



November 7, 2019

**BY FAX**

The Honorable Ron Johnson, Chair  
The Honorable Gary Peters, Ranking Member  
U.S. Senate Committee on Homeland Security and Government Affairs  
340 Dirksen Office Building  
Washington, DC 20510

**Re: Referral of Chad F. Wolf for Potential False Statements Violations**

Restore Public Trust respectfully suggests that the Senate Committee on Homeland Security and Government Affairs refer Chad F. Wolf to the Department of Justice for investigation into whether Mr. Wolf may have provided false testimony to the committee during his confirmation hearing to be Under Secretary for Strategy, Policy and Plans at the Department of Homeland Security.

**Background**

During his June 2019 confirmation hearing, Mr. Wolf was asked several questions about his role in developing the Trump administration's controversial policy of separating immigrant children from their parents. Sen. Jacky Rosen (D-NV) engaged Mr. Wolf in the following exchange:

ROSEN: When the AG announced their zero-tolerance policy. [...] Did you help develop that policy?

WOLF: No, ma'am, again, we were given direction both through an executive order and the attorney general's zero-tolerance policy at the time. The discussions that were underway at the department at that time were operational.<sup>1</sup>

And

<sup>1</sup> U.S. Senate Committee on Homeland Security and Governmental Affairs, Full Committee Hearing on the Nominations of Chad F. Wolf to be Under Secretary for Strategy, Policy, and Plans, et al, June 12, 2019 at 00:57:50.

ROSEN: Let me ask it this way, as her chief of staff then, how did you become aware of this policy?

WOLF: Through discussions with staff, discussions leading up to the attorney general's announcement, I believe in April of 2018.<sup>2</sup>

Mr. Wolf also stated that following the April 2018 announcement, he “was involved sitting on various discussions with our operators; that would have been CBP, USCIS, and ICE, as well as the general counsel, on how to operationalize the decision made by both the president and the attorney general.”<sup>3</sup>

Despite Mr. Wolf's statements under oath, in December 2017, when serving as then-Secretary Kiersten Nielsen's chief of staff, Mr. Wolf sent a list of 16 options to curb the number of undocumented immigrants to Gene Hamilton, counselor to then-Attorney General Jeff Sessions, for review. The list included family separation and expedited child deportation. In fact, “Separate family units” was number two on the list.<sup>4</sup>

In addition, Mr. Wolf's calendar for March 15, 2018 reveals a scheduled phone call with Ryan Scudder, the Acting Chief Patrol Agent of the El Centro Sector of U.S. Customs and Border Patrol.<sup>5</sup> The entry states “Ryan wanted to touch base with you regarding the meeting you requested to take place regarding ‘Separating Children and Families.’ He had a question regarding the fingerprinting component.”<sup>6</sup>

Further, on March 19, 2018, Mr. Wolf attended a “Family Separation Issue/Hill Prep Meeting.”<sup>7</sup> The objective of this meeting, which included as attendees the Secretary, the Deputy Secretary, Mr. Wolf, Mr. Scudder, and a long list of DHS and DHS component officials, was “to discuss the issue of family separation as well as DNA and fingerprinting issues . . .”<sup>8</sup>

### **Legal Violation**

<sup>2</sup> *Id.* at 00:58:08.

<sup>3</sup> *Id.* at 00:58:22.

<sup>4</sup> Julia Ainsley, Katy Tur and Laura Stricker, Trump Admin Considering Chad Wolf, An Author of Family Separation Policy, for DHS Chief, *NBC News*, October 22, 2019.

<sup>5</sup> See <https://www.cbp.gov/newsroom/local-media-release/border-patrol-stops-tractor-trailer-finds-30-immigrants-inside#>.

<sup>6</sup> Calendar for Chad Wolf, March 15, 2018, available at <https://www.americanoversight.org/document/dhs-calendars-for-senior-officials-from-2018>

<sup>7</sup> Calendar for Chad Wolf, March 18, 2018, available at <https://www.americanoversight.org/document/dhs-calendars-for-senior-officials-from-2018>

<sup>8</sup> *Id.*

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As you know, it is a federal crime to make a materially false, fictitious, or fraudulent statement or representation in response to any investigation or conducted pursuant to the authority of any committee of Congress.<sup>9</sup>

Records reveal that in 2017, Mr. Wolf sent an email proposing family separation as one of 16 potential policies to curb immigration. Therefore, Mr. Wolf's statement that he first heard of the policy in discussions with staff in the lead up to the attorney general's April 2018 announcement is, at a minimum, inaccurate. In fact, Mr. Wolf was directly involved in discussions about the policy several months earlier. Including family separation as a specific policy proposal for the attorney general's consideration surely qualifies as helping to develop the policy and his claim that he heard of the policy from others appears untrue.

Further, Mr. Wolf discussed family separation in a phone call with Mr. Scudder on March 15 and participated in a meeting specifically convened with DHS employees, to discuss the topic on March 19. These calendar entries again belie Mr. Wolf's claim that he heard of the policy only from others and was not involved in its creation himself.

In light of the evidence, it appears Mr. Wolf made a deliberate attempt to mislead the committee about his role in developing the family separation policy in violation of the prohibition against making false statements to Congress.

### **Conclusion**

Americans have the right to expect that those appearing before congressional committees testify truthfully, whether under oath or not, and failing to testify truthfully is a violation of federal law. Knowing how controversial the policy of family separation has been to Americans across the political divide, it appears Mr. Wolf sought to downplay his role in developing that policy. The facts suggest, however, that by shifting responsibility for the policy to others, Mr. Wolf may have made false statements. As a result, referring Mr. Wolf to the Department of Justice for investigation into whether and the extent to which he may have provided false testimony to the committee is simply the right thing to do.

Sincerely,

Kyle Herrig  
Senior Advisor

<sup>9</sup> 18 U.S.C. § 1001.

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cc: Corey R. Amundson  
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