

## Statement for the Record by Save the Children Action Network (SCAN)

### *The Nomination of Chad Wolf as the Permanent Secretary of Homeland Security*

Senate Committee on Homeland Security and Governmental Affairs

Wednesday, September 23, 2020

Chairman Johnson, Ranking Member Peters, and Members of the Senate Homeland Security and Government Affairs Committee, thank you for the opportunity to submit this statement opposing the nomination of Chad Wolf for Secretary of Homeland Security.

Save the Children Action Network (SCAN) was founded in 2014 as the advocacy arm of Save the Children, to be the political voice for kids. SCAN works to ensure that the issues critical to children's lives and futures are given top priority by our elected leaders, building bipartisan support to make sure every child has a strong start in life. One of these key issues is keeping children safe at the U.S. southern border, where the rights of children and their families continue to be violated. SCAN – together with its 375,000 supporters nationwide – advocates for the protection of these children and families so that they are provided every opportunity and safeguard available to them to seek a better life and to live free from danger and harm.

This is why SCAN strongly opposes President Trump's nomination of Chad Wolf to serve as the permanent Secretary of Homeland Security. The actions undertaken by Mr. Wolf, particularly during his tenure as acting and then permanent Chief of Staff to former Department of Homeland Security (DHS) Secretary Kirstjen Nielsen (July 2017 – April 2019) and currently as Acting Secretary of Homeland Security (November 2019 – present), have been exceptionally harmful to children and families. These actions have not only blatantly disregarded long-standing legal protections and widely-held moral standards, but also legal decisions made by federal judges against said actions.

#### **Developing and Implementing Family Separations**

In 2017, while serving as acting Chief of Staff to former DHS Secretary Nielsen, Mr. Wolf recommended family separation as a tactic to “curb the number of undocumented immigrants.”<sup>1</sup> In 2018, while serving as permanent Chief of Staff to Secretary Nielsen, Mr. Wolf's family separation recommendation went into effect as a consequence of the “Zero-Tolerance Policy for Criminal Illegal Entry.” While DHS claimed they do “not have a blanket policy of separating families at the border,” nearly 5,500 children were forcibly separated from their families from April 6 to June 20, 2018.<sup>2</sup> This number is significantly higher than that of previous administrations, under which the majority of adults entering the U.S. with minors were “rarely criminally prosecuted,” further pointing to the fact that the Trump administration was purposefully targeting immigrant families.<sup>3</sup>

#### **Ending Asylum Protections and Overseeing Mass Expulsions**

In 2020, after assuming his new position of Acting Secretary of Homeland Security, Mr. Wolf continued to illustrate his blatant disregard for the protection and rights of children and families. On March 20, 2020, the Centers for

<sup>1</sup> <https://www.nbcnews.com/politics/immigration/trump-admin-considering-chad-wolf-architect-family-separation-dhs-chief-n1070006>

<sup>2</sup> <https://time.com/5678313/trump-administration-family-separation-lawsuits/>

<sup>3</sup> <https://www.hrw.org/news/2018/08/16/qa-trump-administrations-zero-tolerance-immigration-policy#q2>;

<https://www.businessinsider.com/dhs-family-separation-fact-check-deliberately-avoids-zero-tolerance-issue-2018-6?r=US&IR=T>

Disease Control and Prevention (CDC) issued an order suspending the entry of all persons without documentation at U.S. land borders for 30 days, invoking the COVID-19 pandemic as justification. Mr. Wolf has used this dubious CDC order to further the administration's immigration policy, rather than to further the health and safety of the nation and all those within its borders, such as immigrant children and families. In May, the CDC extended the order indefinitely, and Mr. Wolf issued a statement citing the order as "one of the most critical tools the Department has used to prevent the further spread of the virus and to protect the American people."<sup>4</sup> However, this order has been described as "medical gerrymandering," designed to single out two groups of immigrants in need of humanitarian protection: asylum-seekers and unaccompanied children.<sup>5</sup> Since the enactment of the CDC order, from March 20 to the end of August 2020, there have been nearly 150,000 expulsions at both land borders, including around 8,800 unaccompanied children, most of whom were expelled in violation of anti-trafficking and humanitarian statutes.<sup>6</sup> On top of this, countless children have been expelled from the U.S. after testing negative for COVID-19, severely undermining the rationale for the order's justification.

Furthermore, prior to being expelled from the U.S., children and families have been – and continue to be – detained in conditions that do not curb the spread of COVID-19, but fuel it. U.S. District Judge Dolly M. Gee – who oversees the Flores Settlement Agreement – has criticized the health and safety conditions of various detention centers, saying they are "on fire" with COVID-19 cases.<sup>7</sup>

### **Forcing Parents to Make a "Binary Choice"**

While President Trump eventually ended overt family separations under the "zero-tolerance" policy, the practice was never truly abolished, with DHS continuing to employ it as a tactic to deter immigration and, now, to keep families in detention. One of the most concerning resurgences of family separation took place in May 2020, around the time of the order's extension. According to reports from attorneys representing detained families, between May 13 and 14, 2020 ICE gave parents in detention a "binary choice" of releasing their children without them or waiving the rights provided to them under the Flores Settlement Agreement, possibly leading to indefinite detentions.<sup>8</sup>

### **Detaining Children in Hotels**

Again using the COVID-19 pandemic as an excuse to ignore legal immigration procedures, under Wolf's stewardship DHS has detained 577 minor children – many of whom are unaccompanied – in 25 hotels across three states.<sup>9</sup> This blatantly violates the Trafficking and Victims Protection Reauthorization Act (TVPRA) by unlawfully detaining children at hotels without providing them legal counsel or transferring them to the Office of Refugee Resettlement (ORR) for screening within 72 hours of their arrival to the U.S. Currently, ORR is only operating at 7 percent capacity<sup>10</sup>, meaning these unaccompanied minors could have been sent to properly licensed facilities. But, again, DHS chose to circumvent legal requirements, inaccurately using the pandemic as excuse.

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<sup>4</sup> <https://www.dhs.gov/news/2020/05/19/acting-secretary-wolf-s-statement-extension-title-42>

<sup>5</sup> [https://www.amnestyusa.org/our-work/government-relations/advocacy/amnesty-international-usa-opposes-new-rule-empowering-unlawful-expulsions-of-asylum-seekers-at-border/#\\_ftn1](https://www.amnestyusa.org/our-work/government-relations/advocacy/amnesty-international-usa-opposes-new-rule-empowering-unlawful-expulsions-of-asylum-seekers-at-border/#_ftn1)

<sup>6</sup> <https://www.cbsnews.com/news/8800-migrant-children-have-been-expelled-under-pandemic-border-policy-per-court-documents/>

<sup>7</sup> <https://www.washingtonpost.com/nation/2020/06/26/coronavirus-live-updates-us/>

<sup>8</sup> [https://www.amnestyusa.org/wp-content/uploads/2020/04/Amnesty-International-USA-Family-Separation-2.0\\_May-21-2020-.pdf](https://www.amnestyusa.org/wp-content/uploads/2020/04/Amnesty-International-USA-Family-Separation-2.0_May-21-2020-.pdf)

<sup>9</sup> <https://www.cbsnews.com/news/migrant-children-hotels-expelled-ice-flores-agreement-monitor/>

<sup>10</sup> <https://www.washingtontimes.com/news/2020/aug/25/ice-family-detention-running-7-capacity-coronaviru/>



### **Ignoring the Orders of a Federal Judge**

On June 26, 2020, due to concerns sanitary conditions of various detention centers and the fear of further COVID-19 spread. Judge Gee ordered Immigration and Customs Enforcement (ICE) – which falls under the purview of Mr. Wolf – to release all children being held in various family detention centers across the country.<sup>11</sup> However, ICE – in effect, Mr. Wolf – has yet to act, even though the court deadline was July 27.<sup>12</sup> Then, on September 4, 2020, Judge Gee ordered DHS to stop detaining children – particularly unaccompanied minor children – in hotels and to transfer them to licensed facilities by September 15. This order, too, has so far been ignored.<sup>13</sup>

### **Conclusion**

In view of the aforementioned, SCAN calls upon the Senate to reject Chad Wolf's nomination. Due to his continued support of egregious family separation policies, his unconscionable disregard of public health, and his repeated dismissal of legal requirements, Mr. Wolf is clearly unfit to permanently hold the position of DHS Secretary. SCAN is deeply familiar with the overwhelming and long-lasting effects – including the devastating loss of childhood – that child detention and family separation has on a young child. Children – no matter where they are from – deserve to be protected. What children have been forced to unnecessarily endure under Mr. Wolf's leadership is, simply put, unacceptable. By rejecting Mr. Wolf's nomination, the Senate will protect the health and safety of immigrant children and families – and of the wider U.S. public – that Mr. Wolf has so callously disregarded.

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<sup>11</sup> <https://www.vox.com/policy-and-politics/2020/6/27/21305321/ice-children-judge-order-release-detention-centers-covid-19>

<sup>12</sup> <https://time.com/5878909/children-ice-covid-19-detention-court-order/>

<sup>13</sup> [https://www.washingtonpost.com/health/judge-orders-us-to-stop-detaining-migrant-children-in-hotels/2020/09/04/fbe23f8e-ef13-11ea-bd08-1b10132b458f\\_story.html](https://www.washingtonpost.com/health/judge-orders-us-to-stop-detaining-migrant-children-in-hotels/2020/09/04/fbe23f8e-ef13-11ea-bd08-1b10132b458f_story.html)

