preventing and remedying
5 injuries to the public's health, safety, and well-being extends to all of their residents who will be
6 harmed by the Policy. The Policy has caused and will continue to cause severe and immediate
7 harm to the States' residents, including parents who are detained, released, or otherwise reside
8 in the States after being forcibly separated from their children; children who are placed in
9 facilities, shelters, homes or otherwise reside in the States after being separated from their
10 parents; extended families and sponsors in the States; and the States' immigrant communities.

11
12 296. The States also have an interest in ensuring that their residents are not excluded
13 from the rights and privileges provided by the U.S. Constitution, international laws, federal laws,
14 and state laws. These rights include due process and equal protection rights afforded to alien
15 parents and their minor children, and rights and protections under federal asylum and refugee
16 laws, international human rights laws, and state laws.

17
18 297. The Policy causes measurable harm to existing immigrant communities in the
19 States. A 2018 study published in the *Journal of Adolescent Health* finds that recent changes in
20 U.S. immigration policy that appear to target Latino immigrants have triggered serious
21 psychological distress for many resident Latino parents, including those living in the United
22 States legally. A substantial proportion of U.S. Latino parents reported adverse emotional and
23 behavioral consequences from recent immigration actions and news. For example, 66% said that
24 they very often or always worry about family members getting separated. Nearly 40% of parents
25
26

1 said they frequently avoided getting medical care, help from police, or support from social
2 service agencies because of reports about immigration actions. Parents who frequently
3 experienced worries or changes in behavior due to immigration news and policies had at least a
4 250% increase in the odds of experiencing high psychological distress, including clinical anxiety
5 and depression. The association between U.S. immigration actions and psychological distress in
6 this study held true after controlling for education, residency status, gender and other factors.
7

8 298. Many of the States have resident Latino and Hispanic populations that are
9 affected by the Policy and attendant distress. For example, as of 2010, 10.2 percent of the total
10 population of Washington State was of Hispanic origin, with some counties over 45%. Indeed,
11 roughly one in seven Washington residents is an immigrant, while one in eight residents is a
12 native-born U.S. citizen with at least one immigrant parent. The other States also have resident
13 Latino and Hispanic communities who are impacted by the Policy, as well.
14

15 299. Indeed, the States are already acting to try to protect the health, safety, and well-
16 being of persons separated and harmed by the Policy. As a result of the Policy, thousands of
17 immigrant parents and children are being separated and moved to a range of facilities or homes
18 in the States or being released to live in the States. Transfer of these separated immigrant parents
19 and children into the States will continue into the future as long as Defendants' Policy remains
20 in place. *See* Exs. 55, 8, 21. In May 2018 alone, DHS took nearly 51,912 immigrants into
21 custody, nearly three times the number detained in May 2017. Ex. 55. The number of families
22 apprehended at the Southwestern border increased by 435% in May 2018 in comparison to May
23 2017. Ex. 8. The States have an interest in protecting those immigrants who are resident, or will
24 soon settle, in their jurisdictions.
25
26

1 300. Traumatized immigrant parents and children are already present in the States’
2 shelters and in federal detention centers in the States. On June 7, 2018, ICE spokeswoman
3 Danielle Bennett confirmed that because of “implementation of the U.S. Department of Justice’s
4 zero-tolerance Policy . . . ICE has entered into inter-agency agreements with [the Bureau of
5 Prisons (BOP)] to acquire access to more than 1,600 additional beds at [five] BOP facilities.”
6 These include 220 beds at the Federal Detention Center SeaTac in Seattle, Washington; 130 beds
7 in Sheridan, Oregon; and 1,000 beds at the Federal Correctional Institution Victorville Medium
8 Security Prison in Victorville, California. *See* Robert Moore, Immigration Officials Taking Over
9 1,600 Beds in Federal Prison System, Texas Monthly (June 8, 2018) available at
10 [https://www.texasmonthly.com/news/immigration-officials-taking-1600-beds-federal-prison-](https://www.texasmonthly.com/news/immigration-officials-taking-1600-beds-federal-prison-system/)
11 [system/](https://www.texasmonthly.com/news/immigration-officials-taking-1600-beds-federal-prison-system/), attached hereto as Ex. 115.
12

13
14 301. Defendants’ Policy causes severe and lasting psychological and emotional harm
15 to immigrant parents in Washington who have been separated from their children. For example,
16 of the approximately 200 immigrants detained in Seattle as of June 19, 2018, 174 were women,
17 and dozens of those women were mothers who had been forcibly separated from their children,
18 whose ages range from one-year-old to teenagers. *See* Jayapal Goes Inside Federal Detention
19 Center to Meet with Asylum Seeking Women: “the mothers could not stop crying” (June 9,
20 2018), *available at* [https://jayapal.house.gov/media/press-releases/jayapal-goes-inside-federal-](https://jayapal.house.gov/media/press-releases/jayapal-goes-inside-federal-detention-center-meet-asylum-seeking-women-0)
21 [detention-center-meet-asylum-seeking-women-0](https://jayapal.house.gov/media/press-releases/jayapal-goes-inside-federal-detention-center-meet-asylum-seeking-women-0), attached hereto as Ex. 116. Many were
22 asylum seekers from Latin American countries. *Id.* Most had been in detention for more than
23 two weeks and many for over a month. *Id.* A majority of the mothers have not spoken with their
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1 children in weeks, and Defendants had not provided the mothers with any information regarding
2 the whereabouts or well-being of their children. *Id.*

3 302. These women described the horrific and inhumane conditions at the Border Patrol
4 facilities where they were previously detained, including fenced cages; lack of blankets and mats
5 notwithstanding frigid temperatures; and lack of access to food and water. *Id.* Some suffered
6 verbal abuse from border agents who called them “filthy” and “stinky.” *Id.* And they endured
7 further intentionally inflicted trauma when agents told them their “families would not exist
8 anymore” and that they would “never see their children again.” *Id.*

9
10 303. The specific stories of two immigrant mothers who are being detained in Seattle
11 confirm this horrifying experience. These two mothers crossed the border in Texas, immediately
12 turned themselves in, and were taken to a holding facility. The mothers were each separated
13 from their daughters upon arrival and held in a facility they describe as similar to a dog kennel.
14 The following week, the mothers appeared in federal court, were charged with illegal entry,
15 found guilty, and served time in Texas. After approximately three weeks, the mothers were
16 flown to SeaTac, where they remain in prison without their daughters.
17

18 304. A growing number of children separated from their parents pursuant to
19 Defendants’ Policy have been placed in facilities in Washington. These children have suffered
20 severe psychological and emotional trauma.
21

22 305. Similarly, a Brazilian woman who recently arrived in Massachusetts presented
23 herself for asylum at the U.S.-Mexico border and was detained and then separated from her 8-
24 year-old son. Immigration authorities determined that she has a credible fear of persecution if
25 she is returned to Brazil, so she has since been released pending adjudication of her asylum
26

1 claim. As of June 22, 2018, she had not, however, been reunited with her son, who remains in
2 a facility in Chicago, where he hasn't been able to see his mother for almost a month. *See Akilah*
3 *Johnson, A Brazilian Mother Seeking Asylum Was Freed from Detention. Her son was not.* The
4 Boston Globe (June 22, 2018) available at
5 [https://www.bostonglobe.com/news/nation/2018/06/22/brazilian-mother-seeking-asylum-was-](https://www.bostonglobe.com/news/nation/2018/06/22/brazilian-mother-seeking-asylum-was-freed-from-detention-her-son-was-not/kiYT1F4fHTsHxdkfmHh73I/story.html)
6 [freed-from-detention-her-son-was-not/kiYT1F4fHTsHxdkfmHh73I/story.html](https://www.bostonglobe.com/news/nation/2018/06/22/brazilian-mother-seeking-asylum-was-freed-from-detention-her-son-was-not/kiYT1F4fHTsHxdkfmHh73I/story.html), attached hereto
7 as Ex. 117.
8

9 306. In Massachusetts, two Guatemalan children were recently released to their father,
10 a Massachusetts resident, after being separated from their mother, with whom they crossed the
11 border to seek asylum. She is still in detention in Texas. The children were held in facilities in
12 Texas and then Michigan for five weeks until they were released to their father. The young girl,
13 who is 9 years old, has been particularly affected by the experience and still cries for her mother.
14 *See Mark Sullivan, Guatemalan in Westboro Sees the Effects of Separation Policy Firsthand,*
15 *The Worcester Telegram & Gazette* (June 20, 2018) available at
16 [http://www.telegram.com/news/20180620/guatemalan-in-westboro-sees-effects-of-separation-](http://www.telegram.com/news/20180620/guatemalan-in-westboro-sees-effects-of-separation-policy-firsthand)
17 [policy-firsthand](http://www.telegram.com/news/20180620/guatemalan-in-westboro-sees-effects-of-separation-policy-firsthand), attached hereto as Ex. 118.
18

19 307. Defendants' abhorrent and indefensible family-separation Policy has already had
20 an impact on Oregon in a variety of ways, and will continue to do so. There are at least 123
21 immigrant men detained at the federal prison in Sheridan, Oregon. At least six of these are
22 fathers, from Mexico, Guatemala and Honduras, who have been separated from their children
23 pursuant to the Policy. Oregon's federal lawmakers have been able to visit these detainees, and
24 report that they have been denied access to lawyers and health care and are confined to cells for
25
26

1 up to 22 hours a day. Oregon immigration lawyers also report that they have been repeatedly
2 denied access to detainees. The Mexican Consulate reports that one of the detained men had his
3 newborn infant, only 15 days old, taken from him. Another detainee was separated from his 18-
4 month-old toddler. Another reports his wife is detained in San Antonio, Texas, and he does not
5 know the whereabouts of their 4-year-old child.
6

7 308. There are a number of children in Oregon who have been separated from their
8 parents by the defendants' implementation of its Policy, including two children who saw their
9 mother being taken away in chains. At least three others have been separated from their parents
10 at the border pursuant to the Policy.

11 309. Defendants' unlawful Policy also cruelly affects the wellbeing of Oregon
12 residents, including its immigrant and Hispanic and Latinx populations. For example, a
13 substantial number of Oregon residents are survivors of the Japanese-American internment
14 camps of World War II, or family members of such survivors. Many of those survivors and/or
15 family members have experienced significant emotional and psychological distress as a result of
16 the government's family-separation Policy.
17

18 310. Similarly, some Oregonians are survivors of Nazi concentration camps. Many of
19 those survivors are also experiencing profound psychological and emotional distress as a result
20 of the federal government's family-separation Policy. For all these Oregon survivors and their
21 families, the Policy echoes the ethnic-based targeting that they experienced in the twentieth
22 century, and causes them to relive the trauma of one of the darkest times in history. Many
23 survivors are also profoundly afraid for the safety of minority communities targeted by the
24 current Administration.
25
26

1 311. Defendants' Policy similarly harms immigrant parents and children in California
2 who have been separated by federal immigration officials. For example, at least 50-60 children
3 are being served in group homes and family homes approved by foster family agencies in
4 California as a result of Defendants' Policy.
5

6 312. Additionally, parents, including asylum-seekers, who have been separated from
7 their children are being housed at facilities throughout Southern California. There is a
8 particularly large number of immigration detainees being held at the Victorville facility, but
9 unlike the SeaTac facility, attorneys have been denied access to determine how many of those
10 individuals are parents.
11

12 313. Several asylum-seeker parents who arrived at a port of entry with a migrant
13 caravan in April 2018 were separated from their children. While their children have been placed
14 by ORR in facilities across the nation, the parents are being detained in other immigration
15 detention facilities in California. Parents are not provided with information about their
16 children's whereabouts or how to locate them. As a result, parents have been unable to locate
17 or communicate with their children, are not receiving regular in-person visitation or phone
18 contact with their children, and have not been told if or when their families will be reunified.
19

20 314. Likewise, New Mexico has a right to ensure that no one within its border is
21 excluded from the rights and privileges provided by the U.S. Constitution, international, federal
22 or state law. State resources are used without statutory authority if used in furtherance of
23 unconstitutional federal policies contravening the purposes of New Mexico's constitution and
24 laws. There is well documented evidence to suggest that these interests are currently being
25 infringed upon with the boundaries of the State of New Mexico.
26

1 315. The federal Office of Refugee Resettlement reported that 15 Unaccompanied
2 Children (UAC) taken into custody in New Mexico were released to U.S. sponsors between
3 October 2017 and April 2018, but those children were not released to caregivers licensed by the
4 State of New Mexico. One Brazilian grandmother held at the Santa Teresa border crossing in
5 New Mexico was separated from her 16-year-old ward almost a year ago. The child, who has
6 severe epilepsy, neurological problems and is autistic, was placed in Connecticut. *See* Angela
7 Kocherga, *Zero-tolerance policy impacts New Mexico*, Albuquerque Journal June 20, 2018, page
8 4 (citing Maria Vandelize de Pastos’ attorney Eduardo Beckett), *available at*
9 <https://www.abqjournal.com/1186875/zerotolerance-policy-impacts-new-mexico.html>,
10
11 attached hereto as Ex. 119.

12 316. Approximately fifty mothers, some with valid claims for asylum have had their
13 children separated from them at border crossings and are being held in a private jail in Otero
14 County, New Mexico. One of the Mothers details health issues her child faces and that she is
15 completely unaware of where he is or whether his health needs are being addressed. *See* Jonathan
16 Blitzer, “Mothers in a New Mexico Prison Do Not Know How to Find Their Children,” New
17 Yorker Magazine (June 21, 2018) *available at*
18 [https://www.newyorker.com/news/dispatch/mothers-in-a-new-mexico-prison-do-not-know-](https://www.newyorker.com/news/dispatch/mothers-in-a-new-mexico-prison-do-not-know-how-to-find-their-children)
19 [how-to-find-their-children](https://www.newyorker.com/news/dispatch/mothers-in-a-new-mexico-prison-do-not-know-how-to-find-their-children), attached hereto as Ex. 120.
20
21

22 317. New Mexico also has an interest in ensuring that New Mexico citizens continue
23 to be afforded their rights to cross the U.S.-Mexico border unmolested. Because many New
24 Mexico families visit their relatives in Mexico and because these families traditionally visit with
25
26

1 their own children in tow, such New Mexico citizens face the potential of separation in
2 derogation of their rights to travel and to maintain their familial ties.

3 318. Because there is direct evidence of harm to these families, occurring within the
4 borders of New Mexico, the state has a distinct interest in ensuring that no violations of law
5 occur. This notion is grounded in general principles of federalism, and are distinctly the
6 obligations of the state in ensuring that its constitution and laws are upheld. This interstitial
7 framework is well grounded in law and is the underpinning of our system of government.

9 319. Fathers who were forcibly separated from their children at the border are
10 currently being detained at the Elizabeth Detention Center in Elizabeth, New Jersey. *See* Brenda
11 Flanagan, *At Detention Center Rally, Family Reunification Left in Question*, NJTV News June
12 22, 2018, clip available at [https://www.njtvonline.org/news/video/at-detention-center-rally-](https://www.njtvonline.org/news/video/at-detention-center-rally-family-reunification-left-in-question/)
13 [family-reunification-left-in-question/](https://www.njtvonline.org/news/video/at-detention-center-rally-family-reunification-left-in-question/).

15 320. In addition, children who were forcibly separated from their parents at the border
16 have been placed at the Center for Family Services in Camden, New Jersey, which contracts
17 with ORR to provide shelter to children who crossed the border. *See* Kelly Heyboer and Erin
18 Banco, *20 Immigrant Children Have Arrived in N.J. in the Last 30 Days. Here's What We Know*,
19 NJ Advance Media for NJ.com, Updated June 22, 2018 at 12:24PM,
20 [https://www.nj.com/news/index.ssf/2018/06/are-immigrant-kids-being-held-in-nj-heres-ho](https://www.nj.com/news/index.ssf/2018/06/are-immigrant-kids-being-held-in-nj-heres-how-trum.html)
21 [w-trum.html](https://www.nj.com/news/index.ssf/2018/06/are-immigrant-kids-being-held-in-nj-heres-how-trum.html), attached hereto as Ex. 121.

23 321. Defendants' Policy causes severe and potentially permanent emotional and
24 psychological trauma to children in Rhode Island who have been separated from their parents
25 pursuant to Defendants' Policy. Unaccompanied Alien Children are released to sponsors in
26

1 Rhode Island by the Office of Refugee Resettlement of the United States Department of Health
2 and Human Services each year. For example in FY 2017, 234 total Unaccompanied Minor Child
3 were released in Rhode Island and thus far in FY 2018 that total already stands at 129. These
4 children have suffered severe psychological and emotional trauma. *See*. Unaccompanied Alien
5 Children Released to Sponsors by State (June 30, 2017) Ex. 88.
6

7 322. In Vermont, reports are emerging that federal authorities' animus toward Latino
8 migrants is taking a psychological and medical toll on migrant workers essential to Vermont's
9 dairy industry and economy. *See* J. Dillon, *For Undocumented Workers On Vermont Farms,*
10 *2017 Was A Year Filled With Anxiety*, Vermont Public Radio (January 5, 2018), (public health
11 screening of migrant workers found 80% exhibiting elevated levels of stress), available at
12 [http://digital.vpr.net/post/undocumented-workers-vermont-farms-2017-was-year-filled-](http://digital.vpr.net/post/undocumented-workers-vermont-farms-2017-was-year-filled-anxiety#stream/0)
13 [anxiety#stream/0](http://digital.vpr.net/post/undocumented-workers-vermont-farms-2017-was-year-filled-anxiety#stream/0), attached hereto as Ex. 122. The Policy will likely increase the strain on an
14 already vulnerable population.
15

16 323. Children who have been forcibly separated from their parents at the border have
17 already arrived in Minnesota and other children who have been separated from their parents are
18 likely to come to Minnesota in the future.
19

20 324. For example, an 8 year-old girl experienced the most "traumatic moment of her
21 life" when she was forcibly separated from her father at the U.S.-Mexico border. *See* Chris
22 Serres and Mary Lynn Smith, the Star Tribune (June 23, 2018) *available at*
23 [http://www.startribune.com/migrant-children-separated-from-parents-start-to-arrive-in-](http://www.startribune.com/migrant-children-separated-from-parents-start-to-arrive-in-minnesota/486365431/)
24 [minnesota/486365431/](http://www.startribune.com/migrant-children-separated-from-parents-start-to-arrive-in-minnesota/486365431/), attached hereto as Ex. 123. The father "begged the officer to be able to
25 stay with his child. He was crying. She was crying." *Id.* After they were separated, her father
26

1 was deported to Guatemala. The girl remains in Minnesota, but wants to be reunited with her
2 family.

3 325. As one lawyer who represents unaccompanied minors in Minnesota explained,
4 “[s]o many of these children, they just want their parents. They really, really, really want to be
5 reunited with their families.” *Id.*

6
7 326. Illinois has also received children affected by the Policy. As of June 22, 2018,
8 approximately 66 minor children, who have been separated from their parents or guardians and
9 are awaiting immigration proceedings, are currently under the care of Heartland Alliance.
10 Currently, Heartland is housing these separated children in the cities of Chicago and Des Plaines.

11 327. Heartland is endeavoring to reunite the 66 separated children with family
12 members in the United States. Certain of these children will likely remain in Illinois, given the
13 fact that 1,568 unaccompanied minors were released to sponsors located in Illinois between
14 October 2014 and April 2018. *See Ex. 88.*

15
16 328. New York State relies on the same agencies that the federal ORR relies on for
17 provision of foster care services. ORR currently contracts with eleven provider agencies in New
18 York State to care for UACs, including those children whom Defendants have separated from
19 their parents: Abbott House; Catholic Family Center; Catholic Guardian Services; Cayuga Home
20 for Children; Children’s Home of Kingston; Children’s Village; Jewish Child Care Association
21 of New York; Rising Ground (formerly Leake and Watts Services); Lincoln Hall; Lutheran
22 Social Services of New York; and MercyFirst. These agencies either run residential congregate
23 care programs that house the children or place the children with family or sponsors in the
24 community, or do both. These agencies also provide residential care and placement services for
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1 children who enter New York's child welfare system because they are abandoned, abused,
2 neglected, delinquent or dependent children. OCFS has confirmed that at least 321 children who
3 have been separated from their parents at the Southwestern border are currently in the care of
4 one of these eleven agencies and thus residing in New York State. Since the State was unable to
5 obtain this information from HHS or ORR, OCFS undertook efforts to create a census of
6 separated children in New York State. Specifically, OCFS's Acting Commissioner issued a
7 directive to the agencies to confirm the total number of UACs in their care. Upon receipt of that
8 information, OCFS staff verbally verified with each voluntary agency how many of those
9 children were in fact separated from their families at the border. To accomplish this, OCFS staff
10 took a hiatus from their regular duties and, in a single day, physically went to each of the 11
11 agencies to review records and interview children in order to obtain a current head count. ORR
12 has still not confirmed this number or shared data regarding how many children have already
13 come through these voluntary agencies, or how many it plans to send to these voluntary agencies
14 in the future.

17 329. Staff at one voluntary agency have informed local government officials that the
18 ages of most children newly placed at their agency, many of whom were separated from family
19 at the border, are between four and twelve. The youngest child so far was a nine-month-old
20 baby, in addition to multiple not-yet-verbal toddlers.

22 330. The children whom Defendants have separated from their parents and sent to New
23 York are suffering extreme trauma. For example, a South American boy who was separated from
24 his father at the Mexican border was rushed to the hospital because he was about to jump out of
25 the second-story window of the group home where he was sent in early June after being forcibly
26

1 separated from his family. The distraught child verbalized that he wanted to jump because he
2 missed his parents. Twelve other young immigrant children who were separated from their
3 parents at the border have been treated for physical and mental illnesses at New York City
4 hospitals. One child was suicidal and others were treated for depression and anxiety. *See* Jillian
5 Jorgensen, *City hospitals have treated 12 immigrant children who were taken from parents,*
6 *including a suicidal child*, N.Y. Daily News (June 21, 2018) available at
7 <http://www.nydailynews.com/news/politics/ny-pol-immigrant-children-treated-20180621->
8 [story.html](http://www.nydailynews.com/news/politics/ny-pol-immigrant-children-treated-20180621-), attached hereto as Ex. 124.
9

10 331. New York State has a quasi-sovereign interest in the health, safety and well-being
11 of all children within its borders, and Defendant's separation policy directly undermines that
12 interest by causing severe trauma to these children. New York State goes to great lengths to
13 provide significant due process protections for both parents and children when families are
14 separated as a result of government action. When a child is placed in foster care in New York,
15 state statutes and regulations afford both the parent and the child a range of rights, including the
16 right of visitation. Indeed, the child's *family* service plan must include a plan for regular
17 visitation between the parents and child. N.Y. Soc. Serv. Law § 409-e; N.Y. Comp. Codes R. &
18 Regs. Tit. 18 § 428.3. *See also* N.Y. Fam. Ct. Act § 1030(a) (providing that a parent has a right
19 of regular and reasonable visitation with a child in foster care unless otherwise prohibited by
20 court order). This right of regular visitation is afforded even when one or both parents is
21 incarcerated in a prison or jail. In that situation, the child welfare agency must make suitable
22 arrangements with the correctional facility for a parent to visit with the child, unless the visiting
23 would be harmful to the child. 11 OCFS ADM 07. Moreover, parents who are incarcerated are
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1 entitled to participate in the planning for their child in foster care by participating in family court
2 proceedings and periodic family service plan reviews. *See* N.Y. Comp. Codes R. & Regs. Tit.
3 18 § 428.9. To protect these vital rights, state law provides that the parent of a child in foster
4 care has a right to assigned counsel by the court where such parent is financially unable to obtain
5 one. N.Y. Family Court Act § 26. Such rules are premised on the importance of the parent-child
6 bond, and the parent’s critical, indispensable role in assuring that the needs of his or her child
7 are met. Here, by contrast, the parents and children whom Defendants have separated at the
8 border are afforded no visitation procedure and have no process to recognize or protect their
9 rights. Due to Defendant’s illegal policy, the separated children who are currently residing in
10 New York are being treated differently than other children in foster care in the State, to their
11 great detriment and in direct contravention of the state’s interest in ensuring the health, safety,
12 and well-being of all its residents.

13
14
15 332. Upon information and belief, family members of separated children currently
16 reside in New York State. An HHS spokesman stated that “[t]here’s an effort to place [children
17 who were separated at the border] as closely as possible to where they’re going to be eventually
18 reunified with a sponsor or a family member” and that if a child was placed in New York it
19 usually means that there is a family member residing in the state who is a possible placement
20 option for the child. *See* Tal Kopan, *Why some children have been sent to states far away from*
21 *the US border*, CNN (June 22, 2018) available at [https://www.cnn.com/politics/live-](https://www.cnn.com/politics/live-news/immigration-border-children-separation/h_714fd2e091af7813fb8df5fc587c7b8b)
22 [news/immigration-border-children-separation/h_714fd2e091af7813fb8df5fc587c7b8b](https://www.cnn.com/politics/live-news/immigration-border-children-separation/h_714fd2e091af7813fb8df5fc587c7b8b),
23
24 attached hereto as Ex. 125. New York has a quasi-sovereign interest in ensuring that children
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1 residing in New York State, who have been separated from their parents, are placed with family
2 members also residing in the State if the children cannot be quickly reunified with their parents.

3 333. **Maryland** has an interest in the health, safety, and wellbeing of all its residents,
4 including any parents or children being placed in Maryland under the Policy. Immigration agents
5 are reported to have sent dozens of children to Maryland during the implementation of the Trump
6 Administration's family separation policy. The children often have no family connection to the
7 state; they are sent here because the system has capacity. Some of the children have been placed
8 with foster families coordinated by care organizations, while others are placed in residential
9 group child care.
10

11 334. Immigration officials are sending separated children to Maryland without the
12 most basic information about the children or their parents, or how to connect them with one
13 another. And many of the children have come with little or no information and are too young
14 as young as 18 months to communicate with caregivers or social workers trying to track down
15 relatives who could take them in. Thus, the sheltering organizations that are housing the children
16 do not know how to identify, let alone locate, the children's parents, who risk deportation before
17 they can find or be reunited with their children.
18

19 335. Care organizations report that children who have been separated from their
20 parents suffer greater trauma than other unaccompanied minors whom the organizations care for.
21 For some of these children, their suffering is immediately apparent, as has been shown in
22 publicly available videos and other recordings. For others, their suffering emerges over time, as
23 they become more comfortable with the staff of the care organizations. And when those
24 organizations can track down a parent and arrange for a call with his or her child, the children
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1 are reportedly so upset afterwards that they need counseling. *See* Andrea K. McDaniels, *Border*
2 *separations could have traumatic impact on children, doctors say*, The Balt. Sun (June 22, 2018) at
3 A9, available at [http://www.baltimoresun.com/health/bs-hs-border-separation-trauma-20180621-](http://www.baltimoresun.com/health/bs-hs-border-separation-trauma-20180621-story.html)
4 [story.html](http://www.baltimoresun.com/health/bs-hs-border-separation-trauma-20180621-story.html), attached hereto as Ex. 126; Ian Duncan, “”, The Balt. Sun, June 21, 2018, at A1,
5 available at [http://www.baltimoresun.com/news/maryland/bs-md-border-separations-20180620-](http://www.baltimoresun.com/news/maryland/bs-md-border-separations-20180620-story.html)
6 [story.html](http://www.baltimoresun.com/news/maryland/bs-md-border-separations-20180620-story.html), attached hereto as Ex. 127.
7

8 336. Parents who have been separated from their children are also being sent to
9 Maryland and detained in local facilities that contract with ICE to hold detainees, mostly pending
10 criminal process. Anne Arundel, Frederick, Howard, and Worcester counties have all agreed to
11 hold immigration detainees, and the Anne Arundel Detention Center is reportedly holding at
12 least two parents who have been separated from their children under the Trump Administration’s
13 policy. *See* Ex. 127. In addition, Maryland is the location of a Federal Correctional Institution
14 and the Chesapeake Detention Facility where, by contract, the federal government houses federal
15 pre-trial detainees, which might be affected by ICE’s policy of housing separated parents in
16 federal detention facilities. Parents held in Maryland have little contact with their children and
17 no information about where they are being held. One was reportedly separated from his five-
18 year-old daughter by force and has not had any contact with, or information about, her in the two
19 months since. *See* Patricia Sullivan, *Md., Va. congressmen hear stories of family separation*, the
20 Washington Post (June 21, 2018) at B4, available at
21 [https://www.washingtonpost.com/local/immigration/md-va-congressmen-hear-stories-of-family-](https://www.washingtonpost.com/local/immigration/md-va-congressmen-hear-stories-of-family-separation/2018/06/20/af3fe0ae-74aa-11e8-b4b7-308400242c2e_story.html?noredirect=on&utm_term=.fa6d5bb19919)
22 [separation/2018/06/20/af3fe0ae-74aa-11e8-b4b7-](https://www.washingtonpost.com/local/immigration/md-va-congressmen-hear-stories-of-family-separation/2018/06/20/af3fe0ae-74aa-11e8-b4b7-308400242c2e_story.html?noredirect=on&utm_term=.fa6d5bb19919)
23 [308400242c2e_story.html?noredirect=on&utm](https://www.washingtonpost.com/local/immigration/md-va-congressmen-hear-stories-of-family-separation/2018/06/20/af3fe0ae-74aa-11e8-b4b7-308400242c2e_story.html?noredirect=on&utm_term=.fa6d5bb19919)
24 [term=.fa6d5bb19919](https://www.washingtonpost.com/local/immigration/md-va-congressmen-hear-stories-of-family-separation/2018/06/20/af3fe0ae-74aa-11e8-b4b7-308400242c2e_story.html?noredirect=on&utm_term=.fa6d5bb19919), attached hereto as Ex. 128.
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1 337. In other respects, as well, ORR is using facilities in Maryland to facilitate the
2 Administration's family separation policy without providing the transparency that would allow
3 Maryland to ensure the safety and security of its residents, including the parents and children
4 who have been separated from one another under the policy. ORR has provided no information
5 about the care and circumstances of immigrant children detained within Maryland's borders
6 where they are being held; what condition they are in; where their parents are; whether they have
7 adequate food, clothing and shelter; whether they have access to medical care and legal
8 representation; or when and how they will be reunited with their families.
9

10 338. Children separated from their families as a result of Defendants' actions have
11 been sent to organizations in **Pennsylvania**. For instance, 50 child immigrants separated from
12 their families are being housed at the Holy Family Institute in Emsworth, Pennsylvania, a
13 Catholic social services organization that is under contract with Defendant ORR. *See* Paula
14 Reed Ward and Ashley Murray, *Child migrants separated from families housed at Holy Family*
15 *Institute in Emsworth*, *Pittsburg Post-Gazette* (June 17, 2018) available at [http://www.post-](http://www.post-gazette.com/news/faith-religion/2018/06/17/Child-migrants-separated-from-families-being-housed-at-Holy-Family-Institute/stories/201806160074)
16 [gazette.com/news/faith-religion/2018/06/17/Child-migrants-separated-from-families-being-](http://www.post-gazette.com/news/faith-religion/2018/06/17/Child-migrants-separated-from-families-being-housed-at-Holy-Family-Institute/stories/201806160074)
17 [housed-at-Holy-Family-Institute/stories/201806160074](http://www.post-gazette.com/news/faith-religion/2018/06/17/Child-migrants-separated-from-families-being-housed-at-Holy-Family-Institute/stories/201806160074), attached hereto as Ex. 129. The
18 children, who range in age from 4 to 17, are from Honduras, Guatemala, El Salvador, and other
19 countries. Other child immigrants separated from their parents as a result of Defendants' actions
20 have been placed with a shelter in Pennsylvania's Lehigh Valley. *See* Laura Benshoff, *As Trump*
21 *ends family separation policy, children removed from their parents are already in Pa.*, (June 21,
22 2018), available at [https://whyy.org/segments/as-trump-ends-family-separation-policy-](https://whyy.org/segments/as-trump-ends-family-separation-policy-children-removed-from-their-parents-are-already-in-pa/)
23 [children-removed-from-their-parents-are-already-in-pa/](https://whyy.org/segments/as-trump-ends-family-separation-policy-children-removed-from-their-parents-are-already-in-pa/), attached hereto as Ex. 130.
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1 339. The **District of Columbia** places an emphasis on preserving families and
2 reunifying families even when children become involved with the state due to child abuse or
3 neglect. See D.C. Code § 4-1303.03(a)(11) and (a)(13). The District of Columbia follows the
4 United States Supreme Court’s holdings that there is “a presumption that fit parents act in the
5 best interests of their children,” *Troxel v. Granville*, 530 U.S. 57, 68, (2000), and recognition
6 that the state may not “inject itself into the private realm of the family” absent a finding of
7 unfitness. *Id.* at 68–69. The Court has frequently emphasized the importance of the family, and
8 has held that individuals have a fundamental right to parent their own children. *Stanley v. Illinois*,
9 405 U.S. 645, 651 (1972). This important relationship may not be terminated without a predicate
10 determination, by clear and convincing evidence that the individual is unfit to parent. *Santosky*
11 *v. Kramer*, 455 U.S. 745–760, 768–71 (1982).

12
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14 340. The District of Columbia also prohibits discrimination based upon the race, color,
15 religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender
16 identity or expression, familial status, family responsibilities, genetic information, disability,
17 matriculation, or political affiliation, source of income, status as a victim of an intrafamily
18 offense, and place of residence or business of any individual. D.C. Code § 2-1401.01.

19 341. Defendants’ Policy causes severe and potentially permanent emotional and
20 psychological trauma to children who have been separated from their parents, some of whom
21 are placed with sponsors in the District of Columbia. The number of children placed with
22 sponsors in the District will increase as the sponsors are identified and vetted, and approved to
23 receive these children.
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1 **V. CAUSES OF ACTION**

2 **Count I: Violation of Fifth Amendment – Substantive Due Process**

3 342. All of the foregoing allegations are repeated and realleged as though fully set
4 forth herein.

5
6 343. State residents who are parents have a fundamental liberty interest in the care,
7 custody, and control of their children. This includes current state residents and those who may
8 arrive in the States following separation pursuant to Defendants' Policy.

9 344. State residents who are minors have a reciprocal liberty interest in their parents'
10 care. This includes current state residents and those who may arrive in the States following
11 separation pursuant to Defendants' Policy.

12 345. State residents who are minors have a right to be free of unreasonable risk of
13 harm, including trauma from separation and detention, as well as the risk of harm from housing
14 them in unlicensed facilities.

15
16 346. Defendants' Policy offends the Due Process Clause by separating parents from
17 their children without any showing that the parent is unfit or is otherwise endangering the child.

18 347. Defendants' violation causes ongoing harm to the States and their residents.

19 **Count II: Violation of Fifth Amendment – Procedural Due Process**

20
21 348. All of the foregoing allegations are repeated and realleged as though fully set
22 forth herein.

23 349. The Due Process Clause of the Fifth Amendment prohibits the federal
24 government from depriving individuals of their liberty interests without due process of law.
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1 350. Defendants' Policy deprives the States' residents of a fundamental liberty interest
2 with no hearing whatsoever. This includes current state residents and those who will arrive in
3 the States following separation pursuant to Defendants' Policy.

4 351. Defendants have violated the procedural due process guarantees of the Fifth
5 Amendment.

6 352. Defendants' violation causes ongoing harm to the States and their residents.

7
8 **Count III: Violation of Fifth Amendment – Equal Protection**

9 353. All of the foregoing allegations are repeated and realleged as though fully set
10 forth herein.

11 354. The Due Process Clause of the Fifth Amendment prohibits the federal
12 government from denying equal protection of the laws.

13 355. The Policy burdens a fundamental right and targets individuals for discriminatory
14 treatment based on their nationality or ethnicity, without lawful justification, and is therefore not
15 narrowly tailored to achieve a compelling governmental interest. The Policy is also
16 unconstitutional because it disparately impacts immigrants from Latin America arriving at the
17 Southwestern border and is motivated by animus and a desire to harm this particular group.

18 356. Alternatively, the discriminatory terms and application of the Policy are arbitrary
19 and do not bear a rational relationship to a legitimate federal interest.

20 357. Through their actions above, Defendants have violated the equal protection
21 guarantee of the Fifth Amendment.

22 358. Defendants' violation causes ongoing harm to the States and their residents.
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1 **Count IV: Violation of the Administrative Procedure Act**

2 359. All of the foregoing allegations are repeated and realleged as though fully set
3 forth herein.

4 360. The Administrative Procedure Act, 5 U.S.C. § 706(2), prohibits federal agency
5 action that is arbitrary, unconstitutional, and contrary to statute.
6

7 361. Defendants' Policy constitutes final agency action for purposes of the
8 Administrative Procedure Act.

9 362. Defendants have offered no legitimate basis for their Policy.

10 363. Defendants' Policy is arbitrary and capricious because it conflicts with various
11 laws requiring Defendants and the States to consider the best interests and well-being of children
12 arriving to the United States.
13

14 364. The Policy is not authorized or required by the TVPRA, which only applies to
15 unaccompanied minors. The minors subject to Defendants' Policy are not "unaccompanied," as
16 they are accompanied by a parent or guardian. Indeed, in a White House Press Release, dated
17 October 8, 2017, Defendants released a "detailed outline of President Trump's immigration
18 principles and policies" which states Defendants' agreement that "alien minors [] are not UACs
19 [if they are] accompanied by a parent or legal guardian." *See* Immigration Principles & Policies,
20 available at <http://www.aila.org/infonet/wh-immigration-principles-and-policies>, attached
21 hereto as Ex. 131.
22

23 365. Further, as alleged herein, the separation Policy contravenes the spirit and
24 purpose of the TVPRA, which seeks to protect children. In general, the TVPRA requires,
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1 whenever possible, family reunification or other appropriate placement for unaccompanied alien
2 children. *See* 8 U.S.C. § 1232(c)(2)(A).

3 366. In implementing the Policy, federal agencies have taken or will take
4 unconstitutional and unlawful action, as alleged herein, in violation of the Administrative
5 Procedure Act.
6

7 367. In implementing the Policy, federal agencies have applied or will apply
8 provisions arbitrarily, in violation of the Administrative Procedure Act.

9 368. Defendants' violation causes ongoing harm to the State and its residents.

10 **Count V: Violation of Asylum Laws**

11 369. Under United States law, noncitizens with a well-founded fear of persecution
12 shall have the opportunity to obtain asylum in the United States. 8 U.S.C. § 1158 (“[a]ny alien
13 who is physically present in the United States or who arrives in the United States . . . irrespective
14 of such alien’s status, may apply for asylum in accordance with this section.”). Federal law also
15 prohibits the return of a noncitizen to a country where he may face torture or persecution. *See* 8
16 U.S.C. § 1231(b); United Nations Convention Against Torture (CAT), implemented in the
17 Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277, div. G, Title XXII,
18 § 2242, 112 Stat. 2681, 2681-822 (1998) (codified as Note to 8 U.S.C. § 1231).
19
20

21 370. In enacting these statutes, Congress created a right to petition our government for
22 asylum that at the very least requires that asylum seekers be able to present themselves at ports
23 of entry to request asylum. Defendants are preventing asylum-seekers from presenting
24 themselves at ports of entry that are allegedly “full,” thus preventing asylum claims from being
25 heard, in violation of 8 U.S.C. § 1158.
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e. Enjoin Defendants from conditioning family reunification on an agreement not to petition for asylum or other relief available under the INA, or on an agreement to withdraw a petition or other request for that relief;

f. Enjoin Defendants from removing separated parents from the United States without their children, unless the parent affirmatively, knowingly, and voluntarily waives the right to reunification before removal after consultation with an attorney;

g. Enjoin Defendants from placing children in unlicensed facilities;

h. Order Defendants to provide specific information to parents who are lawfully separated from their children about the nature and purpose of the separation, the process by which they can be reunified, and the whereabouts of their children at all times, absent a finding by a court of competent jurisdiction that such information would be dangerous to a child's welfare;

i. Award such additional relief as the interests of justice may require.

1 Respectfully submitted this 26th day of June, 2018.

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/s/ Alethea M. Huyser

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/s/ Benjamin D. Battles

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Attorney General of Delaware

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Pro Hac Vice motions forthcoming for all counsel of record not barred in the Western District of Washington.

Appendix A

Appendix A

The States seek expedited discovery to obtain and preserve evidence on the following topics:

1. The development and implementation of Defendants' policy of separating families who enter the United States along the Southwestern border, including communications to Defendant employees (e.g., Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE) officers) at the border ports of entry regarding same.
2. The number of Separated Children¹ placed by the Office of Refugee Resettlement (ORR) - or any other Defendant - in each Plaintiff State from January 1, 2018 to the present, by month and facility (or, for individual sponsor placements, the county in which the child resides with such sponsor).
3. The number of Separated Parents² who are or were detained in each Plaintiff State from January 1, 2018 to the present, by month and facility.
4. The number of Separated Parents in each Plaintiff State released from DHS custody from January 1, 2018 to the present, including the facility from which they were released, the conditions of release, and current location.
5. As to every Separated Parent who is present in any Plaintiff State (or who was present in a Plaintiff State on the day this lawsuit was filed):
 - a. The date that each Separated Parent was taken into DHS custody;
 - b. The current placement and location of every Separated Parent (e.g., held in the federal prison in SeaTac, Washington);
 - c. Whether the Separated Parent expressed fear for their safety in their home country to Defendants at any point, and if so, whether and when the Separated Parent was provided with a credible fear interview;
 - d. Whether the Separated Parent has withdrawn any claim to lawful status while in DHS custody;
 - e. The contact that Defendants have provided between the Separated Parent and his or her child(ren);

¹ "Separated Child" or "Separated Children" shall mean any child under the age of 18 who was traveling with an adult family member, who entered the United States along the Southwestern border in the company of such family member, and who the Department of Homeland Security (DHS) or any other Defendant separated from their family member thereafter.

² "Separated Parent" shall mean any adult who was traveling with a family member under the age of 18, who entered the United States along the Southwestern border in the company of such child or children, and who DHS or any other Defendant separated from the child or children thereafter.

- f. The location of that Separated Parent's children (if in an ORR placement or custody); and
 - g. DHS' plan to reunify the Separated Parent with the child.
- 6. As to every Separated Child who is present in any Plaintiff State (or who was present in a Plaintiff State on the day this lawsuit was filed):
 - a. The current placement and location of every such child (e.g., living with a sponsor in Seattle, Washington);
 - b. The contact that Defendants have provided between the child and their Separated Parent(s) or other family members;
 - c. The location of that Separated Child's Separated Parent(s);
 - d. DHS' plan to reunify the Separated Child with the Separated Parent(s); and
 - e. Information concerning the circumstances and progress of such reunification efforts.
- 7. The development and implementation of Defendants' practice of refusing to allow entry to asylum seekers presenting themselves at ports of entry along the Southwestern border, including all communications to Defendant employees (e.g., CBP and ICE officers) working near those border ports of entry that discuss this practice, including but not limited to discussion of "metering", numerical or space limits on asylum claims, administrative or other limits on asylum claim processing, and requiring asylum seekers to return to ports of entry at a later day or time.
- 8. Since January 1, 2018, the number of persons presenting at Southwestern border ports of entry who expressed fear for their safety in their home country, but who Defendants refused to allow to enter the United States, and all information concerning the circumstances of Defendants' refusal.
- 9. Since January 1, 2018, the number of persons presenting at Southwestern border ports of entry who expressed fear for their safety in their home country, and who Defendants detained in federal custody, and all information concerning the circumstances of Defendants' choice to detain them.
- 10. Since January 1, 2018, the number of persons presenting at Southwestern border ports of entry who expressed fear for their safety in their home country, who were traveling with their child or children at the time they arrived at the port of entry, but who Defendants then separated from their child(ren); and all information concerning the circumstances of such separation.

11. For all Separated Parents who entered the United States along the Southwestern border from January 1, 2018, information regarding:
 - a. The number and circumstances under which Separated Parents agreed to relinquish a claim for lawful status while in DHS custody;
 - b. The number and circumstances under which Separated Parents agreed to voluntary removal while in DHS custody;
 - c. The number and circumstances under which DHS removed Separated Parents from the United States without their Separated Child; and
 - d. All reunification efforts the Defendants have made concerning Separated Parents who were removed from the United States without their Separated Children.
12. For all Separated Parents who have been released from DHS custody since January 1, 2018, all information regarding DHS and HHS efforts to reunite Separated Parents and Separated Children, including but not limited to:
 - a. Information regarding the paperwork required of Separated Parents who want to reunite with their Separated Children, including any requirement that Separated Parent complete Family Reunification Applications, including background checks, DNA testing, or fingerprinting, before reunification with their Separated Children;
 - b. Information regarding any financial requests or demands made of Separated Parents who want to reunite with their Separated Children, including demands that Separated Parents pay the airfare for Separated Children and escorts as a condition of reunification;
 - c. Information regarding any other conditions or requirements the Defendants are placing on Separated Parents who want to reunite with their Separated Children.
13. As to Defendants' stated intentions to detain families who enter along the Southwestern border together in detention centers or similar facilities, all information as to any sites under consideration that are located in any Plaintiff States and any regulatory changes intended to facilitate family detention.
14. As to Defendants' stated intentions to conduct summary deportations of individuals who enter along the Southwestern border without hearing or process, all information as to the existence and implementation of such policy or practice.

Margolin, James (USANYS) [Contractor]

From: Margolin, James (USANYS) [Contractor]
Sent: Friday, January 18, 2019 8:10 PM
To: SpecialCounselPress
Cc: Kupec, Kerri (OPA); Hornbuckle, Wyn (OPA)
Subject: Re: Statement on BuzzFeed article

Thanks, Peter.

James Margolin
Chief Public Information Officer
U.S. Attorney's Office, SDNY

(b) (6)

(b) (6) (office)

(b) (6) (cell)

On Jan 18, 2019, at 7:39 PM, SpecialCounselPress <SpecialCounselPress@usdoj.gov> wrote:

FYI

From: SpecialCounselPress <SpecialCounselPress@jmd.usdoj.gov>
Sent: Friday, January 18, 2019 7:36 PM
To: SpecialCounselPress <SpecialCounselPress@jmd.usdoj.gov>
Subject: Statement on BuzzFeed article

You may attribute the following to me:

“BuzzFeed’s description of specific statements to the Special Counsel’s Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen’s Congressional testimony are not accurate.”

Best,
Peter Carr
Spokesman
Special Counsel’s Office

PAC

From: PAC
Sent: Friday, January 18, 2019 3:48 PM
To: JLQ
Subject: RE: BuzzFeed Article

Thank you

From: JL (b)(6), (b)(7)(C): James Quarles email
Sent: Friday, January 18, 2019 3:46 PM
To: RSMS (b)(6), (b)(7)(C): Robert Mueller email>; AM (b)(6), (b)(7)(C): Aaron Zebley email; ADG (b)(6), (b)(7)(C): Andrew Goldstein email>; MRD (b)(6), (b)(7)(C): Michael Dreeben email>; EB (b)(6), (b)(7)(C): Elizabeth Prelogar email (b)(6), (b)(7)(C), (b)(7)(E) per FBI PA (b)(6), (b)(7)(C): Peter Carr email
Subject: FW: BuzzFeed Article

See below.

James L. Quarles
The Special Counsel's Office

(b) (6)

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From: JLQ
Sent: Friday, January 18, 2019 3:45 PM
To: 'Jane Raski (b) (6) >
Cc: Jay Sekulo (b) (6) >; Marty Raski (b) (6) >
Subject: RE: BuzzFeed Article

This office is committed to ensuring that our investigation is conducted professionally and that there are no leaks. We are highly confident that the BuzzFeed story did not come from a member of this office.

James L. Quarles
The Special Counsel's Office

(b) (6)

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From: Jane Raski (b) (6) >

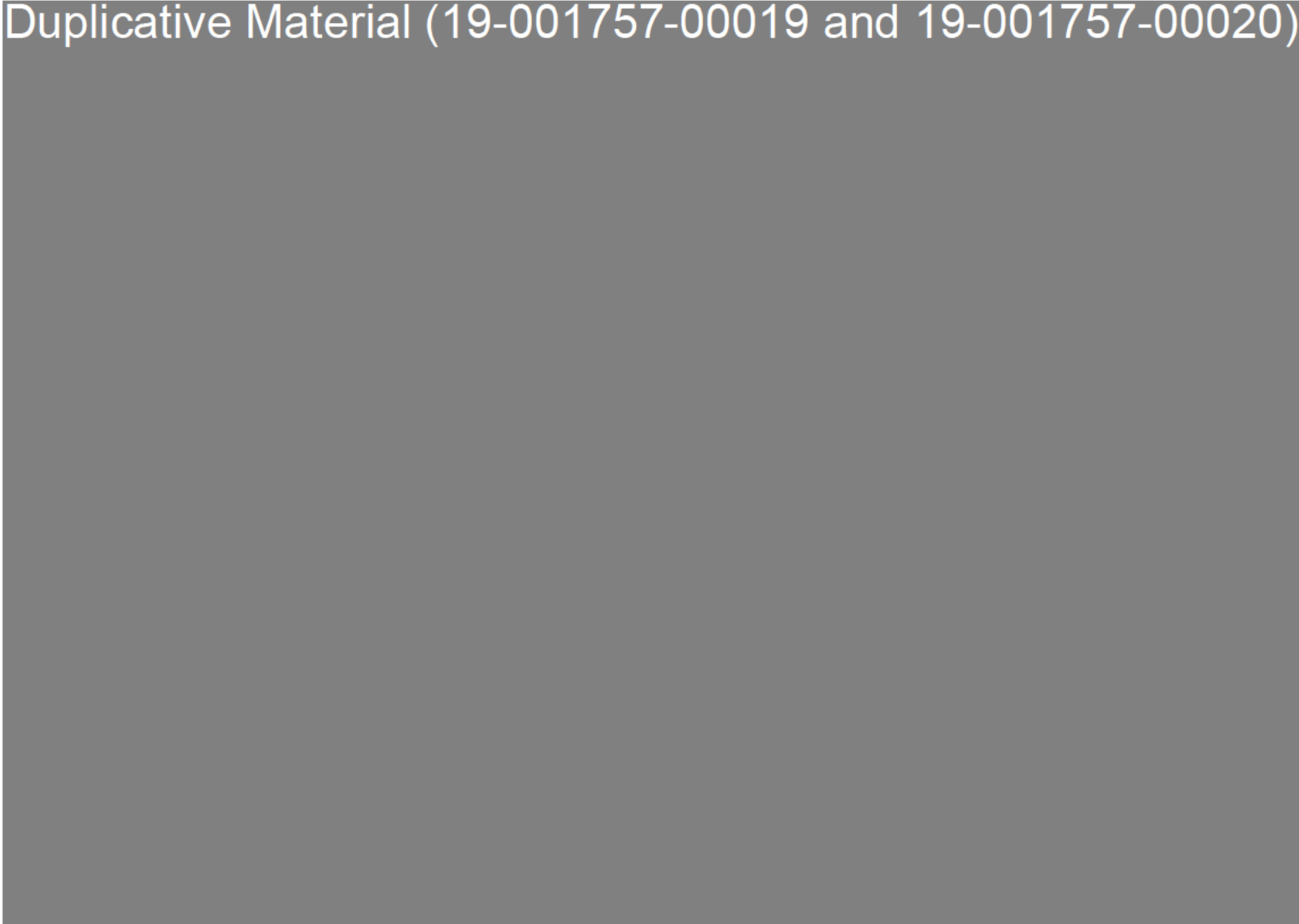
Sent: Friday, January 18, 2019 12:36 PM

To: JL (b)(6), (b)(7)(C): James Quarles email >

Cc: Jay Sekulo (b) (6) >; Marty Raski (b) (6) >

Subject: BuzzFeed Article

Duplicative Material (19-001757-00019 and 19-001757-00020)



PAC

From: PAC
Sent: Friday, January 18, 2019 4:03 PM
To: RSMSC; AMZ; JLQ; D (b)(6), (b)(7)(C), (b)(7)(E) (OGC) (FBI)
Cc: CWK
Subject: Schiff and Feinstein statements on BuzzFeed report

Chairman Schiff Statement on BuzzFeed Report

Washington, DC — Today, Rep. Adam Schiff (D-CA), the Chairman of the House Permanent Select Committee on Intelligence, released the following statement:

“On October 24, 2017, Michael Cohen testified before the House Intelligence Committee under oath. We now know that he made false statements about the efforts to consummate the Trump Tower Moscow deal during the campaign. Contrary to Mr. Cohen’s testimony, and notwithstanding Donald Trump’s many public denials of business dealings with the Russians during the campaign, those negotiations continued through at least the middle of 2016. Most significantly, and while espousing the relaxation of sanctions on Russia, Trump was seeking the Kremlin’s help to make this multimillion dollar project possible.

“It is now alleged that the President of the United States directed Michael Cohen to lie under oath to Congress about these matters in an effort to impede the investigation and to cover up his business dealings with Russia. These allegations may prove unfounded, but, if true, they would constitute both the subornation of perjury as well as obstruction of justice. Our committee is already working to secure additional witness testimony and documents related to the Trump Tower Moscow deal and other investigative matters. As a counterintelligence concern of the greatest magnitude, and given that these alleged efforts were intended to interfere with our investigation, our Committee is determined to get to the bottom of this and follow the evidence wherever it may lead.”

###

Washington—Senate Judiciary Committee Ranking Member Dianne Feinstein (D-Calif.) today released the following statement on media reports that President Trump directed his lawyer Michael Cohen to lie to Congress:

“We’ve previously known about attempts to develop Trump Tower Moscow and the misrepresentations surrounding those efforts. Now, media reports say President Trump directed Michael Cohen to lie to Congress about that business deal. If true, the president committed a crime and must be held accountable.

“The Mueller investigation and ongoing congressional oversight must be allowed to run their course without interference. I again call on my Republican colleagues to join in a bipartisan effort to get the facts to the American people, who deserve to know the full story of what happened during and after the 2016 election. If these latest allegations are true, they’re too serious to be ignored or withheld from public scrutiny.”

AMZ

From: AMZ
Sent: Saturday, January 19, 2019 2:56 PM
To: PAC
Subject: Re: Updated BuzzFeed statement

Thx

Sent from my iPhone

> On Jan 19, 2019, at 2:35 PM, PA (b)(6), (b)(7)(C): Peter Carr email wrote:

>

> Hope this screenshot comes through:

>

>

>>

>> <Image-1.jpg>

>>



Michael M. Grynbaum
@grynbaum

Updated statement from

[@BuzzFeedNews](#):

"As we've re-confirmed our reporting, we've seen no indication that any specific aspect of our story is inaccurate. We remain confident in what we've reported, and will share more as we are able." --Matt Mittenenthal, spokesperson.

2:22 PM · 1/19/19 · [TweetDeck](#)

94 Retweets 154 Likes



Derek Anderson @AltruisticMystic · 7m

Replying to [@grynbaum](#) [@natemcdermott](#) and [@BuzzFeedNews](#)

Dems now being forced to chose between [@BuzzFeed](#) and Special Counsel. Tough

Tweet your reply



Fwd: BuzzFeed update

From: AMZ (b)(6), (b)(7)(C): Aaron Zebley email
To: DWA (b)(6), (b)(7)(C): David Archey email
Date: Fri, 18 Jan 2019 20:48:24 -0500

DELIBERATIVE

I just saw I missed your call. Sorry about that. Here's the summary of the last half of the day: we gave BF a statement (in the linked story, but will forward the statement itself right after this); they added our statement; they then made two statements

Sent from my iPhone

Begin forwarded message

From: PAC (b)(6), (b)(7)(C): Peter Carr email
Date: January 18, 2019 1:01 PM EST
RSMSC (b)(6), (b)(7)(C): Robert Mueller email; AMZ (b)(6), (b)(7)(C): Aaron Zebley email; JLQ (b)(6), (b)(7)(C): James Quarles email; ADG (b)(6), (b)(7)(C): Andrew Goldstein email; JSR (b)(6), (b)(7)(C): Jeannie Rhee email; (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Subject: RE: BuzzFeed update

BuzzFeed's editor in chief has issued this statement:

"We stand by the reporting and the sources who informed it, and we urge the Special Counsel to make clear what he's disputing."

From: PAC
Sent: Friday, January 18, 2019 8:18 PM
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email; (b)(6), (b)(7)(C): Aaron Zebley email; (b)(6), (b)(7)(C): James Quarles email; ADG (b)(6), (b)(7)(C): Andrew Goldstein email; JSR (b)(6), (b)(7)(C): Jeannie Rhee email; (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Subject: BuzzFeed update

Here is the statement that BuzzFeed has issued following our statement:

"We are continuing to report and determine what the special counsel is disputing. We remain confident in the accuracy of our report."

Here is the updated story (which as of now only includes my quote):

<https://www.buzzfeednews.com/article/jasonleopold/trump-russia-cohen-moscow-tower-mueller-investigation>

Re: Fwd:

From: AMZ (b)(6), (b)(7)(C): Aaron Zebley email
To: DWA (b)(6), (b)(7)(C): David Archey email
Date: Fri, 18 Jan 2019 21:15:25 -0500

Ok Talk in am Th

Sent from my iPhone

On Jan 18 2019 at 8 53 PM DWA (b)(6), (b)(7)(C): David Archey email wrote

Not an emergency. Let's talk tomorrow whenever convenient.

David W Archey
Special Counsel's Office

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On Jan 18, 2019, at 8:52 PM, AMZ (b)(6), (b)(7)(C): Aaron Zebley email > wrote:

Can I call at 915? Sorry for delay.

Sent from my iPhone

On Jan 18, 2019, at 8:50 PM, DWA (b)(6), (b)(7)(C): David Archey email wrote:

Copy and thanks. Watching it now. Got time for a call?

David W. Archey
Special Counsel's Office

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On Jan 18 2019 at 8 48 PM AMZ (b)(6), (b)(7)(C): Aaron Zebley email wrote

Sent from my iPhone

Begin forwarded message:

From: AMZ (b)(6), (b)(7)(C): Aaron Zebley email
Date: January 18, 2019 at 8:48 PM EST
To: PAC (b)(6), (b)(7)(C): Peter Carr email
Cc: AMZ (b)(6), (b)(7)(C): Aaron Zebley email

DRAFT / DELIBERATIVE // PRE-DECISIONAL

Buzzfeed's description of specific statements to the Special Counsel's Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen's Congressional testimony are not accurate.

Aaron Zebley

Special Counsel's Office

(b) (6)

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FW: News Briefing - Jan. 18, 2019

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
To: (b)(6), (b)(7)(C) per FBI (OGC) (FBI) (b)(7)(E) per FBI
Date: Fri, 18 Jan 2019 08:24:55 -0500

From: PAC
Sent: Friday, January 18, 2019 1:24:52 PM (UTC+00:00) Monrovia, Reykjavik
To: SCO All
Subject: New Briefing Jan 18 2019

News Briefing – January 18, 2019

Sources: Trump Directed Cohen To Lie To Congress About Moscow Tower Project.

[BuzzFeed News](#) (1/17, Leopold, Cormier) reports President Trump “directed his longtime attorney Michael Cohen to lie to Congress about negotiations to build a Trump Tower in Moscow, according to two federal law enforcement officials involved in an investigation of the matter.” Trump also “supported a plan, set up by Cohen, to visit Russia during the presidential campaign, in order to personally meet President Vladimir Putin and jump-start the tower negotiations.” While Trump has publicly claimed “he had no business deals with Russia, the sources said Trump and his children, Ivanka and Donald Trump Jr., received regular, detailed updates about the real estate development from Cohen, whom they put in charge of the project.”

Media Analyses: Giuliani Walks Back Collusion Comments.

The [AP](#) (1/17, Tucker) reports that Rudy Giuliani, President Trump’s attorney, “now says he ‘never said there was no collusion’ between Russia and members of Trump’s 2016 White House campaign, contradicting public positions that he and his client have taken ” In comments made on CNN on Wednesday night, Giuliani “appear[ed] to have left open the possibility of improper contacts,” but then “tried to clarify what he meant” on Thursday morning. Said Giuliani, “I represent only President Trump not the Trump campaign. There was no collusion by President Trump in any way, shape or form. Likewise, I have no knowledge of any collusion by any of the thousands of people who worked on the campaign.”

In what [NBC Nightly News](#) (1/17, story 4, 1:25, Holt, 8.03M) called “damage control,” Giuliani is “now shifting his story” after “insisting Donald Trump did not collude with Russia, but leaving open the possibility his campaign did.” Giuliani, asked to explain his “stunning comment,” told NBC News, “I represent the President. If you say to me tomorrow, ‘someone in the campaign colluded with the Russians, okay, that person did, but we didn’t know about it, and I don’t know of any such person.’” NBC said Democrats are “skeptical.” Sen. Dick Durbin: “He appears to acknowledge collusion between the campaign and Russians. If that’s what others have taken from it, that’s what I took from it. That’s quite an admission by the President’s own lawyer.”

The [CBS Evening News](#) (1/17, story 4, 1:30, Glor, 5.84M) called Giuliani’s remarks to CNN “a stunning about-face,” and [ABC World News Tonight](#) (1/17, story 6, 1:50, Muir, 8.96M) referred to them as “stunning,” and said “in an attempt to clarify, Giuliani insists he hasn’t changed his tune on collusion, but he sure seems to have narrowed the definition.” The [Washington Post](#) (1/17, Rucker, 13.51M) also says Giuliani has “dialed back” his comments. In a written statement, “as well as in a telephone interview with The Washington Post, Giuliani said he can speak only for his client, the president, and not for those who worked on the Trump campaign, adding that his knowledge is limited to Trump’s actions.” According to the Post, “Giuliani’s efforts to create distance between the president and top aides ensnared in the special counsel investigation come amid new signs of how extensively Mueller has mapped interactions between Trump associates and Russians in his 20-month-long investigation.”

The [New York Times](#) (1/17, Sullivan, Haberman, 17.59M) says the “evolution of [Giuliani’s] statements have suggested shifts in the president’s defense strategy, often following developments in the investigations.” The Times that on Tuesday, “prosecutors for the special counsel filed a 200-page, mostly redacted court document related to the case against Mr. Trump’s onetime campaign chairman, Paul Manafort,” and “among the little information that was not blacked out were details about his relationship with a Russian whom prosecutors have said has ties to Russian intelligence.”

Under the headline “Giuliani Tries To Clean Up Russia Collusion Comments,” [Politico](#) (1/17, Morin, 4.04M) says that “over the past several months, Giuliani has muddied the White House’s messaging around Mueller’s probe,” and “has also evolved his own messaging around collusion.”

Former Trump White House lawyer James Chultz said on [CNN’s Anderson Cooper 360](#) (1/17, 1.01M), “Him out there talking is really political statement. Because at the end of the day, this is a report that’s likely to go to Congress. And it’s not something that’s going to get before a judge or a jury as it relates to the President. It’s going to be something that’s used in Congress as an impeachment tool if the Democrats so choose to use it. So I think that’s what Rudy Giuliani is out there trying to do.”

Gloria Borger said on [CNN’s Situation Room](#) (1/17, 985K) that Giuliani is “defending his client. Look, he’s looking at what the Mueller investigation has done so far. He clearly is looking at Paul Manafort, at Michael Flynn, at Rick Gates and he can’t say nobody in the campaign colluded. Guess what? Say what you want about him but he is an attorney and can look at that. He is protecting his client saying there’s no evidence that Donald Trump knew anything about this.”

Jeffery Toobin said on [CNN Situation Room](#) (1/17, 985K), “A campaign is not just the candidate. The way Rudy was describing it yesterday, it’s as if there was a Trump Campaign office in the Kremlin and they worked together every day, that would not be collusion, because Donald Trump wasn’t associated with it. A campaign is not just the candidate. As we now have seen multiple connections between the Russians and the Trump campaign, including this distribution of secret polling data from Manafort to a figure from Russian intelligence, I mean, there is a lot of evidence here. And to say that Donald Trump is not on a wire tap or not on an email, which he doesn’t even use, I don’t think that’s exactly exculpatory.”

Former Clinton campaign manager Robby Mook said on [CNN’s Anderson Cooper 360](#) (1/17, 1.01M), “Well, the Trump apparatus has been lying about the campaign’s relationship with Russia the entire time. ... Giuliani is trying to introduce this into the bloodstream. He is trying to telegraph what’s coming ahead, but it’s not just sending talking points to Republicans. They’re trying to boil the toad here, right? ... And this is what’s been going on for years now is every time something new comes out, they just shift the goalpost a little bit. ... And we’re going get to the point now where I believe it will probably come out the President did know what was going on with the DNC and they’re going to try to clear the field so nobody cares anymore. And that’s where I think we all need to step back and realize this is a really big deal.”

Also reporting are [Reuters](#) (1/17), [Vox](#) (1/17, Rugar, 1.78M), and [Politico Magazine](#) (1/17, 3.99M).

Belarusian Model Who Claimed Trump Secrets Detained In Russia.

[Reuters](#) (1/17, Ivanova, Osborn) reports that a model from Belarus “who claimed to have evidence of Russian interference” in President Trump’s election was detained in Moscow on Thursday after being deported from Thailand. The [Washington Post](#) (1/17, Troianovski, Helderman, 13.51M) reports the model, Anastasia Vashukevich, was arrested on prostitution allegations, police said. She had been deported from Thailand “earlier in the day after spending nine months in prison on charges of conspiracy and soliciting prostitution.”

WPost Analysis: Mueller Filing Suggests Manafort Worked On Ukraine Peace Deal After Indictment.

The [Washington Post](#) (1/17, Helderman, 13.51M) reports that “in a tiny font at the top of the 82nd page of a lengthy document filed in court this week by special counsel Robert S. Mueller III is a key clue to his ongoing interest in Paul Manafort.” According to the Post, the “four words of unredacted text suggest that in February 2018 — four months after Manafort was first charged with crimes related to his work as a political consultant in Ukraine — he still appears to have been working on a peace initiative for Ukraine, a topic of intense interest to Russia. And it suggests he was doing so in concert with Konstantin Kilimnik, a Russian employee of his consulting firm who is alleged to have ties to Russian intelligence.”

Former Obama White House Counsel Made False Statements To DOJ About Manafort-Related Work.

The [Daily Caller](#) (1/17, Ross, 830K) reports the Justice Department is “alleging that the former Obama White House general counsel made ‘false and misleading’ statements regarding consulting work done for Ukraine.” Greg Craig was lead partner for the law firm Skadden Arps “on its Ukraine work, which was done in partnership with Paul Manafort.” Skadden Arps “agreed Thursday to settle with the Justice Department by registering as a foreign agent of Ukraine and paying a \$4.6 million fine,” but Craig’s “fate remains uncertain.”

[USA Today](#) (1/17, Johnson, 12.05M) reports the plea deal was announced by Assistant Attorney General John Demers, who said, “Law firms should handle inquiries from the federal government the same way they would counsel their clients to: with appropriate due diligence to ensure the honesty of their response.” The [Washington Post](#) (1/17, Hamburger, 13.51M) says the case “is emblematic of the Justice Department’s recent efforts to crack down on those who do work on behalf of foreign governments and fail to register appropriately.”

Cohen Says Trump Directed Him To Hire IT Firm To Rig Polls.

The [AP](#) (1/17) reports Michael Cohen, identified as President Trump's "estranged former lawyer," has "acknowledged that he paid a technology company to rig Trump's standing in two online polls," and did so "at the direction of and for the sole benefit of" Trump. John Gauger told the [Wall Street Journal](#) that Cohen promised him \$50,000 for work including using computers to enter fake votes for Trump in a 2014 CNBC poll asking people to identify top business leaders and a 2015 poll of potential presidential candidates." According to the AP, Gauger claims Cohen "paid him about a quarter of the money in cash, then stiffed him on the rest." However, the Trump Organization "later paid a \$50,000 reimbursement to Cohen."

[NBC Nightly News](#) (1/17, story 5, 0:25, Holt, 8.03M) reported Cohen responded to The Wall Street Journal report, [tweeting](#), "What I did was at the direction of and for the sole benefit of President Trump. I truly regret my blind loyalty to a man who doesn't deserve it." The [CBS Evening News](#) (1/17, story 5, 0:45, Glor, 5.84M) called the allegations "troubling for the President's story" [ABC World News Tonight](#) (1/17, story 7, 0 35, Muir, 8 96M) also briefly reported the story

The [Washington Post](#) (1/17, Rucker, 13 51M) reports that Gauger is the chief information officer at Liberty University "where evangelical leader and Trump support Jerry Falwell Jr is president" Citing the Journal, the Post says Gauger, "who owns RedFinch Solutions, showed up at Trump Tower in New York in early 2015 expecting to collect \$50,000 for his firm's work Instead, Cohen presented a blue Walmart bag containing \$12,000 to \$13,000 in cash and a boxing glove that Cohen said had been worn by a Brazilian mixed martial arts fighter" Rudy Giuliani, the President's attorney, "disputed Cohen's contention that he had approached RedFinch at Trump's direction" Said Giuliani, "The president has no knowledge that he did anything to mess around with polling data Trump did not authorize that He would not have authorized a cash payment of any kind He insisted everything be authorized by check" Giuliani added, "It looks like Michael was doing some stealing"

According to [Reuter](#) (1/17, Brice, Ahmann), "The attempts to influence the polls ultimately proved largely unsuccessful but shed a light on the tactics of the Trump campaign and Cohen's role within it" The [New York Times](#) (1/17, Haberman, 17 59M) reports that, according to the Journal, Cohen "also asked during the 2016 campaign for Mr Gauger's help establishing a 'Women for Cohen' Twitter feed that described Mr Cohen as a 'sex symbol,' and sought to promote his public appearances"

[USA Today](#) (1/17, Hafner, 12 05M) reports that according to the Wall Street Journal, one of the tasks Gauger was hired to do was "to create a fake Twitter fan account portraying Cohen as a 'sex symbol' The result @WomenForCohen"

Washington Post columnist Max Boot said on [CNN's Anderson Cooper 360](#) (1/17, 1.01M), "What this really brings home to me is that Chris Christie is right. He's got this new book out in which he says Donald Trump attracted to him amateur, grifters, weaklings, convicted and unconvicted felons who were hustling jobs they were never suited for, seemingly sometimes without even a background check. And Michael Cohen is a great example of that."

USA Today columnist Kristen Powers said on [CNN's Anderson Cooper 360](#) (1/17, 1.01M), "There are other reports of the Trump operation acting this way in terms of having agreements that aren't really, you know, binding. So they're not done in the normal way, sort of corporate way or I think the way most people would do, so they're not traceable, paying in cash. There are other stories of them paying in cash as well. ... The only people who are known for this kind of behavior are drug dealers and the mafia, so that says a lot about this organization that that's how they operate."

Skadden Arps Settles With DOJ Over Work With Manafort For Ukraine.

The [Wall Street Journal](#) (1/17, Viswanatha, Bykowicz, Randazzo, Subscription Publication, 6.23M) reports Skadden, Arps, Slate, Meagher & Flom LLP, a top Wall Street law firm, has reached a settlement agreement with the Department of Justice over its work with former Trump campaign chairman Paul Manafort. [Politico](#) (1/17, Meyer, 4.04M) reports the "prestigious New York law firm admitted to misleading the Justice Department about its work with Paul Manafort on behalf of the Ukrainian government and agreed to hand over nearly \$4.7 million."

Slate Analysis: Counterintelligence Investigation Could Establish An Obstruction Case Against Trump.

[Slate](#) (1/17, Arkedis, 1 33M) reports the FBI's counterintelligence investigation into President Trump could "help establish whether the investigation's existence motivated Trump to brow beat, and subsequently fire" acting FBI Director Andrew McCabe and former Attorney General Jeff Sessions, which will "in turn help us understand the credibility of another key charge against Trump obstruction of justice"

Reed, Menendez Call On Trump To Provide "Immediate" Info On Talks With Putin.

[CQ Roll Call](#) (1/17, Bennett, 162K) reports Sens. Robert Menendez (D-NJ) and Jack Reed (D-RI) are calling on President Trump to immediately "describe how he handled notes and other materials directly related to his

one-on-one contacts” with Russian President Vladimir Putin. In a letter to Trump, the senators demanded “immediate confirmation that you have preserved all records, including notes, transcripts, documents, and communications related to any meetings, telephone calls, or any other interaction that you have had with Russian Federation President Vladimir Putin since being sworn into office in January 2017.” Menendez and Reed further wrote, “In light of the continuing level of secrecy shrouding your interactions with the Russian leader, we insist that the interpreters for these interactions, especially the individual who interpreted for your meeting with President Putin in Helsinki, be made immediately available for interviews with the relevant committees in Congress.”

Ohr Testimony “Undercuts” Democrats’ Defense Of FBI’s Handling Of The Steele Dossier, FISA Warrant Application.

The [Wall Street Journal](#) (1/17, Strassel, Subscription Publication, 6.23M) reports testimony by Justice Department official Bruce Ohr before Congress in August has revealed that both the FBI and the DOJ understood that the FBI’s counterintelligence probe was based on biased information provided by Hillary Clinton’s presidential campaign. The [Washington Examiner](#) (1/17, York, 338K) reports Ohr said in his testimony, “I wanted them to be aware of any possible bias or, you know, as they evaluate the information, they need to know the circumstances.”

The [Daily Caller](#) (1/17, 830K) reports Ohr’s testimony “severely undercuts claims made in 2018 by California Rep. Adam Schiff and his fellow Democrats on the House Intelligence Committee,” conflicting with a February 2018 memo that “sought to defend the FBI’s handling of the Steele dossier and its applications for the first FISA warrant.”

Gingrich: FBI, Media Gave Feinstein A Pass For Her Spy Scandal, But Attack Trump With No Justification.

In commentary for [Fox News](#) (1/17, 15.99M), Newt Gingrich compares the treatment of President Trump and Sen. Dianne Feinstein (D-CA), calling it “a case study in Justice Department and news media bias.” Gingrich argues that “the media was gleeful over news ... that a group of anti-Trump bureaucrats took it upon themselves to investigate President Trump as a traitor.” Meanwhile, Feinstein received “dramatically different treatment...after the bureau concluded that her driver and San Francisco office staffer of 20 years had been spying for the Chinese government.” Gingrich writes, “The spying involving Feinstein wasn’t reported by any news media organizations for five years – which meant the FBI didn’t feel the need to leak it.”

Litt: The Durham Investigation Is Not About the Steele Dossier.

In a piece for [Lawfare](#) (1/17, Litt), former general counsel to the Office of the Director of National Intelligence Robert Litt pushes back against speculation that an investigation by John Durham, the US attorney in Connecticut, “is related to the FBI’s investigation into Russian interference with the 2016 election, or specifically to the so-called Steele dossier.” Litt writes, “I was interviewed by Durham as part of that investigation. I’m not at liberty to disclose what Durham was investigating, but it concerned events that occurred long before the 2016 election and were unrelated to Russia or the dossier.”

Judge Rejects Motion To Dismiss Libel Suit Against Fusion GPS Over Dossier.

[Politico](#) (1/17, Gerstein, 4.04M) reports US District Court Judge Richard Leon has rejected a motion by Fusion GPS to dismiss a libel suit filed by three Russian businessmen. The article reports, “The suit alleges that Bean LLC, the parent company of Fusion GPS, and Fusion founder Glenn R. Simpson, libeled the trio by circulating the dossier’s allegations that the men had illicit ties to Russian President Vladimir Putin.” Fusion sought to have the lawsuit dismissed “on the grounds that the Russians are public figures and that Washington, D.C., law contains special provisions limiting lawsuits over political controversies.”

House Intelligence Committee Prepares To Reopen Russia Inquiry.

The [Los Angeles Times](#) (1/17, Megerian, 4.59M) reports Democrats on the House Intelligence Committee plan to reopen the panel’s investigation into possible Russian interference in the 2016 election, although “Republicans appear ready to boycott the inquiry.” According to the article, “Republicans who previously led the committee ended the investigation last March by concluding they had found no evidence of conspiracy between President Trump’s campaign and operatives in Moscow.”

Schiff Intends To Acquire Trump Jr. Phone Records.

[NPR](#) (1/17, Granitz, 3.43M) reports Rep. Adam Schiff said in an interview Thursday that “he intends to use his power to convene hearings, call witnesses and get information to answer the question about whether Trump Jr., in setting up the June 2016 meeting at Trump Tower, spoke to his father, then-candidate Donald Trump.”

Schiff said it is the House Intelligence Panel’s “job to find out whether a foreign power holds leverage over the president.”

Rubin: Senators Should Take Into Account The “Devil You Know” When Voting On Barr Confirmation.

In her column for the [Washington Post](#) (1/17, 13.51M), Jennifer Rubin writes that “William P. Barr almost certainly will be confirmed as attorney general.” Rubin says that while it would probably be “politically smart” for senators with “legitimate concerns about the Barr memo and releasing the Mueller report” to vote against Barr’s confirmation, “the right decision must take into account the ‘devil you know or the devil you don’t.’” Rubin continues, “Barr is far from ideal, but he’s also about the most respected, knowledgeable and independent AG this president is going to convince to serve. He has promised to protect Mueller’s investigation and said he wouldn’t let the White House alter it (although Barr could). Most reassuring he has said (hypothetically) that many of the actions we have reason to believe from news reports Trump has done are violations of his oath, and in the case of using a pardon to extract a change in testimony, a crime.”

Rosenberg: William Barr Must Promise To Make The Mueller Report Public.

In a “Congress Blog” post for [The Hill](#) (1/17, 2.57M), Open the Government Executive Director Lisa Rosenberg calls on attorney general nominee William Barr to promise to make the Mueller report public, highlighting concerns raised by recent reports in the Washington Post and the New York Times. Rosenberg concludes, “The president’s posture towards Russia, from his policy positions, to his unwillingness to criticize Putin, to his willingness to dismiss reports of his own intelligence community about Russian election interference, compounded by his secrecy, gave the FBI, and now much of the public, reason to question the president’s motivations. Erasing any doubt about the president’s loyalties means the truth must be told with facts and details that will only surface if Congress and the next attorney general make an unwavering commitment to openness.”

RE: BuzzFeed Article

From: MRD (b)(6), (b)(7)(C): Michael Dreeben email
To: EBP (b)(6), (b)(7)(C): Elizabeth Prelogar email
Date: Fri, 18 Jan 2019 14:41:56 -0500

Very interesting. I read this to JLQ. We're still cogitating . . .

From: EBP (b)(6), (b)(7)(C): Elizabeth Prelogar email
Sent: Friday, January 18, 2019 1:07 PM
To: MRD (b)(6), (b)(7)(C): Michael Dreeben email
Subject: RE: BuzzFeed Article

I just listened to the CNN segment. Notably, the reporter used language to describe the sources that would be consistent with people who are outside SCO:

"The folks we've talked to, the two officials that we've spoken with, are fully 100% read in to that aspect of the Special Counsel's investigation."

He said his sources have "been working the sort of Trump Moscow Tower portion of this investigation, our sources have, before Mueller. So they have access to a number of different documents, 302 reports, . . ."

<http://www.cnn.com/video/politic/2019/01/18/buzzfeed-report-anthony-cormier-trump-cohen-ot-vp-newday.cnn/video/playlists/this-week-in-politics/>

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From: JLQ (b)(6), (b)(7)(C): James Quarles email
Sent: Friday, January 18, 2019 1:35 PM
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email; AMZ (b)(6), (b)(7)(C): Aaron Zebley email; MRD (b)(6), (b)(7)(C): Michael Dreeben email; ADG (b)(6), (b)(7)(C): Andrew Goldstein email; (b)(6), (b)(7)(C), (b)(7)(E) per FBI; EBP (b)(6), (b)(7)(C): Elizabeth Prelogar email
Subject: FW: BuzzFeed Article

While we are sorting this out, I propose we say the following to Jane:

(b) (5)

James L. Quarles
The Special Counsel's Office
(b) (6)

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From: Jane Raskin (b) (6) >
Sent: Friday, January 18, 2019 12:36 PM
To: JLQ (b)(6), (b)(7)(C): James Quarles email
Cc: Jay Sekulow (b) (6) >; Marty Raskin (b) (6)
Subject: BuzzFeed

Dear Jim,
We were disappointed to read the BuzzFeed article published last night and to hear the further statements made this morning on CNN by one of its authors – both purporting to be sourced to two federal law enforcement officials involved in the Special Counsel's investigation. Setting aside our significant substantive issues with the

accuracy of matters alleged in the reporting, we are extremely concerned about these apparent leaks by the SCO's team. I trust Bob shares our concern and will address this matter expeditiously.

Jane

Jane Serene Raskin

(b) (5)

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POLITICO Playbook: Inside Trump's immigration play

From: Anna Palmer Jake Sherman Daniel Lippman <politicoplaybook@politico.com>
To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Date: Sat, 19 Jan 2019 10:58:50 -0500

Jan 19, 2019

[View in browser](#)



Playbook logo

BY **JAKE SHERMAN ANNA PALMER** AND **DANIEL LIPPMAN**

Presented by



DRIVING THE DAY

THE PRESIDENT will make a "major announcement," in his words, at 3 p.m. today from the Diplomatic Reception Room. The speech is being closely held at the White House. But here are some broad strokes we've picked up on in our conversations with the administration and on Capitol Hill:

-- **THE NITTY GRITTY:** Things are always changing at the White House. But Hill sources and people close to the president expect -- and, frankly, hope -- the president will announce he is trading immigration policies Democrats and some Republicans have longed for -- think DACA, temporary protective status for refugees -- for a border security package. The White House has said publicly for a while that it wants to find a way to restart negotiations with Democrats.

-- **IF THE PRESIDENT ACTUALLY** goes this route -- and, again, many Dems and Republican truly hope he does -- it could be a big move and may go some distance to breaking the nearly month long gridlock of the shutdown. We saw **VP MIKE PENCE** and senior White House aide Jared Kushner in the Capitol this week, huddling with **SENATE MAJORITY LEADER MITCH MCCONNELL**. Pence and Kushner have been captaining this play. But Republicans want Trump to lead publicly here.

-- **THE UNDER-THE-DOME POLITICS:** To the extent there are any good moves on **DAY 29** of a shutdown this would be it. This could put pressure on Democrats to come to the table and talk. Fixing issues like DACA and TPS are big-time policy wins for Democrats and many Republicans. The question we have is what could they offer Republicans on a border security package?

--- **HILL INSIDERS TELL US** that the two sides are not talking about a stopgap bill to open government up during these negotiations. That could be a hurdle for Democrats, who have refused to talk while government is closed. Democrats have also said they're open to broader border security improvements, but not a wall.

-- **BUT ...** Even Democrats privately say that if the White House actually moves on policy it could put pressure on them to do something.

DETAILS MATTER on immigration. If the president went this route, will he propose permanent policy or temporary policy? How much money does he want? Is he going to move on the border security package? Will this be a wall or something more palatable for Democrats?

COMBINE IT WITH THIS **JULIE HIRSCHFELD DAVIS** points out in the NYT today, Democrats have added \$1 billion for border security into a spending bill they plan to pass next week. [NYT story](#)

HEADS UP ... HOUSE GOP LEADERSHIP is holding a 2:30 p.m. call with their members to preview the president's 3 p.m. remarks.

Good Saturday morning. THE PRESIDENT is also hosting a naturalization ceremony at 1 p.m. in the Oval Office. He went to Dover Air Force Base this morning to greet the remains of four Americans killed in Syria.

LUCKY US ... DAVID ROGERS: "When Congress debated border security without having a total meltdown": "Yes, it seems a distant memory amid all the heated rhetoric over the government shutdown. But it wasn't so long ago that Democrats and Republicans could have a reasoned debate over funding border security.

"Indeed, to go back now and track the history of appropriation bill shed new light on a battle that today seems divorced from reality and lacking proportion.

"President Donald Trump bashes Democrats daily for obstructing his border wall. But the record shows that he received much of his request in 2018 and had already won bipartisan Senate support for \$1.6 billion in 2019 when he effectively blew up the process by greatly escalating his demand going into the fall midterm election.

"At the same time, Democrats appear so repelled by the harsh symbolism of Trump's wall that they find it hard to talk about their record of helping another Republican president — George W. Bush — build many of the barriers that already exist along the border." [POLITICO](#)

POLITICO TICK TOCK ... ANDREW RESTUCCIA and NANCY COOK: "'Theater of the absurd': How the shutdown's bleakest week unfolded for Trump":

President Donald Trump met with a group of House lawmakers on Wednesday to talk about ending the month-long government shutdown. But he was more focused on the two people who weren't in the room: Nancy Pelosi and Chuck Schumer.

"'I don't see how we're going to come to a deal' without them, Trump told the mostly junior lawmakers gathered in the White House Situation Room. By then it had already been more than a week since the president had spoken with Pelosi, the House speaker, and Schumer, the Senate Democratic leader. But Trump said he wasn't in a hurry. 'I'll wait them out,' he confided, according to a person present for the remarks. ...

"The White House argued it canceled the trip to ensure that Pelosi and other top Democrats remained in Washington to negotiate a deal to end the shutdown. But the move doesn't appear to have kept Pelosi in town. She was spotted boarding a plane to San Francisco on Friday afternoon, according to a person who saw her." [POLITICO](#)

THE IMPACT - "Federal Employees Turn to Pawnshops Amid Shutdown's Financial Pinch," by NYT's Mihir Zaveri. "Television Jewelry Tool. At Blaine Fortner's pawnshop in Billings, Mont., there has been a slow but steady increase in one segment of his clientele pawning these and other items in exchange for cash: employees of the federal government.

"As the longest government shutdown in American history continues, federal workers who are not getting paid are increasingly turning to pawnbrokers for short-term loans. The turnout is small — a few people per day — pawnbrokers said, with similar stories emerging from places like Capitol Heights, Md.; Alexandria, Va.; Las

Vegas; and Anchorage, Alaska. But many said they expected the numbers to increase amid the stalemate." [NYT](#)

-- "["I see people panicking': In a Coast Guard town, hardship and resolve amid the shutdown,"](#) by WaPo's Dan Lamote at Coast Guard Training Center Cape May, N.J.

A message from the National Retail Federation:

Who pays for tariffs? Anyone? Anyone? Tariffs are taxes paid by U.S. businesses and consumers - not foreign countries. Scroll down to find out more.

www.tariffsbarebad.com

THINGS THAT MAKE YOU GO HMM ...

-- **WSJ'S BYRON TAU** in D.C. and **ALEXANDRA BERZON** in Los Angeles:

"Justice Department's Reversal on Online Gambling Tracked Memo From Adelson Lobbyists":

"The legal reasoning behind the Justice Department's unusual reversal this week of an opinion that paved the way for online gambling hewed closely to arguments made by lobbyists for casino magnate and top Republican donor Sheldon Adelson. In April 2017, one of the lobbyists sent a memo to top officials in the Justice Department, arguing that a 2011 opinion that benefited online gambling was wrong.

"Officials in the department's Criminal Division, in turn, forwarded it to the Office of Legal Counsel, which had issued the opinion, and asked attorneys there to re-examine their stance that a law on the books for decades didn't prohibit online gambling, according to documents and interviews with people familiar with the matter. ... The department's new position was a victory for Mr. Adelson, who has poured millions into a multiyear lobbying campaign on the matter." [WSJ](#)

-- **WAP0'S ROBERT O'HARROW JR.:** **"A \$450 dinner, \$45 whiskey: Two**

financial regulators ring up the expenses": "They are federal financial regulators who filed for expenses like corporate CEOs, seeking reimbursement for limos, deluxe air travel and meals in posh restaurants.

"There was an UberBlack ride from the District to neighboring Alexandria, Va., for \$250, according to internal records obtained by The Washington Post. Two airline tickets to a meeting in Vienna came in at more than \$11,000 each, even as a staffer found a way to the same event for a fraction of the price. A meal for three at

Joe's Seafood near the White House cost \$450 — including \$45 for a dish of Dover sole and \$43 for halibut, according to receipts for the meal.

"J. Mark McWatters, head of the National Credit Union Administration , and his chief of staff Sarah Vega and their guest also showed a fondness for wine and top shelf liquor including in one instance a \$45 glass of 18 year old single malt whiskey record show. In 2016 and 2017 they expended more than \$2,500 worth of alcoholic beverage most of it under Vega's account despite a written policy prohibiting reimbursement for the purchase of alcohol. "They have expended tens of thousands," John Kutchey, deputy executive director of the NCUA explained to agency investigator who asked about the pending lawsuit year." [WaPo](#)

A message from the National Retail Federation:



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2020 WATCH ... WAPO'S MICHAEL SCHERER -- "Advisers to former Starbucks CEO Howard Schultz are looking at him running as an independent for president in 2020": "Advisers to former Starbucks CEO Howard Schultz have been exploring the possibility of launching an independent bid for the White House in 2020, according to two people who have been informed of the discussions. ...

"Trump's opponents, including many Democratic strategists, have expressed concerns that a serious three-way race in November would divide the Democratic vote in a way that helps Trump win reelection, either directly by denying Democrats states they would otherwise have won or by shifting the ultimate decision to the U.S. House." [WaPo](#)

SMART STORY ... CHRIS CADELAGO: "The 'I'm sorry' 2020 Democratic primary": "Sen. Kirsten Gillibrand regrets that, as a conservative upstate congresswoman, she backed gun rights and held 'callous' views on immigration. Hawaii Rep. Tulsi Gabbard is sorry for past 'offensive and hurtful statements' about the LGBTQ community.

"Bernie Sanders is sorry, too — he's repeatedly apologized the women who were revealed to be sexually mistreated while working on his last campaign for president, before the #MeToo movement.

"Even before the 2020 Democratic presidential primary kicks into gear — and ahead of Sanders' own decision about whether he'll run again — the contours of the

PLAYBOOK READS



Twyla Mezan, the owner of the McDonald's in the food court at Pittsburgh International Airport

PHOTO DU JOUR: Twyla Mezan, the owner of the McDonald's in the food court at Pittsburgh International Airport, in Imperial, Pa., packs boxes of meals for TSA workers that work at the airport on Friday | Keith Srakocic/AP Photo

ON THE BUZZFEED STORY JOSH GERSTEIN and DARREN SAMUELSOHN

"Mueller team disputes a part of BuzzFeed report on Trump, Cohen"

"Mueller's normally tight-lipped operation issued a statement Friday night indicating that the BuzzFeed report contained inaccuracies, at least with respect to its statements about the information gathered by the special counsel's team.

"'BuzzFeed's description of specific statements to the Special Counsel's Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen's Congressional testimony are not accurate,' Mueller spokesman Peter Carr said in a statement. He did not elaborate. Trump quickly took to Twitter to react to the news, retweeting messages from supporters who'd expressed suspicion about the report." [POLITICO](#)

-- BEN SMITH SPEAKS (@BuzzFeedBen): "In response to the statement [Friday night] from the Special Counsel's spokesman: We stand by our reporting and the sources who informed it, and we urge the Special Counsel to make clear what he's disputing."

VALLEY TALK – "U.S. regulators have met to discuss imposing a record-setting fine against Facebook for privacy violations," by WaPo's Tony Romm and Elizabeth Dworakkin "U.S. regulator have met to discuss imposing a record-setting fine against Facebook for violating a legally binding agreement with the government to protect the privacy of its users' personal data according to three people familiar with the deliberation but not authorized to speak on the record

"The fine under consideration at the Federal Trade Commission a privacy and security watchdog that began probing Facebook last year, would mark the first major punishment levied against Facebook in the United States since reports emerged in

March that Cambridge Analytica, a political consultancy, accessed personal information on about 87 million Facebook users without their knowledge." [WaPo](#)

A message from the National Retail Federation



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DESSERT DAN SNYDER WATCH "Showboat billionaire NFL team owner installs Imax cinema on superyacht," by The Guardian's Rupert Neate: "Nearly every superyacht launched by shipyards across the world now comes with at least one cinema suite or facility to screen movies on deck as the sun goes down. However, Lady S, which is also known by its codename, Project 814, is the first to have an Imax.

"[**Jan-Bart Verkuyl, CEO of the Royal Van Lent shipyard**] said the 12-seat, two-level Imax is so big 'the vessel had to be built around the Imax'. Lady S also features a pair of 8K HD TVs, a helipad, four VIP suites and facilities that 'cater to a wide range of sports, including golf, basketball, volleyball and football'. The interior of the vessel is described as 'akin to a beautiful and contemporary jewellery box.'" *With a pic and a video.* [The Guardian](#)

CLICKER - "The nation's cartoonists on the week in politics," edited by Matt Wuerker [16 funnies](#)

GREAT WEEKEND READS, curated by Daniel Lippman filing from Aspen Colorado:

-- "**Meet Britt McHenry, the Fox News Star for Millennials,**" by Amanda Whiting in Washingtonian: "She wants you to know she's about more than that nasty viral video." [Washingtonian](#)

-- "**Jack Dorsey Has No Clue What He Wants,**" by HuffPost's Ashley Feinberg: "A Q&A with Twitter's CEO on right-wing extremism, Candace Owens, and what he'd do if the president called on his followers to murder journalists." [HuffPost](#)

-- "**Dark Money**" - directed by Kimberly Reed: "'Dark Money' examines one of the greatest present threat to American democracy the influence of untraceable corporate money on our election and elected officials" [Amazon](#) [The trailer](#)

-- **"How a Stroke Turned a 63-Year-Old Into a Rap Legend,"** by Jeff Maysh in the Atlantic - per Longreads.com's description: "For stroke survivor Sherman Hershfield, rapping and rhyming kept his seizures under control." [The Atlantic](#)

-- **"Facebook Didn't Seem To Care I Was Being Sexually Harassed Until I Decided To Write About It,"** by HuffPost's Jesselyn Cook: "While his genius may be largely uncontested, Mark Zuckerberg's vision of Facebook is badly adrift from reality. He paints the social media behemoth he founded in 2004 as a tool 'to bring the world closer together,' but in many ways, it has become an indispensable amplification device for people who want to make it known that they hate other people." [HuffPost](#)

-- **"The Ministry of Mr. Rogers,"** by Robert Sullivan in the N.Y. Review of Books, in a review of the documentary "Won't You Be My Neighbor? and "The Good Neighbor: The Life and Work of Fred Rogers," by Maxwell King. [NYRB](#) (h/t Longform.org)

-- **"You Deserve Privacy Online. Here's How You Could Actually Get It,"** by Tim Cook in TIME: "We all deserve control over our digital lives. That's why we must rein in the data brokers." [TIME](#) ... **Fast Company:** ["How Microsoft has \(so far\) avoided tough scrutiny over privacy issues"](#)

"Churchill' Canvas," by Carolyn Stewart in The American Interest per ALDaily.com's description: "At 39, listless and depressed, Winston Churchill took to the canvas. Although some of his works evoke paint-by-numbers, he was generally a 'successful amateur'." [The American Interest](#)

-- **"The Art of Decision-Making,"** by Joshua Rothman in the New Yorker: "Your life choices aren't just about what you want to do; they're about who you want to be." [New Yorker](#)

-- **"Battle of the Ax Men: Who Really Built the First Electric Rock 'n' Roll Guitar?"** by Ben Marks in Collectors Weekly: [Collectors Weekly](#) (h/t Longform.org)

PLAYBOOKERS

SPOTTED: Corey Lewandowski and Eric Bolling having dinner at Halls Chophouse in Charleston, S.C.

SPOTTED at a book party hosted by Terri Ryan and Kerry Muldoon for "#StillWithHer: Hillary Rodham Clinton and the Moments That Sparked a Movement," by Barbara Kinney ([\\$55.61 on Amazon](#)): Hilary Rosen and Megan Murphy, Connolly Keigher, Alex Hornbrook, Adrienne Elrod, Ian Alberg and Mary Morrison, Tony and Lizzy Carrk, Karen Finney, Jennifer Simpson, Mandy Grunwald, Stephen Goodin, Adam Schultz and Julie Zuckerbrod.

BIRTHWEEK (was yesterday): Weekly Standard alum John McCormack (hat tip: Alice Lloyd)

BIRTHDAYS: John Avlon, CNN senior political analyst and fill-in anchor for "New Day," is 46 ... Ann Compton ... Jon Karl is 51 (h/t Devin Dwyer) ... Yousef Al Otaiba, Ambassador of the UAE to the U.S., is 46 ... Brennan Hart ... Mayor Pete Buttigieg is 37 (h/t Lis Smith) ... Dan Holler, deputy COS for Sen. Marco Rubio (R-Fla.) (h/t Lauren Reamy) ... Amy Levin Klein ... CAP's Anne Dechter ... Rep. Mikie Sherrill (D-N.J.) is 47 ... PBS alumnus Robert MacNeil is 88 ... Jacquelyn Fain Duberstein ... Phil Verveer (h/t wife Melanne) ... Jerry Howe, treasurer of No Labels and EVP and general counsel of Leidos (h/t Katherine Weekly) ... Civic Nation president Jason Waskey ... Evan McMorris-Santoro, Vice News correspondent, is 38 ... Twitter's Caitlin Rush (h/t Taylor Gross) ... Megan Shannon, VP of No Labels (h/t Katherine Weekly) ... NWLC's Melissa Boteach ... Marc Schloss (h/t Taylor Holgate) ... Mike Goodman ... POLITICO's Ben Torres ...

... **Illinois Gov. J.B. Pritzker** is 54 ... Tyler Kendall, an associate producer at CBSN (h/t TJ Ducklo) ... POLITICO Europe's Giulia Chiatante ... Kristin Mitchell ... WaPo's Drew Harwell is 32 ... Brooks Kochvar ... CNN's Catherine Valentine ... Sean Downey ... Emily Pevnick ... Shelley Fidler ... Brooke Ericson ... Paul Thacker ... Sarah Farnsworth ... Rep. Gregorio Sablan (I-North Mariana Islands) is 64 ... Maury Devine ... Angie Buhl-O'Donnell ... Joe Milicia ... Jonathan Monteith ... Subrata De, EP at VICE Media ... Aruna Kalyanam ... Brita Stevenson Price ... Tim Valentiner ... Brian Hawthorne ... Preston Elliott ... Adam Sege ... Laura Pena ... Catie Horst (h/t Ed Cash) ... Alexis Gay ... David Green ... Heather Roth ... Sandy Blitz ... Courtney Herb ... Jonathan Steed ... Philip Reeker ... former U.N. Secretary-General Javier Perez de Cuellar is 99.

THE SHOWS, by @MattMackowiak, filing from Austin:

NBC

"Meet the Press": Sen. Mark Warner (D-Va.) ... Sen. Amy Klobuchar (D-Minn.) ... Rep. Liz Cheney (R-Wyo.). Panel:

Peter Baker, Joshua Johnson, Danielle Pletka and Heidi Przybyla

CNN **"State of the Union"**: Sen. Kirsten Gillibrand (D-N.Y.) ... Rep. Tulsi Gabbard (D-Hawaii). Panel: Rep. Nanette Barragán (D-Calif.), Mia Love, Rick Santorum and Jennifer Granholm

CBS **"Face the Nation"**: Sen. John Kennedy (R-La.) ... Sen. Kirsten Gillibrand (D-N.Y.) ... Rep. Adam Schiff (D-Calif.) ... Brett McGurk ... Jason Rezaian. Panel: Molly Ball, Ramesh Ponnuru, Janelle Bouie and David Sanger

Fox **"Fox News Sunday"**: House Majority Whip Jim Clyburn (D-S.C.). Panel: Newt Gingrich, Donna Edwards, Guy Benson and Charles Lane

ABC **"This Week"**: Guests to be announced

CNN **"Inside Politics"**: Panel: Eliana Johnson, Karoun Demirjian, Seung Min Kim and Michael Shear

CNN **"Reliable Sources"**: Carl Bernstein and Tony Schwartz ... Jeff Goldberg ... Olivia Nuzzi and David Zurawik ... Charles Sennott and Steve Waldman ... Ben Smith and Anthony Cormier.

Fox News **"Sunday Morning Futures"**: Rep. John Ratcliffe (R-Texas.) ... Rep. Debbie Dingell (D-Mich.) ... Rep. Jeff Van Drew (D-N.J.). Panel: Byron York and James Freeman

Fox News **"MediaBuzz"**: Mollie Hemingway ... Sara Fischer ... Juan Williams ... Emily Jashinsky ... Philippe Reines ... Susan Ferrechio ... Francesca Chambers

CNN **"Fareed Zakaria GPS"**: Tony Blair ... Aaron Sorkin

Univision **"Al Punto"**: Vicente Fox ... Rep. Adriano Espaillat (D-N.Y.) ... Rep. Steve King (R-Iowa) (re-air of 2013 interview) ... Venezuelan opposition leader and National Assembly president Juan Guaidó ... Yezid Baquero ... Rafael Solís ... Pablo Alborán

C-SPAN

"The Communicators": Walt Mossberg ... **"Newsmakers":** Tim Chapman, questioned by Scott Wong and Al Weaver ... **"Q&A":** author and journalist Patricia Miller ("Bringing Down the Colonel")

MSNBC

"Kasie DC": House Majority Whip Jim Clyburn (D-S.C.) ... Heidi Heitkamp ... David McIntosh ... Michael Steele ... Marc Morial ... Phil Rucker ... Sam Stein ... Carol Leonnig ... Karine Jean-Pierre ... Natasha Bertrand ... Eugene Scott ... Kayla Tausche

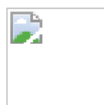
Washington Times

"Mack on Politics" weekly politics podcast with Matt Mackowiak (download on iTunes, Google Play, or Stitcher or listen at MackOnPolitics.com): Texas Alliance of Energy Producers president John Tintera.

A message from the National Retail Federation:

Tariffs will lead to... what? Anyone? Anyone? Higher prices on everyday goods for American consumers. Will trade wars help U.S. businesses? Anyone? No, they will not. Tariffs kill American jobs and hurt businesses large and small. It's not complicated. Trade wars don't work. Trade works. Watch why tariffs are B-A-D economics at www.tariffsarebad.com.

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POLITICO Playbook: Trump says he's willing to give 'amnesty' in 'much bigger deal'

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Playbook logo

BY **JAKE SHERMAN**, **ANNA PALMER** AND **DANIEL LIPPMAN**

Presented by



DRIVING THE DAY

TODAY is the second-year anniversary of the Trump presidency.

SHUTDOWN ... DAY 30 ... WHAT PRESIDENT TRUMP offered yesterday cannot be rationally viewed as *the way* to end this standoff. We can't imagine anyone in the White House actually believed temporary immigration protections for a \$5.7-billion wall would cut it with Democrats. **BUT ...** the president has now publicly put immigration policy changes in the mix.

CHRIS WALLACE had **VP MIKE PENCE** on "FOX NEWS SUNDAY": **WALLACE:** "Wait, if I may, sir, when you say work together, does that mean that you are willing to negotiate from what the president said, or is that the final offer?"

PENCE: "Well, of course. The legislative process is a negotiation and up to this point literally for the last month while the president and I have stayed here in Washington and been engaging continuously with Democrat leadership and with rank and file members in the House and Senate what we heard again and again is we will not negotiate until the president reopens the government."

JUST THIS MORNING, TRUMP said he would approve an amnesty deal!

-- **@realDonaldTrump** at 8:23 a.m.: "No, Amnesty is not a part of my offer. It is a 3 year extension of DACA. Amnesty will be used only on a much bigger deal whether on immigration or something else. Likewise there will be no big push to remove the 11 000 000 plus people who are here illegally but be careful Nancy!"

DEMOCRATS have been telling us that they are looking at polling that indicates they are hardly getting any blame for the shutdown. That could change soon if it looks like Republicans are making offers and Democrats are sitting pat.

FOR WHAT IT'S WORTH ... IF THE PRESIDENT had traded permanent policy on DACA for \$5.7 billion, we'd be having a different conversation today.

WASHINGTON POST EDITORIAL BOARD ... "Make a deal. Save the dreamers":

"We can recite many reasons Democrats should spurn President Trump's Saturday afternoon offer to end the government shutdown. He should not be rewarded for having taken the government hostage. Any piece of a wall would reinforce his hateful, anti-immigrant rhetoric. He's unreliable, having made and withdrawn similar offers in the past. This one isn't good enough; 'dreamers' need a path to citizenship, not merely a three-year reprieve.

"Those are serious objections. But here is something serious on the other side of the equation: Real people. Real people, with real lives that depend utterly on what Congress and the president do now." [WaPo](#)

-- **NYT'S JULIE HIRSCHFELD DAVIS: "In Trump's Immigration Announcement, a Compromise Snubbed All Around":** "The tensions and anger over the policy have been quietly playing out in the White Wing as well as Jared Kushner the president's son in law and senior adviser fended off Stephen Miller the architect of much of Mr. Trump's immigration agenda. Mr. Kushner has long been a proponent of protection for undocumented immigrants brought to the United States as children while Mr. Miller has pressed for aggressive measures to crack down on both legal and illegal immigration.

"In recent days, a White House official had been working out the details of the compromise, Mr. Miller intervened to narrow the universe of immigrants who would receive protection, according to people familiar with the internal discussions who described them on the condition of anonymity. While the original idea had been to include protections for as many as 1.8 million undocumented immigrants eligible for Deferred Action for Childhood Arrivals, the Obama-era program known as DACA that protected those illegally brought to the United States as children, Mr. Trump

ultimately proposed shielding only the 700,000 who are enrolled." [NYT ... Video of Trump's remarks](#)

BURGESS EVERETT and HEATHER CAYGLE: "'Only with Nancy': How Schumer and Pelosi tuck together on the shutdown" "A few days before Washington staggered into what would become the longest shutdown in U.S. history, Chuck Schumer received a request from Donald Trump.

"The president wanted the Senate minority leader to visit the White House to discuss his demands for the border wall, which would need Democratic votes to pass the GOP-controlled Senate. Previously, Schumer had held one-on-one negotiations with Trump. But this time, the New York Democrat had a new condition: 'Only with Nancy.'

"'We do it all together, that's an agreement we had from the get-go,' Schumer said of his stance with Speaker Nancy Pelosi on not giving Trump an inch on the wall. 'We realize we're a team,' Schumer added in an interview. 'Sometimes we talk strategy four to five times a day. And there are times we disagree. But we come to the same result.'" [POLITICO](#)

-- **QUINT FORGEY on SEN. JAMES LANKFORD (R-Okla.) on ABC'S "THIS WEEK"** ["GOP senator: Trump's 'straw man proposal' not meant to become law"](#)

A message from the National Retail Federation:

Hardworking American families should not be forced to pay the price for other countries' unfair trade practices. Tariffs are B-A-D economics that raise prices and destroy U.S. jobs. Scroll down to learn more. www.tariffsbarebad.com

THE IMPACT **"'We're left in the dark' A many industry get shutdown relief, those without political clout feel left behind,"** by WaPo's Lisa Rein, Juliet Eilperin and Jeff Stein: "Alaska's cod and pollock fishing fleet headed out on the Bering Sea this month without delay, thanks to federal inspectors brought back from furlough to certify their boats. And alcohol producers have two calls scheduled next week with Treasury Department officials to discuss how to keep new products moving onto liquor store shelves.

"But advocates for survivors of domestic violence have not been able to find an official at the Department of Housing and Urban Development to help them access their grant money for temporary housing. And some Native American leaders said

they are operating with no guidance about what to do about the abrupt cutoff of federal funds. In the chaotic landscape of the partial federal shutdown, some constituencies have gotten speedy relief and attention from federal officials — while others are still trying to get in the door." [WaPo](#)

-- **BRYAN BENDER and IAN KULLGREN**, "[Even giant federal contractors feeling shutdown's bite](#)": The historic length of the political impasse is reverberating at the Fortune 500 level, making it one of the most economically damaging in history."

FIRST PERSON ... FUN STORY - WAPO'S DAN BALZ in Paris, "'Would you like to speak to the president?': "That was about the last question I expected from a stranger on a Friday night in Paris. I was at a brasserie in the Latin Quarter, enjoying dinner with James McAuley, The Washington Post's Paris correspondent. We had finished our meals and were continuing our conversation as we waited for the check to arrive.

"A man at an adjacent table, whose back was to us, turned around, cellphone in hand, and asked me, 'Would you like to speak to the president?' ... Though my confusion was understandable, I instantly recognized him when he told me his name and was embarrassed that I hadn't picked up on it earlier. ...

"'I'm Joe Kernen of CNBC,' he said. ... He was on his way to Davos, Switzerland, for next week's World Economic Summit. He was supposed to have had an interview with the president there, but Trump had canceled his Davos trip because of the shutdown. Trump was calling Kernen to express his regrets that the interview had been scrubbed." [WaPo](#)

INSIDE MUELLER WORLD ... WAPO'S MATT ZAPOTOSKY and DEVLIN BARRETT: "**Inside the Mueller team's decision to dispute BuzzFeed's explosive story on Trump and Cohen**": "When a BuzzFeed reporter first sought comment on the news outlet's explosive report that President Trump had directed his lawyer to lie to Congress, the spokesman for special counsel Robert S. Mueller III treated the request as he would almost any other story. The reporter informed Mueller's spokesman, Peter Carr, that he and a colleague had 'a story coming stating that Michael Cohen was directed by President Trump himself to lie to Congress about his negotiations related to the Trump Moscow project,' according to copies of their emails provided by a BuzzFeed spokesman.

"Importantly, the reporter made no reference to the special counsel's office specifically or evidence that Mueller's investigators had uncovered. 'We'll decline to

comment,' Carr responded, a familiar refrain for those in the media who cover Mueller's work. The innocuous exchange belied the chaos it would produce. When BuzzFeed published the story hours later, it far exceeded Carr's initial impression, people familiar with the matter said." [WaPo](#)

SUNDAY BEST ...

-- **CHUCK TODD** spoke to **RUDY GIULIANI** on **NBC'S "MEET THE PRESS"**:

TODD "[Y]ou said the president is not sure when talk [on the Trump Tower Moscow] ended. ... I'm guessing you had to answer this question in written form by Mr. Mueller. So right, it's your understanding it ended when? In January, as Michael Cohen incorrectly testified to?"

GIULIANI: "No. It's our understanding that it, that they went on throughout 2016, not a lot of them, but there were conversations, can't be sure of the exact date, but the president can remember having conversations with him about it. The president also remembers ..." **TODD**: "Throughout 2016?" **GIULIANI**: "Yeah. Probably up to, could be up to as far as October, November. Our answers cover until the election."

-- **TODD** also asked **GIULIANI**: "Are you 100 percent confident that the president never once asked Michael Cohen to do anything but tell the truth to Congress?"

GIULIANI "100 percent certain of that. And also I should add the BuzzFeed story was a story that the president had counseled him or told him to lie and that there were tapes and texts and federal law enforcement sources, two of them, were cited for it. And I spent a great deal of the day on Saturday with that because I knew from the very beginning it wasn't true. But I mean to their credit, the Justice Department and the Special Counsel's Office said that the story was inaccurate.

"And the inaccuracy is that there's no evidence that the president told him to lie. And then to answer your question, categorically, I can tell you his counsel to Michael Cohen throughout that entire period was, 'Tell the truth.' We thought he was telling the truth. I still believe he may have been telling the truth when he testified before Congress. But in any event, his lawyers thought that, our lawyers thought that and the president thought that at the time."

-- **JAKE TAPPER** spoke to **GIULIANI** on **CNN'S "STATE OF THE UNION"**:

TAPPER: "Are you saying it's not possible for the president to have obstructed justice that that's an impossibility?" **GIULIANI** "No of course not. The president can

obstruct justice. He can't obstruct exercising his powers under Article II of the Constitution, if that's what he is doing. And that's what he did."

-- **MARTHA RADDATZ** spoke to **SEN. KIRSTEN GILLIBRAND (D-N.Y.)** on **ABC'S "THIS WEEK"** on the BuzzFeed story **GILLIBRAND** "The report is highly concerning, Martha. It just shows more evidence that perhaps this president did obstruct justice. It shows that ..."

RADDATZ: "Even though the special counsel disputes it?"

GILLIBRAND: "... This needs to be fully investigated. Martha, it raises a question in my mind that is very serious. And so what we need is Mueller to be able to finish his investigation.

"**And one of the things that I'm most concerned about** is that Senator McConnell will not let a bipartisan bill come to the Senate floor to allow us to protect that investigation to make sure he cannot be fired prematurely and and and the law say he can only be fired for for a cause "

MARGARET BRENNAN also spoke to **GILLIBRAND** on **CBS' "FACE THE NATION"**: "You have said that you are a, 'no' on the president's proposal here to end the shutdown. Why isn't the offer of three years of protection for DACA and TPS recipients enough of a start for you?"

GILLIBRAND: "Well, he's the one who got rid of DACA protection in the first place, and to offer a temporary respite, it doesn't -- if you talk to any DACA recipient in America today, they're - they're anxious. They're worried. ... Their lives are being upended and this president has no compassion. So I don't think you should even consider this because it's three years, it's just DACA. ... And I think it's a nonstarter."

A message from the National Retail Federation



Advertisement Image



2020 WATCH -- ELENA SCHNEIDER in Boone, Iowa: "**Gillibrand touts rural origin story in Iowa debut**": "Sen. Kirsten Gillibrand (D-N.Y.) starts her presidential run largely unknown in Iowa — 'where's this gal from?' one voter quizzed reporters at a campaign stop. And she is leaning on her experience building a come-from-

behind campaign out of nothing in upstate New York a dozen years ago to make an impression in the first caucus state.

"The New York senator drew parallels between Iowa and her home

congressional district where she upset a Republican incumbent in 2006 to launch her political career throughout the debut event of her 2020 campaign Gillibrand introduced herself to two dozen people at a deli by saying "I grew up in a rural place and I represented a rural place" [POLITICO](#)

NYT'S MATT FLEGENHEIMER and ALEX BURNS ["As Beto O'Rourke Weighs 2020 Run, Democrats Chafe at His Go-It-Alone Style"](#)

PLAYBOOK READS



President Donald Trump salutes.

PHOTO DU JOUR: President Donald Trump salutes as a U.S. Navy carry team moves a transfer case containing the remains of Scott A. Wirtz on Saturday at Dover Air Force Base. | Andrew Harnik/AP Photo

GABBY ORR, "Mark Meadows, Trump whisperer" "Four sources with knowledge of their relationship said Trump talks to Meadows more than he does with many of his senior aides. They sometimes spend an hour-plus on the phone together or speak more than once per day." [POLITICO](#)

FOR YOUR RADAR **"It was getting ugly' Native American drummer peaks on the MAGA-hat-wearing teens who surrounded him,"** by WaPo's Antonio Olivo, Cleve R. Wootson Jr. and Joe Heim: "The images in videos that went viral on social media Saturday showed a tense scene near the Lincoln Memorial. In them, a Native American man steadily beats his drum at the tail end of Friday's Indigenous Peoples March while singing a song of unity urging them to 'be strong' in the face of the ravages of colonialism that now include police brutality, poor access to health care and the ill effects of climate change on reservations.

"Surrounding him are a throng of young, mostly white teenage boys, several wearing 'Make America Great Again' caps, with one who stood about a foot from the drummer's face also wearing a relentless smirk. ... Covington Catholic High School ... officials and the Roman Catholic Diocese of Covington released a joint statement Saturday. 'We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general,' the statement

said. 'The matter is being investigated and we will take appropriate action, up to and including expulsion.'" [WaPo](#)

A message from the National Retail Federation:



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BONUS GREAT HOLIDAY WEEKEND READS, curated by Daniel Lippman, filing from Aspen, Colorado:

-- "**Paramount Was Hollywood's 'Mountain.' Now It's a Molehill,**" by Amy Chozick and Brooks Barnes on the cover of NYT's Sunday Business section: "After decades of nearly slapstick mismanagement — spinning off TV and missing the internet — the studio behind 'The Godfather' is fighting for its life." [NYT](#)

-- "**Palm Beach used to be a nice town for billionaires. Then Trump came along,**" by WaPo's Roxanne Roberts: "[F]rom the beginning, Trump rubbed Palm Beach wrong. He was arrogant and pushy and he didn't care that local people thought he was loud and vulgar. He bought a gaudy oceanfront estate in 2004 for \$41 million, then flipped it to a Russian billionaire for \$95 million (who tore it down and parked rumors of money laundering)." [WaPo](#)

-- "**Thieves of Experience: How Google and Facebook Corrupted Capitalism,**" by Nicholas Carr in the LA Review of Books reviewing "The Age of Surveillance Capitalism" by Shoshana Zuboff: "By reengineering the economy and society to their own benefit, Google and Facebook are perverting capitalism in a way that undermines personal freedom and corrodes democracy." [LA Review of Book](#) [\\$25.83 on Amazon](#) (h/t Longform.org)

"**Impeach Donald Trump,**" by Yoni Appelbaum on the cover of March' [Atlantic](#): "Starting the process will rein in a president who is undermining American ideals—and bring the debate about his fitness for office into Congress, where it belongs." [The Atlantic](#)

-- "**What People Actually Say Before They Die,**" by Michael Erard in The Atlantic - per TheBrowser.com's description: "Deathbed aphorisms and declarations of love for one's country are exceptions or inventions. According to one doctor, the last words of the dying are often strings of curses; a hospice nurse says that most dying men call for 'Mommy' or 'Mama', if they can call at all." [The Atlantic](#)

-- "**Alexandria Ocasio-Cortez Is the Darling of the Left, Nightmare of the Right,**" by Peter Coy and Katia Dmitrieva on the cover of Bloomberg Businessweek: "New taxes. Medicare and free tuition for all. Alexandria Ocasio-Cortez is just getting started." [Bloomberg](#)

-- "**How a Career Criminal Broke the Convict Code and Saved Himself,**" by Alan Prendergast in Westword - per Longreads.com's description: "In USP Florence, the most violent prison in the U.S. federal prison system, rats don't live long and they don't die peacefully. But Wayne Byerly talked, and lived — and found redemption." [Westword](#)

-- "**Could Pete Buttigieg Become the First Millennial President?**" by Bob Moser in WaPo Magazine: "Meet the mayor of South Bend, Ind., who wants to be the first member of his generation to run the country." [WaPo](#)

-- "**Millennials: A Lost Generation Without the Booze and Jazz,**" by Charles McElwee in The American Conservative: "Millennials are voyagers in an economy whose future is unknown. Financial stability is their elusive goal, authenticity their wistful desire, fulfillment their constant endeavor. Insurmountable debt, a digital existence, and a disruptive labor market obstruct their idealistic path." [The American Conservative](#)

-- "**Redefining Representation: The Women of the 116th Congress**" photographs by Elizabeth D. Herman and Celeste Sloman: "Just over a century ago, Jeannette Rankin of Montana won a seat in the House of Representatives, becoming the first woman ever elected to federal office. In 1917, 128 years after the first United States Congress convened, she was sworn into its 65th session. One hundred and two years later, one has become 131 — the number of women serving in both chambers of the 116th Congress as of this month." [NYT](#)

-- "**The most powerful person in Silicon Valley,**" by Katrina Brooker in Fast Company: "Billionaire Masayoshi Son-not Elon Musk, Jeff Bezos, or Mark Zuckerberg-has the most audacious vision for an AI-powered utopia where machines control how we live. And he's spending hundreds of billions of dollars to realize it. Are you ready to live in Masa World?" [Fast Company](#)

SPOTTED: Sen. Bernie Sanders (I-Vt.) last night at Trattoria Alberto - [pic](#) ... Sen. Susan Collins (R-Maine) on a Saturday afternoon American flight to Tampa from DCA.

BIRTHDAYS: Kellyanne Conway is 52 ... Nikki Haley is 47 ... Chip Englander ... Paola Ramos ... Paul Mandelson, special assistant to the assistant secretary of defense for legislative affairs ... Jessica Katz ... Robin Roberts of National Media ... Eric Simmons is 46 ... Bill Maher is 63 ... Kirsten White ... Elena Hernandez ... Dan Schneider, associate director for comms at the WH Council on Environmental Quality ... West Honeycutt is 29 ... Ian Sams (hat tip: Rob Flaherty) ... Anna Stolitcka ... POLITICO's Brianna Gurciullo and Megan Erickson ... Bob Michaels ... Richard Kirsch ... Al Kamen (h/ts Jon Haber) ... Zac Goldsmith is 44 ... former Rep. Bill Owens (D-N.Y.) is 7-0 ... Soroush Shehabi (h/t Kevin Chaffee) ... Adam Radman, director of advocacy at Americans for Tax Reform ... WTOP's Mike McMearty ... former Rep. Shelley Berkley (D-Nev.) is 68 ... Georgina Bloomberg is 36 ... Diane Ruggiero, CNN supervising producer (h/t Kevin Bohn) ...

... **WSJ senior writer James V. Grimaldi** ... Natan Sharansky is 71 ... CBS' Maria Gavrilovic ... Adrien Borisavljevic ... Morton Abramowitz is 86 ... Susan Finkelstein ... Jeb Golinkin is 31 ... Sam Dealey, managing principal at Monument Communications (h/t Blain Rethmeier) ... Matthew Sanderson ... Arica VanBoxtel ... Stacie Rumenap ... Chris Schmitter ... Jessica Hanna ... Alec Jacobs of Purple Strategies ... Michelle Rodriguez ... Joan Tilouine ... Ben Edwards ... Tracy Russo ... Merrill Hartson is 76 ... Elena Robertson ... Brent Desiderio is 49 ... Andy Taylor ... James Ryan ... Nicole DeSibour Rodgers ... Michelle Runk ... GE's Alan Gilbert ... Sophie Trainor ... Nick Sedgley ... Jed Webb ... Zack Walz ... Chuck Gray ... Pat Souders ... Lane Kasselmann (h/t Teresa Vilmain)

A message from the National Retail Federation:

Tariffs are B-A-D economics. They don't work. Tariffs aren't paid by foreign countries. They're paid by American businesses and consumers. Washington needs a lesson from Ferris Bueller: Tariffs are B-A-D economics. Watch the video to learn more at www.tariff sarebad.com.

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To: AMZ (b)(6), (b)(7)(C): Aaron Zebley email, JLQ (b)(6), (b)(7)(C): James Quarles email >
Date: Fri, 18 Jan 2019 11:09:53 -0500

FYI

From: Rashbaum, William (b) (6)
Sent: Friday, January 18, 2019
To: Carr, Peter (OPA) (b) (6); SpecialCounselPress <SpecialCounselPress@jmd.usdoj.gov>
Subject: Word on the

... is you're going to issue a statement on the Buzzfeed story.
If so, please include me -- or even put me at the top of the list!
(Just kidding!)

William K. Rashbaum
Senior Writer
The New York Times
620 8th Avenue
New York, NY 10018-1405

Office: (b) (6)
Cell: (b) (6)
Signal encrypted voice & messaging (b) (6)
Facsimile: 646-428-6164

E-mail: (b) (6)
Twitter: @WRashbaum

FW:

From: AMZ (b)(6), (b)(7)(C): Aaron Zebley email
To: JLQ (b)(6), (b)(7)(C): James Quarles email
Date: Fri, 18 Jan 2019 18:53:54 -0500

Aaron Zebley
Special Counsel's Office
(b) (6)

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From: AMZ (b)(6), (b)(7)(C): Aaron Zebley email
Sent: Friday, January 18, 2019 6:08 PM
To: PAC <(b)(6), (b)(7)(C): Peter Carr email
Cc: AMZ <(b)(6), (b)(7)(C): Aaron Zebley email
Subject:

DRAFT / DELIBERATIVE // PRE-DECISIONAL

Buzzfeed's description of specific statements to the Special Counsel's Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen's Congressional testimony are not accurate

Aaron Zebley
Special Counsel's Office
(b) (6)

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RE:

From: PAC <(b)(6), (b)(7)(C): Peter Carr email >
To: AMZ <(b)(6), (b)(7)(C): Aaron Zebley email >
Cc: JLQ <(b)(6), (b)(7)(C): James Quarles email >
Date: Fri, 18 Jan 2019 19:19:27 -0500

Will be 7:45 or 8 before goes to other reporters. Am at (b) (6) if you need to talk further.

From: PAC
Sent: Friday, January 18, 2019 6:58 PM
To: AMZ <(b)(6), (b)(7)(C): Aaron Zebley email >
Cc: JLQ <(b)(6), (b)(7)(C): James Quarles email >
Subject: RE:

I've talked with BuzzFeed and they have our statement. I've given them until 7:30 before we provide to other reporters.

From: AMZ <(b)(6), (b)(7)(C): Aaron Zebley email >
Sent: Friday, January 18, 2019 6:35 PM
To: PAC <(b)(6), (b)(7)(C): Peter Carr email >
Cc: JLQ <(b)(6), (b)(7)(C): James Quarles email >
Subject:

Can you shoot us an email telling us after you've given it to BF? Thanks

Aaron Zebley
Special Counsel's Office
(b) (6)

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Fwd: Statement on BuzzFeed article

From: AMZ (b)(6), (b)(7)(C): Aaron Zebley email
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email
Cc: JLQ (b)(6), (b)(7)(C): James Quarles email
Date: Fri, 18 Jan 2019 20:03:20 -0500

Statement transmission below BF updated story

<https://www.buzzfeednews.com/article/jasonleopold/trump-russia-cohen-moscow-tower-mueller-investigation>

Sent from my iPhone

Begin forwarded message:

From: Special Counsel Press SpecialCounselPress@jmd.usdoj.gov
Date: January 18, 2019 at 7:35:37 PM EST
To: Special Counsel Press <SpecialCounselPress@jmd.usdoj.gov>
Subject: **Statement on BuzzFeed article**

You may attribute the following to me

“BuzzFeed’s description of specific statements to the Special Counsel’s Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen’s Congressional testimony are not accurate.”

Best,

Peter Carr

Spokesman

Special Counsel’s Office

RE: BuzzFeed update

From: PAC (b)(6), (b)(7)(C): Peter Carr email
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email, AMZ (b)(6), (b)(7)(C): Aaron Zebley email, JLQ (b)(6), (b)(7)(C): James Quarles email, ADG (b)(6), (b)(7)(C): Andrew Goldstein email, JSR (b)(6), (b)(7)(C): Jeannie Rhee email, (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Date: Fri, 18 Jan 2019 20:34:52 -0500

BuzzFeed's editor in chief has issued this statement:

"We stand by the reporting and the sources who informed it, and we urge the Special Counsel to make clear what he's disputing."

From: PAC
Sent: Friday, January 18, 2019 8:18 PM
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email (b)(6), (b)(7)(C): Aaron Zebley email (b)(6), (b)(7)(C): James Quarles email, ADG (b)(6), (b)(7)(C): Andrew Goldstein email, JSR (b)(6), (b)(7)(C): Jeannie Rhee email (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Subject: BuzzFeed update

Here is the statement that BuzzFeed has issued following our statement:

"We are continuing to report and determine what the special counsel is disputing. We remain confident in the accuracy of our report."

Here is the updated story (which as of now only includes my quote):

<https://www.buzzfeednews.com/article/jasonleopold/trump-russia-cohen-moscow-tower-mueller-investigation>

Re: BuzzFeed

From: RSMSC (b)(6), (b)(7)(C): Robert Mueller email
To: JLQ (b)(6), (b)(7)(C): James Quarles email
Date: Fri, 18 Jan 2019 20:44:48 -0500

Well done Thank

Sent from my iPhone

On Jan 18 2019 at 8 37 PM JLQ (b)(6), (b)(7)(C): James Quarles email wrote

See below.

Begin forwarded message:

From: Jane Raskin (b) (6)
Date: Jan 18 2019 at 7 50 PM EST
To: JLQ (b)(6), (b)(7)(C): James Quarles email
Cc: (b)(6): Jay Sekulow email, Marty Raskin (b) (6)
Subject: Re: BuzzFeed

Thank Jim

Sent from my iPhone

On Jan 18 2019 at 7 50 PM JLQ (b)(6), (b)(7)(C): James Quarles email wrote

Jane

We have given the following statement to BuzzFeed and to others who have asked us for comment

Buzzfeed's description of specific statements to the Special Counsel's Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen's Congressional testimony are not accurate

James L. Quarles
The Special Counsel's Office
(b) (6)

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BuzzFeed update

From: PAC <(b)(6), (b)(7)(C): Peter Carr email >
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email, JLQ <(b)(6), (b)(7)(C): James Quarles email >, AMZ <(b)(6), (b)(7)(C): Aaron Zebley email >
Date: Sat, 19 Jan 2019 10:17:10 -0500

They are harassing my email correspondence with reporter trying to find out how they contacted you about the story before publishing.

I will be out of pocket until 11:30 but available by phone afterwards should we need to talk any time today (b) (6)

FW: Hi Peter. Reporter inquiry about Ivanka Trump

From: "Lowell, Abbe David" (b) (6)
To: ADG (b)(6): Andrew Goldstein email
Date: Thu, 17 Jan 2019 17:21:10 -0500

This came to the person who helps me with media inquiries. Notice the source please and we need to follow up with you or SDNY or both.

PS – and, of course, it is not true

Abbe David Lowell
Partner
Winston & Strawn LLP
1700 K Street, N.W.
Washington, DC 20006-3817
D: (b) (6)
F: +1 202-282-5100

200 Park Avenue
New York, NY 10166-4193
D: (b) (6)
F: +1 212-294-4700

[VCard](#) | [Email](#) | [winston.com](#)

WINSTON
& STRAWN
LLP

Begin forwarded message:

From: Jason Leopold (b) (6)
Date: January 17, 2019 at 5:10:37 PM EST
To: (b) (6)
Subject: Hi (b) (6) about Ivanka Trump
Reply-To: (b)(6): Jason Leopold email

Peter,
Hope all is well. My colleague Anthony Cormier and I have a report scheduled to publish very soon about Trump Tower Moscow, which is based on information we have obtained from law enforcement source.

We will be reporting that Michael Cohen told the special counsel that Ivanka Trump received numerous briefings throughout the campaign about the Trump Tower Moscow project and had been heavily involved in nearly all aspects of the negotiations.

Can you provide a comment about Ivanka's role?

Best,
Jason

Jason Leopold
BuzzFeed News
Senior Investigative Reporter
(b) (6) (Signal)
@jasonleopold
6824 Lexington Avenue
Los Angeles, CA 90038

Send me documents and tips, securely and anonymously: tips.buzzfeed.com
PGP fingerprint: 46DB 0712 284B 8C6E 40FF 7A1B D3CD 5720 694B 16F0
<https://www.buzzfeednews.com/author/jasonleopold>

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The update is out

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
To: JSR (b)(6), (b)(7)(C): Jeannie Rhee email, ADG (b)(6): Andrew Goldstein email, AMZ (b)(6), (b)(7)(C): Aaron Zebley email, JLQ (b)(6), (b)(7)(C): James Quarles email
Date: Fri, 18 Jan 2019 19:29:00 -0500

<https://www.buzzfeednews.com/article/jasonleopold/trump-russia-cohen-moscow-tower-mueller-investigation>

President Trump Directed His Attorney Michael Cohen To Lie To Congress About The Moscow Tower Project

Trump received 10 personal updates from Michael Cohen and encouraged a planned meeting with Vladimir Putin. **Update: The office of the special counsel is disputing BuzzFeed News' report.**

...

A spokesperson for special counsel Robert Mueller, Peter Carr, disputed BuzzFeed News' report.

"BuzzFeed's description of specific statements to the Special Counsel's Office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen's Congressional testimony are not accurate," Carr said

...

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Fwd: BuzzFeed

From: JLQ (b)(6), (b)(7)(C): James Quarles email
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email, AMZ (b)(6), (b)(7)(C): Aaron Zebley email, ADG (b)(6): Andrew Goldstein email, (b)(6), (b)(7)(C): [REDACTED], (b)(6), (b)(7)(C), (b)(7)(E) per FBI, JSR (b)(6), (b)(7)(C): Jeannie Rhee email, MRD (b)(6), (b)(7)(C): Michael Dreeben email, EBP (b)(6), (b)(7)(C): Elizabeth Prelogar email
Date: Fri, 18 Jan 2019 19:51:42 -0500

Begin forwarded message:

From: JLQ (b)(6), (b)(7)(C): James Quarles email
Date: January 18, 2019 at 5:08 PM EST
To: (b)(6): Jane Raskin email, (b)(6): Jay Sekulow email
Subject: BuzzFeed

Duplicative Material (19-001757-00051)



Fwd: BuzzFeed

From: JLQ (b)(6), (b)(7)(C): James Quarles email
To: RSMSC (b)(6), (b)(7)(C): Robert Mueller email, AMZ (b)(6), (b)(7)(C): Aaron Zebley email, ADG (b)(6): Andrew Goldstein email, MRD (b)(6), (b)(7)(C): Michael Dreeben email, EBP (b)(6), (b)(7)(C): Elizabeth Prelogar email, JSR (b)(6), (b)(7)(C): Jeannie Rhee email, PAC (b)(6), (b)(7)(C): Peter Carr email, (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Date: Fri, 18 Jan 2019 21:36:10 -0500

See below

Begin forwarded message:

From: Jay Sekulow (b)(6)
Date: January 18, 2019 at 9:27:15 PM EST
To: JLQ (b)(6), (b)(7)(C): James Quarles email
Cc: (b)(6): Jane Raskin email (b)(6): Marty Raskin email
Subject: Re: BuzzFeed

Thank you Jim.

Sent from my iPhone

PLEASE NOTE: This e-mail and any files transmitted with it are confidential and may be subject to the attorney-client privilege. Use or disclosure of this e-mail or any such files by anyone other than a designated addressee is unauthorized. If you are not an intended recipient, please notify the sender by e-mail and delete this e-mail without making a copy

On Jan 18, 2019, at 6:50 PM, JLQ (b)(6), (b)(7)(C): James Quarles email > wrote:

Duplicative Material (19-001757-00051)

[No Subject]

From: ADG (b)(6) Andrew Goldstein email >
To: AMZ (b)(6), (b)(7)(C): Aaron Zabley email, JLQ (b)(6), (b)(7)(C): James Quarles email, JSR (b)(6), (b)(7)(C): Jeannie Rhee email
Date: Fri, 18 Jan 2019 17:21:26 -0500

Rudolph W. Giuliani, Mr. Trump's lawyer, called the BuzzFeed article "categorically false."

"Today's claim are just more made up lies born of Michael Cohen's malice and desperation, in an effort to reduce his sentence," Mr. Giuliani said.

--

White House press secretary Sarah Sanders took aim at BuzzFeed on Friday, calling their report Thursday night that said President Trump had directed Michael Cohen to lie to Congress about a possible Trump Tower Moscow project "categorically false"

"Look, it's ridiculous. As the president's outside council put in a statement earlier today, and they said, and I think this sums it up perfectly – it's categorically false," Sanders told Fox News host Jesse Watters in an interview to air Saturday

"I think BuzzFeed has about as much credibility as Michael Cohen, considering both of these individuals and outlets have put out and advocated for a fake dirty dossier. BuzzFeed, and Michael Cohen is a known and admitted liar. I don't think these are any two people I'm going to look for in the credibility department."

Andrew D. Goldstein
The Special Counsel's Office

(b) (6)

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Re: BuzzFeed

From: ADG (b)(6): Andrew Goldstein email
To: JLQ (b)(6), (b)(7)(C): James Quarles email
Date: Fri, 18 Jan 2019 20:56:33 -0500

Good

On Jan 18, 2019, at 8:37 PM, JLQ (b)(6), (b)(7)(C): James Quarles email > wrote:

Duplicative Material (19-001757-00051)



President Trump Directed His Attorney Michael Cohen To Lie To Congress About The Moscow Tower Project

From: "Carr Peter (OPA)" (b) (6)
To: PAC (b)(6), (b)(7)(C): Peter Carr email
Date: Fri 18 Jan 2019 05:46:07 -0500

<https://www.buzzfeednews.com/article/jasonleopold/trump-russia-cohen-moscow-tower-mueller-investigation>

RE: BuzzFeed

From: PAC <(b)(6), (b)(7)(C): Peter Carr email >
To: AMZ (b)(6), (b)(7)(C): Aaron Zebley email, JLQ (b)(6), (b)(7)(C): James Quarles email
Date: Fri, 18 Jan 2019 11:20:28 -0500

The other reporter Jason Leopold was interviewed on MSNBC:
<https://twitter.com/NatashaBertrand/status/1086292474673418240?s=20>

Key point: "We've seen documents and been briefed on documents, we're very confident in our reporting."

(This is the first time I've heard them say they actually saw some documents.)

From: PAC
Sent: Friday, January 18, 2019 10:05 AM
To: (b)(6), (b)(7)(C): Aaron Zebley email, (b)(6), (b)(7)(C): James Quarles email
Subject: RE: BuzzFeed

One of the reporters, Anthony Cornier (based in NY), interviewed with NPR: http://www.wkar.org/post/buzzfeed-news-reporter-detail_tory_about_trump_michael_cohen_and_lying_congre_#_tream/Q

Key points

Source are two law enforcement official with direct knowledge of Trump Tower Moscow investigation
Shown through documents – emails, internal correspondence, witness interviews - gathered before SCO spoke with Cohen

Cohen confirmed the President directed him to lie to Congress during his interviews with SCO

The two source have reviewed the document personally (reporter has not)

Reporters verified the two sources' stories off the record with additional sources

This was directly from the President of the United States not through an intermediary

Reporting is NOT based on Cohen – he is not the one telling them this

From: PAC
Sent: Friday, January 18, 2019 9:46 AM
To: (b)(6), (b)(7)(C): Aaron Zebley email, (b)(6), (b)(7)(C): James Quarles email
Subject:

What BuzzFeed told us: Anthony and I have a story coming stating that Michael Cohen was directed by President Trump himself to lie to Congress about his negotiations related to the Trump Moscow project. Assume no comment from you but just wanted to check.

Key points from the article:

Source: Two federal law enforcement officials involved in an investigation of the matter.

What: Cohen told the special counsel that after the election, the president personally instructed him to lie — by claiming that negotiations ended months earlier than they actually did — in order to obscure Trump's involvement.

How: The special counsel's office learned about Trump's directive for Cohen to lie to Congress through:

- interviews with multiple witnesses from the Trump Organization
 - internal company emails
 - text messages
 - a cache of other documents
 - Cohen then acknowledged those instructions during his interviews with that office
- Cohen confirmed that Trump directed him to lie to Congress and also that he had provided detail of his conversations about the project with the president and Ivanka and Donald Jr.

Additional detail: Attorneys close to the administration helped Cohen prepare his testimony and draft his statement to the Senate panel the source said. The source did not say who the attorney were or whether they were part of the White House counsel's staff, and did not present evidence that the lawyers knew the statements would be false.