

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 29, 2018

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Azar:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is examining the operations of the Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS). Specifically, the Committee is evaluating ORR's operations related to the management and treatment of unaccompanied alien children (UAC), including the reunification of children with their parents.

We support strong enforcement of our nation's borders. We also support keeping families together, and believe that children should not be separated from their parents. We also seek to ensure that children who are within the custody of ORR—whether because they crossed the border as an unaccompanied minor or because they crossed the border with a family member and were subsequently separated—are properly cared for while within the custody of ORR.

The Homeland Security Act of 2002 transferred responsibilities for the care and placement of UAC from the Commissioner of the Immigration and Naturalization Service to the Director of ORR.¹ UAC are apprehended by the Department of Homeland Security (DHS) immigration officials, but are transferred to the care and custody of ORR and ORR places UAC in the least restrictive setting that is in the best interests of the child.² A number of DHS agencies are involved in apprehending, processing, and repatriating UAC, while HHS is responsible for

¹ Office of Refugee Resettlement, Administration of Children & Families, U.S. Department of Health & Human Services, (last accessed on June 19, 2018), available at <https://www.acf.hhs.gov/orr/programs/ucs>.

² Office of Refugee Resettlement, Administration of Children & Families, U.S. Department of Health & Human Services, (last accessed on June 19, 2018), available at <https://www.acf.hhs.gov/orr/programs/ucs>.

the care and custody of UAC. The Executive Office of Immigration Review in the U.S. Department of Justice (DOJ) conducts immigration removal proceedings.³

On April 6, 2018, Attorney General Jeff Sessions issued a memorandum for federal prosecutors along the southwest border that directed “each United States Attorney’s Office along the southwest border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a).”⁴ As a result, between April 6 and June 20, 2018, DHS officials referred any adult “believed to have committed any crime, including illegal entry,” to DOJ for prosecution and, if convicted to deportation hearings.⁵ Meanwhile, DHS transferred children traveling with those adults to the custody of ORR. This process resulted in families being separated.

On June 20, 2018 President Donald J. Trump signed an Executive Order stating, in part “It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.”⁶ Pursuant to this Executive Order, families will now be detained together by the Department of Homeland Security. Presumably, this will lead to a decrease in the number of UAC transferred to the custody and care of ORR.

As of June 20, 2018, HHS had 2,053 minors separated as a result of the zero-tolerance policy in HHS-funded facilities.⁷ This number represents 17 percent of minors in HHS funded facilities; the remaining 83 percent arrived without a parent or guardian.⁸ According to media reports, many of the children that have been separated from their families are too young to speak, and there are reports of children under the age of one in the care of ORR.⁹ The Assistant Secretary for Preparedness and Response (ASPR) has established a task force to reunify separated children with their families, and we understand that ASPR is working expeditiously on this mission.

The Committee investigated ORR’s management and treatment of UAC beginning in 2014 after the dramatic surge in border crossings by UAC from Central America as well as a series of reports and records that were released by the *Houston Chronicle* regarding allegations

³ The United States Department of Justice, Executive Office for Immigration Review, Fact Sheet, (last updated Feb. 24, 2017), available at <https://www.justice.gov/eoir/observing-immigration-court-hearings>.

⁴ Office of the Attorney General, Memorandum for Federal Prosecutors Along the Southwest Border, from The Attorney General, “Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a), (April 6, 2018), available at <https://www.justice.gov/opa/press-release/file/1049751/download>.

⁵ Salvador Rizzo, *The facts about Trump’s policy of separating families at the border*, THE WASHINGTON POST, (June 19, 2018), available at https://www.washingtonpost.com/news/fact-checker/wp/2018/06/19/the-facts-about-trumps-policy-of-separating-families-at-the-border/?utm_term=.d50c017c4caf.

⁶ Executive Order, *Affording Congress an Opportunity to Address Family Separation*, June 20, 2018, available at <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

⁷ *Id.*

⁸ *Id.*

⁹ Caitlin Dickerson, *What’s Behind the ‘Tender Age’ Shelters Opening for Young Migrants*, THE NEW YORK TIMES (June 20, 2018), available at <https://www.nytimes.com/2018/06/20/us/tender-age-shelters-family-separation-immigration.html>.

of abuse, including sexual abuse, of minors in HHS custody.¹⁰ According to the *Houston Chronicle*, children and teenagers reported having sexual contact with staff at facilities in Texas, Florida, New York, and Illinois. In 2016, *The Washington Post* reported that, in 2014, ORR placed an unaccompanied child with sponsors in central Ohio who were later discovered to be human traffickers who forced the child to work 12 hours a day on an egg farm.¹¹ The *Associated Press* reported additional instances of abuse after ORR placed UAC with sponsors.¹² In the course of this investigation, the Committee sent three letters to HHS raising grave concerns about the treatment of children while in the custody of ORR, and the then-lack of follow up to ensure that children were cared for properly after being placed with a sponsor.¹³ The Committee also requested documents and answers to detailed questions, and, in 2014, held a bipartisan roundtable for members on issues related to UAC. Given HHS' historical difficulties in properly caring for UAC, the Committee believes that additional scrutiny of ORR is warranted at this time.

To assist the Committee in its efforts, please provide written answers to the following questions, as well as the requested documents, no later than July 20, 2018.

1. How many UAC are in ORR custody as of June 29, 2018?
 - a. How many UAC have been placed into ORR custody as of June 29, 2018, as a result of being separated from their parents or families?
 - b. What is the age range of UAC in ORR custody as of June 29, 2018?
2. What documentation or information does ORR receive when a UAC is transferred by DHS to ORR custody?
 - a. Does that documentation or information change depending on whether the child was separated from a family or crossed the border alone?
3. Is there a formal process to determine whether UAC have been separated from someone who is legitimately their parent, and/or for reuniting parents and children who have been separated? If so, please describe this process.

¹⁰ Susan Carrol, *Crossing alone: Children fleeing to U.S. land in shadowy system*, (May 24, 2014), HOUSTON CHRONICLE, available at <https://www.houstonchronicle.com/news/investigations/article/Crossing-alone-Children-fleeing-to-U-S-land-in-5503127.php>; Susan Carrol, *Unaccompanied children in country illegally still lack federal protection*, HOUSTON CHRONICLE, (May 29, 2014), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/Unaccompanied-children-in-country-illegally-still-5514344.php>.

¹¹ Abbie VanSickle, *Overwhelmed federal officials released immigrant teens to traffickers in 2014*, THE WASHINGTON POST, Jan. 26, 2016.

¹² Garance Burke, *Feds' Failures Imperil Migrant Children*, THE ASSOCIATED PRESS, Jan. 25, 2016.

¹³ Letter from Hon. Fred Upton, Chairman, H. Comm. on Energy & Commerce, to Hon. Sylvia Burwell, Sec'y, U.S. Dep't of Health & Human Servs. (Jan 14, 2015); Letter from Hon. Fred Upton, Chairman, H. Comm. on Energy & Commerce, et. al, to Hon. Sylvia Burwell, Sec'y, U.S. Dep't of Health & Human Servs. (Feb. 11, 2016); Letter from Hon. Fred Upton, Chairman, H. Comm. on Energy & Commerce, to Hon. Sylvia Burwell, Sec'y, U.S. Dep't of Health & Human Servs. (Feb. 26, 2016).

- a. How many UAC that have been placed into ORR custody have been reunited with the family member from whom they were separated?
4. What is the role of the task force established by ASPR? How is this task force working with other HHS agencies or other federal agencies?
5. What is the maximum number of UAC that ORR can have in custody at any given point? Please provide a breakdown of how much of that capacity is permanent, influx, or temporary facilities.
 - a. Does ORR have the resources to properly house and care for this high number of UAC being transferred to their custody?
6. How does ORR determine which facility a child is sent to upon entering ORR custody?
 - a. Is age a factor?
 - b. Are siblings kept together?
7. What steps is ORR taking to track and address issues of abuse within HHS funded facilities, including but not limited to significant incident reports?
 - a. What oversight does HHS or ORR conduct of HHS funded facilities, including but not limited to site visits, reviews, or audits of the facilities?
8. What medical screenings for communicable or other diseases does ORR or its grantees conduct?
9. What types of medications is ORR authorized to administer, or does ORR authorize grantees to administer, to UAC, including but not limited to antibiotics, vaccinations, and psychotropic drugs?
10. How does ORR identify an appropriate sponsor for a UAC?
11. Since January 1, 2014, how many UAC have been placed with a parent (Category 1), relative (Category 2) and unrelated adult (Category 3)? Please provide the number per category.
 - a. How often is ORR unable to identify a Category 1, 2, or 3 sponsor? What happens in those situations?
 - b. Under what circumstances would ORR remove a UAC from a sponsor? In those situations, what happens after a UAC is removed from a sponsor?
12. Please provide all policies and procedures since January 1, 2014, regarding the care of UAC while in ORR custody.

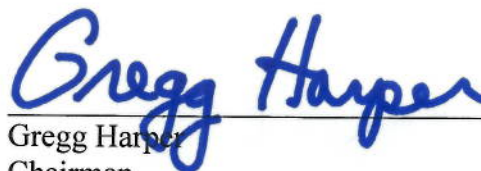
13. Please provide all policies and procedures since January 1, 2014, regarding the placement of UAC with a sponsor or reunification of UAC with their family, if separated.
14. Please provide copies of all contracts or grant agreements since January 1, 2014, between the Department or any of its divisions and private companies to house UAC.
15. Please provide all Significant Incident Reports or other documents that relate to allegations of abuse of children in the care or custody of ORR from January 1, 2017, to the present.

Please also make arrangements to provide a briefing to Committee staff to review your response by July 20, 2018. An attachment to this letter provides additional information about complying with the Committee's request. If you have any questions, please contact Jennifer Barblan or Brittany Havens with the Majority staff at (202) 225-2927. Thank you for your attention to this request.

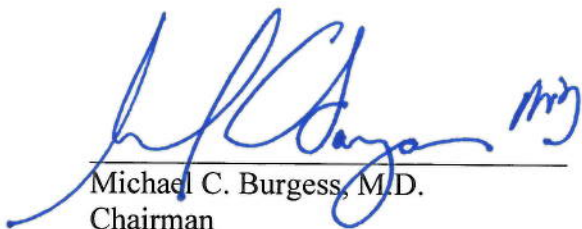
Sincerely,



Greg Walden
Chairman



Gregg Harper
Chairman
Subcommittee on Oversight
and Investigations



Michael C. Burgess, M.D.
Chairman
Subcommittee on Health



Fred Upton
Chairman
Subcommittee on Energy



John Shimkus
Chairman
Subcommittee on Environment



Marsha Blackburn
Chairman
Subcommittee on Communications
and Technology

Robert E. Latta

Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

Steve Scalise

Cathy McMoris-Rodgers

Joe Barton

Amil B. Nite

[Signature]

Jeff Duncan

[Signature]

Leonard Lance

Tim Fournier

Tim Walberg

Brett Guthrie

Billy Long

Pete Eltsch X-22

Gus M. Bilirakis

Suzanne Brooks

Markwayne Mullin

Larry Bursh

Chris Collins

Ben Cramer

Bill Johnson

Mini Walters

Dyn Costello

Rick Hudson

Earl J. 'Buddy' Carter

Attachment