

July 6, 2018

BY FACSIMILE: (202) 357-5901

David S. Ferriero
Archivist of the United States
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Dear Mr. Ferriero:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that you investigate the reported actions of the U.S. Department of Homeland Security (“DHS”) and the U.S. Department of Health and Human Services (“HHS”) that appear to violate the Federal Records Act (“FRA”) and recommend actions to both agencies for their immediate correction pursuant to the statutory authority the FRA, 44 U.S.C. § 2115(b), confers on you.

As you know, Congress enacted the FRA in part to ensure “[a]ccurate and complete documentation of the policies and transactions of the Federal Government[.]” 44 U.S.C. § 2901(1). This obligation encompasses the documentation and preservation of records concerning the “organization, functions, policies, decisions, procedures and essential transactions of the agency and [those] designed to furnish the information *necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.*” 44 U.S.C. § 3101 (emphasis added).

The policies of President Donald Trump and his administration have plunged our nation into an immigration crisis. Federal immigration officials have ripped thousands of children from their parents, leading a federal district court judge to order separated families with children under age four reunited by July 10, and the remaining separated families reunited by July 26.

In implementing these policies, federal agencies appear to have blatantly violated the FRA. Today, the *New York Times*, citing two DHS officials, reported that “[r]ecords linking children to their parents have disappeared, and in some cases have been destroyed . . . leaving the authorities struggling to identify connections between family members.”¹ One example of records being destroyed involves U.S. Customs and Border Protection, an agency of DHS. Again citing DHS officials, the *Times* reported that “[i]n hundreds of cases, Customs agents deleted the initial records in which parents and children were listed together as a family with a ‘family identification number’ . . . As a result, parents and children appeared in federal computers to have no connection to one another.”²

¹ Caitlin Dickerson, *Trump Administration in Chaotic Scramble to Reunify Migrant Families*, *New York Times*, July 6, 2018, available at <https://www.nytimes.com/2018/07/05/us/migrant-children-chaos-family-separation.html>.

² *Id.*

David Ferriero
July 6, 2018
Page 2

Rarely, if ever, has a potential violation of the FRA had such grave implications. The reportedly destroyed records bear directly on the lives of thousands of immigrants seeking entry to our country, threatening the permanent separation of parents from their children. Given such high stakes, it is imperative that you act immediately to review the actions of DHS and HHS, and direct them to take all necessary steps to locate or recreate the missing documents and ensure adequate documentation and preservation of these records going forward. The lives of thousands of families literally hang in the balance.

Sincerely,



Noah Bookbinder
Executive Director



Ambassador (Ret.) Norman L. Eisen
Chair

cc: John Kelly, Acting Inspector General, Department of Homeland Security
Daniel R. Levinson, Inspector General, Department of Health and Human Services