

Congress of the United States
Washington, DC 20515

August 29, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave., NW
Washington, DC 20016

Dear Secretary Nielsen:

We write to urge the Department of Homeland Security (DHS) to take immediate steps to facilitate the reunification of the 483 children that remain separated from their parents and in government custody because of the Administration's "zero-tolerance" policy of forcibly separating families at the border. Although 1,923 previously separated children have already rejoined their families, we fear that the remaining children could face long-term or even permanent separation unless the Administration acts swiftly to remove barriers to reunification and provide parents with the opportunity to knowingly and freely determine what is best for their families. Any delay will compound the long-term physical and emotional health consequences experienced by these children.

Numerous medical associations, including the American Academy of Pediatrics, have condemned the practice of forcibly separating immigrant families, drawing upon scientific evidence that the trauma of separation inflicts toxic stress upon children and leads to lifelong health implications. Separation can disrupt children's mental development and magnify their risk of mental illnesses. According to the American Psychological Association, "the longer that children and parents are separated, the greater the reported symptoms of anxiety and depression for the children. Negative outcomes for children include psychological distress, academic difficulties and disruptions in their development."

No child's health or wellbeing should be endangered because the government fails to reunite the families that it separated. We call upon DHS to limit the damage inflicted upon these children by offering humanitarian parole to parents who have been removed from the country, staying the removal of parents who have waived their reunification rights, and assuming a presumption of reunification for families with a parent that has been found ineligible.

1. Offer humanitarian parole to deported parents for the purpose of family reunification in the United States.

As of the government's latest filing in *Ms. L v. ICE*, 343 children face indefinite separation because their parents were deported by DHS. On August 9, 2018, the Administration submitted to the court the *Interagency Plan for the Reunification of Separated Minors with Removed Parents*, which details the government's intention to contact deported individuals and reunite families. We are concerned that both the original and revised plans require reunification to occur concurrently with the child's repatriation into the country of origin.

Such a requirement encourages families to abandon legal claims to protection and deprives families of the opportunity to confer with one another and with legal counsel before making a life-changing decision. Forcing parents to choose between reunification and their children's safety is all the more concerning given widespread reports that hundreds of parents received inadequate or misleading information regarding their rights, their children's rights, and the waiver process prior to their deportation. We urge DHS to exercise its discretionary authority under Section 212(d) of the Immigration and Nationality Act to offer deported parents humanitarian parole for family reunification in the United States. Families rejoined under humanitarian parole should subsequently be released into the community on alternatives to detention to assert claims for any legal protection for which they may qualify, including asylum.

2. Ensure that parents who waived their rights to reunification under coercion or duress are not deported.

According to the August 23rd *Joint Status Report*, 139 children remain in government custody because their parents waived the right to reunification. Again, we are deeply alarmed by reports that many parents were forced to make this decision with misleading information or under coercive conditions. For example, affidavits filed by the American Civil Liberties Union (ACLU) in *Ms. L* assert that DHS personnel reunited a group of fathers with their children, provided them with pre-completed forms concerning their children's rights, denied them the time or information necessary to make an informed decision, and used intimidation to prevent them from deviating from the pre-filled option. This raises the question of whether the government has upheld the due process rights of these and other parents.

In the August 9th *Joint Status Report*, the ACLU also notes troubling inconsistencies in reported numbers of children in Office of Refugee Resettlement (ORR) custody because their parents waived reunification. The Administration reported 130 such children on July 23, 2018, 120 children on July 26th, 34 children on August 2nd, 106 children on August 9th, and 154 children on August 16th. We reiterate the ACLU's concerns that these disparities may indicate that parents lack adequate information about their rights, or the rights of their children, during the waiver process. We therefore urge DHS to stay the removal of all parents who have relinquished the right to reunification until each parent has had the opportunity to meet with legal counsel. This stay should apply to all parents who waived reunification, including the parents of children who were placed with a sponsor and are no longer in government custody. DHS should provide parents with another opportunity to reunite with their children and subsequently release the families on alternatives to detention in order to pursue any legal claims for which they may qualify.

3. Assume a presumption of reunification for families with parents considered "ineligible" for reunification.

We appreciate the government's reported concern for the safety of children in ORR custody. However, we are troubled by the lack of information about parents who have been found ineligible for reunification. As of the most recent *Joint Status Report*, 35 children face long-term or even permanent separation because the Administration issued a "red flag background check" for their parents, 17 remain in ORR care because of a "red flag case review" for child safety, and 10 children are separated from adults that have been assigned a "red flag case review" for parentage. Due to the profound child welfare implications of severing the parent-child relationship, the de facto termination of parental rights must only occur after a transparent and robust determination process.


We call upon DHS to assume a presumption of reunification for families that remain separated because a parent is considered ineligible for reunification. We urge DHS to immediately provide all parents, attorneys, and advocates with access to evidentiary information on allegations of ineligibility. The Administration must also allow parents to challenge such a determination with the support of legal counsel. Neither DHS nor the Department of Health and Human Services (HHS) is the proper government agency to issue weighty legal determinations regarding parental rights that are typically handled by state child welfare agencies and state court systems.


It is of immense importance that the Administration reunite families separated under its zero-tolerance policy without further delay and ensure that parents can make informed decisions about what is best for their families. In order to take meaningful steps to uphold the constitutional rights of these families and ameliorate some of the wrongs that they have suffered, the Administration should immediately offer humanitarian parole to deported parents for reunification in the United States, stay the removal of parents who have waived their right to reunification, and assume a presumption of reunification for families that remain separated due to a determination of parental ineligibility.

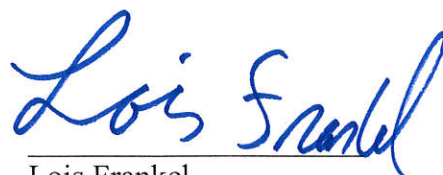
We appreciate your immediate attention to this matter and look forward to your prompt response.

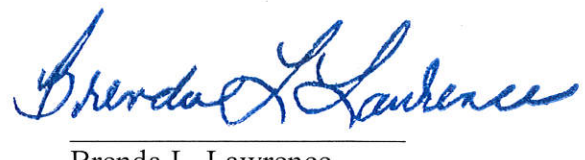
Sincerely,


Jackie Speier
Member of Congress


Lucille Roybal-Allard
Member of Congress


Pramila Jayapal
Member of Congress


Lois Frankel
Member of Congress


Brenda L. Lawrence
Member of Congress

Nanette Diaz Barragán
Member of Congress

Karen Bass
Member of Congress

Donald S. Beyer Jr.
Member of Congress

Earl Blumenauer
Member of Congress

Suzanne Bonamici
Member of Congress

Brendan F. Boyle
Member of Congress

André Carson
Member of Congress

Judy Chu
Member of Congress

David N. Cicilline
Member of Congress

Yvette D. Clarke
Member of Congress

Steve Cohen
Member of Congress

Bonnie Watson Coleman
Member of Congress

Joe Courtney
Member of Congress

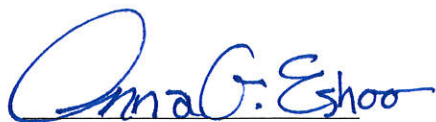
Diana DeGette
Member of Congress

Rosa L. DeLauro
Member of Congress

Val B. Demings
Member of Congress

Debbie Dingell
Member of Congress

Eliot L. Engel
Member of Congress



Anna G. Eshoo
Member of Congress



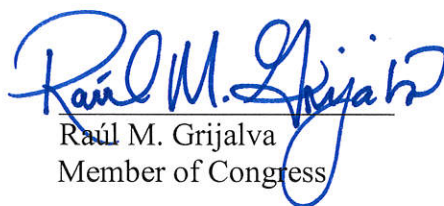
Bill Foster
Member of Congress



John Garamendi
Member of Congress



Gene Green
Member of Congress



Raúl M. Grijalva
Member of Congress



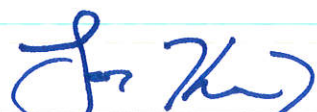
Luis V. Gutiérrez
Member of Congress



Colleen Hanabusa
Member of Congress



Alcee L. Hastings
Member of Congress



Joseph P. Kennedy, III
Member of Congress



Daniel T. Kildee
Member of Congress

Ann McLane Kuster
Member of Congress



James R. Langevin
Member of Congress



Rick Larsen
Member of Congress



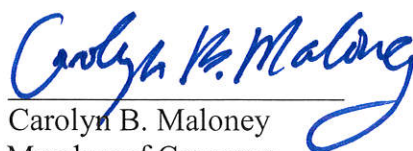
Barbara Lee
Member of Congress



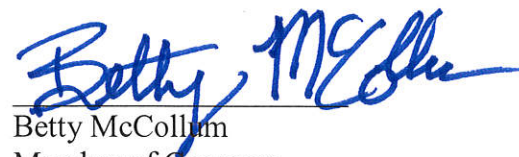
Ted W. Lieu
Member of Congress



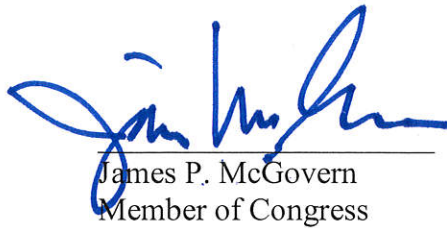
Alan Lowenthal
Member of Congress

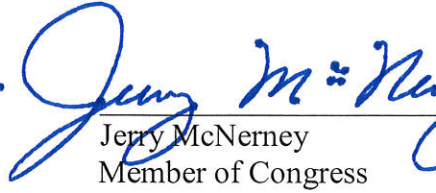


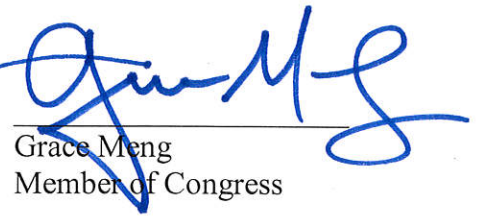
Carolyn B. Maloney
Member of Congress



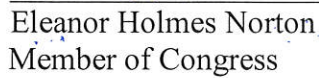
Betty McCollum
Member of Congress


James P. McGovern
Member of Congress

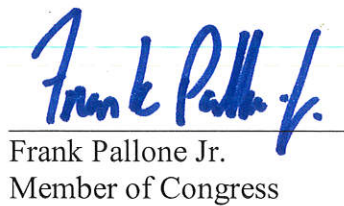

Jerry McNerney
Member of Congress

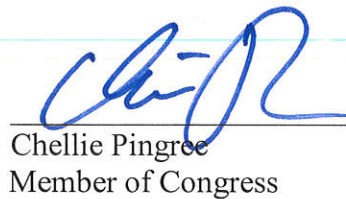

Grace Meng
Member of Congress

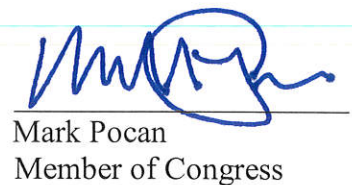

Grace F. Napolitano
Member of Congress

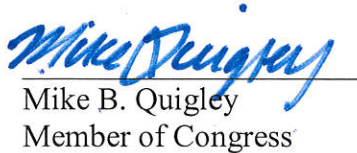

Eleanor Holmes Norton
Member of Congress


Beto O'Rourke
Member of Congress

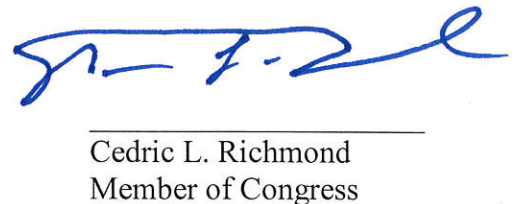

Frank Pallone Jr.
Member of Congress


Chellie Pingree
Member of Congress

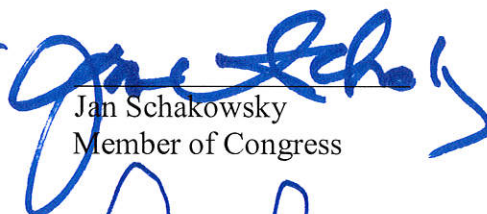

Mark Pocan
Member of Congress


Mike B. Quigley
Member of Congress

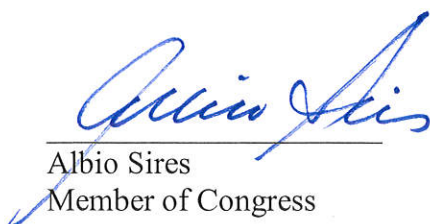

Kathleen M. Rice
Member of Congress

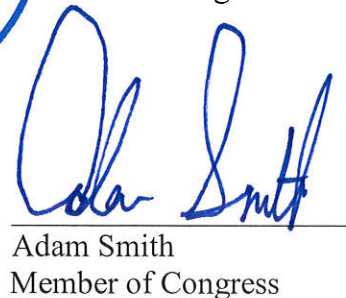

Cedric L. Richmond
Member of Congress


Bobby L. Rush
Member of Congress


Jan Schakowsky
Member of Congress


Terri A. Sewell
Member of Congress


Albio Sires
Member of Congress


Adam Smith
Member of Congress

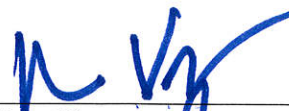

Darren Soto
Member of Congress



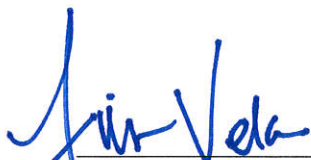
Mark Takano
Member of Congress



Bennie G. Thompson
Member of Congress



Marc Veasey
Member of Congress



Filemon Vela
Member of Congress



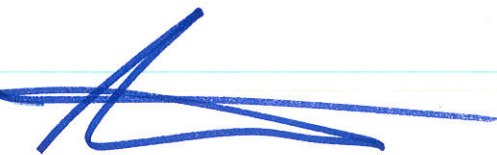
Nydia M. Velazquez
Member of Congress



Debbie Wasserman Schultz
Member of Congress



Frederica S. Wilson
Member of Congress



Adriano Espaillat
Member of Congress