

United States Senate

WASHINGTON, DC 20510

January 18, 2019

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Wray,

I write to request an investigation to determine whether Secretary of Homeland Security Kirstjen Nielsen committed perjury during her sworn testimony before the House Committee on the Judiciary on December 20, 2018.

The Federal Bureau of Investigation (FBI) has previously indicated that the Department of Justice requires a formal criminal referral from Congress to initiate an investigation concerning Congressional testimony. I write today to execute such a criminal referral.

Compelling new evidence has emerged revealing that high-level Department of Homeland Security officials were secretly and actively developing a new policy and legal framework for separating families as far back as December 2017. This policy, called "Separate Family Units," was specifically designed to gain media attention and generate a "substantial deterrent effect."¹ Despite this fact, while testifying under oath before the House Committee on the Judiciary, Secretary Nielsen stated unequivocally "I'm not a liar, we've never had a policy for family separation."

In light of these conflicting facts, the FBI should immediately investigate whether Secretary Nielsen's statements violate 18 U.S. Code § 1621, 18 U.S.C § 1001, or any other relevant federal statutes that prohibit perjury and false statements to Congress.

Sincerely,



Jeffrey A. Merkley
United States Senator

Cc: The Honorable Jessie K. Liu
U.S. Attorney for the District of Columbia

¹ Department of Homeland Security "Policy Options Memo to Respond to Border Surge of Illegal Immigration," December 2017.