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ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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March 5, 2023

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra:

Pursuant to Rules X and XI of the U.S. House of Representatives, we are examining the adequacy of the Office of Refugee Resettlement (ORR) handling of its responsibilities to provide care and safety for unaccompanied children crossing our nation's borders in light of the increasing numbers of unaccompanied children coming across our southern border beginning in fiscal year 2021.

The number of unaccompanied children referred to ORR has skyrocketed from a low of 15,381 in fiscal year 2020 to 122,731 in fiscal year 2021 and 128,904 in fiscal year 2022.¹ At the same time, the numbers of unaccompanied children were skyrocketing, the Department of Health and Human Services' (HHS) capacity to care for children diminished.²

ORR opened Emergency Intake Sites (EIS) in early 2021 to manage the influx of unaccompanied children crossing the southern border.³ The HHS Office of Inspector General (OIG) recently published findings related to the operation of the EIS at Fort Bliss, the largest of the EIS facilities, concluding that case managers lacked sufficient child welfare training and ineffectively coordinated reuniting children with parents/sponsors; one interviewee informed the OIG there was a "pervasive sense of despair" among children at the facility who reportedly

¹ Dep't of Health and Human Services Office of Refugee Resettlement, *Fact Sheets and Data*, <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>

² Dep't of Health and Human Services Office of the Inspector General, *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children*, OEI-07-21-00251 (Sep. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf> (hereafter "IG Report"): "At the same time, ORR's capacity to care for children was diminished due to COVID-19-related staffing shortages and the loss of bed space due to recommended public health mitigation strategies." at Report in Brief.

³ IG Report at 3.

experienced distress, anxiety, and in some cases, panic attacks.”⁴ The OIG reported on instances of children physically harming themselves due to case manager negligence.⁵

Perhaps most disturbing of the OIG’s findings at Fort Bliss was that ORR “eliminat[ed] critical safeguards from the sponsor screening process” thereby “potentially increasing children’s risk of release to unsafe sponsors.”⁶ According to the OIG, ORR supervisors grew concerned policy changes prioritized fast tracking release of unaccompanied children to sponsors quickly, rather than vetting sponsors and protecting “children from risks such as trafficking and exploitation.”⁷ Supervisors also reported to the OIG that inexperienced ORR case managers “failed to consider children’s significant history of abuse and neglect or whether sex offenders resided in the potential sponsor’s household.”⁸ Recent reporting by the New York Times found that over the last two years, one month after placing children with an adult, HHS “could not reach more than 85,000 children” and the “agency lost immediate contact with a third of migrant children.”⁹ Additionally, the New York Times reported that managers at ORR were “worried that labor trafficking was increasing and. . . the office had become ‘one that rewards individuals for making quick releases, and not one that rewards individuals for preventing unsafe releases.’”¹⁰

ORR’s substandard approach to child welfare extends beyond Fort Bliss. A Senate Committee on Homeland Security and Governmental Affairs report, published December 19, 2022, found that ORR policy does not explicitly prohibit releasing unaccompanied children to sponsors who refuse to submit to required background checks.¹¹ According to the report, due to HHS’s inadequate record keeping, it was unable to inform Congress whether any unaccompanied child had been released to sponsors who refused to submit to a background check.¹² In a written admission to the Senate committee, HHS disclaimed any legal liability for releasing unaccompanied children to unsafe sponsors.¹³

The safety and welfare of thousands of unaccompanied children requires this Committee’s immediate attention. We request a briefing with staff as soon as practicable, but no

⁴ IG Report at 13.

⁵ IG Report. (“In one extreme case of a child in distress, a youth care worker described witnessing a young girl begin to hit and cut herself in front of a group of children after learning that her mother had not yet been contacted by a case manager as part of the sponsor screening process. Following this episode, the girl was restrained by security guards and other staff and transferred to a psychiatric facility.” at 14.

⁶ IG Report at 16.

⁷ IG report at 16-17.

⁸ IG Report at 12.

⁹ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, New York Times (Feb. 25, 2023); <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>

¹⁰ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, New York Times (Feb. 25, 2023); <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>

¹¹ Committee on Homeland Security and Gov’t Affairs, Minority Report, *Federal Care of Unaccompanied Children: Minors Remain Vulnerable to Trafficking and Abuse*, (Dec. 2022) available at [https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Federal%20Care%20of%20Unaccompanied%20Alien%20Children%20Report%20\(FINAL\).pdf](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Federal%20Care%20of%20Unaccompanied%20Alien%20Children%20Report%20(FINAL).pdf): (“ORR’s policies do not explicitly prohibit the release of a child to a potential sponsor where an adult household member refuses to comply with the required background checks.”) at 37.

¹² Id. (“Because HHS does not keep statistics on a case-by-case basis, they were unable to tell the Committee whether this had ever occurred.”) 48-49.

¹³ Id. at 45-48.

later than March 19, 2023. Please be prepared to provide substantive responses to the following, but not limited to, questions at the briefing:

- (1.) What retroactive screening efforts (e.g., searches of sex offender registry, criminal records, etc.) were conducted after the OIG informed ORR about its findings at Fort Bliss to ensure children were not released to households with unsafe sponsors/individuals residing there?
 - a. When did you begin retroactive screening efforts?
 - b. From fiscal year 2021 to the present, have any children in ORR custody at Fort Bliss been removed from the original sponsor they were released to?
 - i. When? Why?
 - c. Does ORR certify that none of the children at Fort Bliss were released to a household with an unsafe resident (e.g., sex offender, individual convicted of a violent crime, etc.)?
 - i. If so, who makes the certification and what is the basis for certification?
 - ii. If not, will ORR make such a certification in writing to the Committee?
- (2.) From fiscal year 2021 to the present, which ORR facilities waived sponsor vetting procedures?
 - a. Why were these vetting procedures waived?
- (3.) From fiscal year 2021 to the present, how many total children under ORR custody were removed from the household they were originally released to?
 - a. What were the reasons for removing children from original household?
 - b. What is the status of those children?
- (4.) From fiscal year 2021 to the present, the total amount of funds spent by HHS on ORR facilities, contractors and placement efforts?
- (5.) Provide Committee with internal documents created in fiscal year 2021 to the present (e.g., emails, texts, reports, memos, etc.) regarding waiving sponsor vetting procedures.

- (6.) Provide Committee with internal documents created in fiscal year 2021 to the present (e.g., emails, texts, reports, memos, etc.) regarding ORR employees views on the ORR sponsor screening procedures.

Finally, this letter serves as a formal request to preserve all existing and future records and materials in HHS's possession relating to the topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

An attachment to this letter provides additional instructions for responding to the committee's request. Your assistance is appreciated. If you have any questions, please contact Anudeep Buddharaju with the Majority Committee staff at (202) 225-3641.

Sincerely,



Cathy McMorris Rodgers
Chair
Energy and Commerce Committee



Brett Guthrie
Chair
Subcommittee on Health



H. Morgan Griffith
Chair
Subcommittee on Oversight and Investigations

cc: Frank Pallone Jr., Ranking Member, Energy and Commerce Committee
Anna Eshoo, Ranking Member, Subcommittee on Health
Kathy Castor, Ranking Member, Subcommittee on Oversight and Investigations