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The Honorable Kirstjen M. Nielsen
Secretary, Department of Homeland Security

October 19, 2018

Dear Secretary Nielsen:

On October 11, Amnesty International published a new report titled, [*"You Don't Have Any Rights Here": Illegal Pushbacks, Arbitrary Detention, and Ill-treatment of Asylum-Seekers in the United States.*](#)

Over the last week, a spokesperson of the Department of Homeland Security (DHS) has repeatedly issued false and misleading statements to the news media, which appeared deliberately to misrepresent: (1) the actual numbers of families separated by DHS in 2017 and 2018, among other findings of the aforementioned report; and (2) Amnesty International's positions on border policy.

- (1) The DHS spokesperson disputed Amnesty International's findings that DHS separated approximately 8,000 family units in 2017 and 2018, claiming that this would "contradict data provided in federal court by the government" in the *Ms. L.* class action lawsuit.
 - a. **DHS is incorrect. In reality**, as is well cited in the report, DHS's Customs and Border Protection (CBP) agency itself provided Amnesty International with the exact statistics DHS now disputes.
 - b. Additionally, the DHS spokesperson misled the public by suggesting that all families separated by DHS in 2017 and 2018 were included in, and benefited from, the *Ms. L.* class action lawsuit.
 - c. **In reality**, DHS separated thousands more family units in 2017 and 2018, who were never part of the *Ms. L.* lawsuit since they did not meet the definition of the *Ms. L.* class.
 - i. For instance, DHS informed the Congressional Research Service that it separated 1,768 families from October 2016 to February 2018. Statistics obtained by Amnesty International show that barely any of those family separations overlapped with the *Ms. L.* class: only 128 children of the 2,654 class members of the *Ms. L.* lawsuit were separated during that period by the Trump administration; and only two (2) class members were separated during that period by the Obama administration.
 - d. **Amnesty International** invited CBP to provide more statistics and clarifications on the numbers already shared until October 10, 2018, hours before this report was published; CBP declined.
- (2) The DHS spokesperson has referred to Amnesty International as an "open-borders activist group."
 - a. **DHS is incorrect. In reality**, at no point does this report call for "open borders." This report shows that the Trump administration has plainly violated the human rights of thousands of asylum-seekers, and violated US and international law in doing so.
 - b. **Amnesty International** is a Nobel Prize-winning international human rights organization, founded in 1961, which advocates for all countries to fulfil their human rights obligations.

DHS continues to show a callous and concerning disregard for the forgotten families whose separations it never accurately counted, and who likely still have not benefitted from any court-ordered remedies, whether under the *Ms. L.* lawsuit or otherwise.

As just a few examples of how DHS has failed to accurately record the true scale of abuses under its family separations policy:

- In October 2018, DHS's own Office of the Inspector General (OIG) issued a damning report on family separations by DHS under the "zero-tolerance" policy, in which it found "the data DHS eventually supplied was incomplete and inconsistent, raising questions about its reliability."
- In August and September 2018, CBP similarly informed Amnesty International that it still did not have accurate numbers or "an official count" of family separations prior to the "zero-tolerance" policy; and neither did it have "a complete and accurate list for separations that may have occurred during the zero-tolerance prosecution period."
- In September 2018, CBP also informed Amnesty International that it did not have "a full tally" of families it separated for reasons of so-called "fraud" (including non-parental relationships, such as grandparents; or subjective doubts about the validity of the relationship). Based on CBP statistics through February 2018, the Trump administration's DHS conducted hundreds of family separations for so-called "fraud" even prior to the "zero-tolerance" policy.

There has still not been a proper accounting of the number of family separations carried out by DHS. DHS must immediately provide Congress with an exhaustive record of family separations carried out in 2017 and 2018, and open its full statistics on family separations for public scrutiny, in order to ensure that all those forgotten families have been reunited – not just those in the *Ms. L.* class.

At the most basic level, these are human beings we are talking about – not just numbers. No longer can DHS play a shell game with these families' lives.

Thank you for your attention.

Sincerely,

Erika Guevara-Rosas
Americas Director
Amnesty International