

United States Senate

WASHINGTON, DC 20510

May 6, 2021

VIA ELECTRONIC TRANSMISSION

Hon. Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington D.C. 20201

Dear Secretary Becerra:

The recent increase of migrant crossings at the southern border has brought an unprecedented number of unaccompanied alien children (UAC) into the care of the U.S. government. For several years, we have been conducting a joint investigation into the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) UAC program, which is responsible for overseeing the care of children while they are in federal custody.¹ Though our investigation is still ongoing, we have already documented a series of problems with the UAC program, including a general lack of oversight as well as a lengthy list of safety concerns at ORR grantee facilities and an especially troubling history of sexual abuse. Given our ongoing investigation of ORR's UAC program, and previous findings from the HHS Office of Inspector General (OIG) identifying concerns with ORR's capacity to ensure child safety, we write to request information on current efforts to safely accommodate and care for UAC.² Specifically, we ask what steps HHS is taking to ensure that UAC are housed in appropriate conditions and safe from abuse while at the border. Further, we ask what steps HHS is taking to ensure that newly recruited volunteers are properly trained before sending them out into the field.

The Department of Homeland Security (DHS) is required to transfer UAC to ORR's care within 72 hours of encountering them, and ORR is responsible for overseeing the care of these children while they are in federal custody.³ In 2021, UAC arrivals have far outpaced ORR's pre-existing capacity to receive them, leading to backlogs of UAC being detained at length by DHS's Customs and Border Protection (CBP) past the 72 hour limit, and forcing HHS to rapidly stand up new emergency intake sites (EIS) and initiate a government-wide call for volunteers to staff its operations at the southern border.

To facilitate transfers from CBP detention and accelerate its search for suitable placements, ORR has recently established at least 12 EIS, with more likely to follow. Although these facilities are being used to temporarily adjust for ORR's capacity shortage, we are concerned that the rapid invention of this entirely new facility type has imposed heightened risks on children. ORR's conversion of non-traditional government buildings and other spaces into temporary residences for children may introduce physical safety hazards and create other conditions inappropriate for

¹ 6 U.S.C. § 279

² U.S. Department of Health and Human Services, Office of Inspector General, *The Office of Refugee Resettlement's Incident Reporting System Is Not Effectively Capturing Data To Assist Its Efforts To Ensure the Safety of Minors in HHS Custody*, OIE-09-18-00430, June 2020. <https://oig.hhs.gov/oei/reports/oei-09-18-00430.asp>

³ 6 U.S.C. § 279

children.⁴ For instance, in March, Texas regulators decided to bar most uses of water at an HHS emergency intake facility that had been set up at the site of a former camp for oilfield workers because it was unclear whether the water there was safe to drink.⁵

Based on what we have learned during our investigation over the last few years, we are also concerned that EIS may inherit the extensive and longstanding problems seen at other ORR UAC facilities. We have seen extremely disturbing evidence of child abuse happening in UAC grantee facilities and federally run overflow facilities, including multiple allegations of neglect and sexual assault.⁶ Since 2015, there have been thousands of allegations of sexual abuse involving UAC in federal custody.⁷ In one case, a worker was sentenced to ten years in prison after engaging in sexually inappropriate behaviors such as asking a child for pornographic video of himself.⁸ In another case, a young boy was allegedly assaulted by an older child housed at the same shelter.⁹ On April 7, 2021, Governor Greg Abbott of Texas reported that two agencies that he oversees received allegations of sexual abuse and neglect at a San Antonio overflow facility.¹⁰ Because these newly created EIS facilities have quickly developed operational guidelines, likely drawn from others that we already know have proven insufficient elsewhere, it is imperative to ensure that there are comprehensive child abuse, neglect prevention, and reporting protocols in place.

Despite these safety concerns, HHS conducts limited oversight of the ORR UAC program to ensure that problems, once identified, are actually addressed and that rules and procedures are adapted to prevent similar problems from happening in the future. ORR currently utilizes a woefully ineffective data management system known as the *UAC Portal* to keep and maintain the records of the children in its care as well as the safety and behavior of grantee facilities. The severe limitations of this system prevent HHS from gathering important performance metrics necessary to conduct meaningful oversight and prevent it from tracking grantee behavioral patterns in order to assess their effectiveness.¹¹ These limitations also mean HHS will likely struggle to identify and address the additional strain created by thousands of children and volunteers being quickly brought into EIS and other ORR UAC facilities.

⁴ Camilo Montoya-Galvez, *U.S. Races to Find Bed Space for Migrant Children as Number of Unaccompanied Minors in Government Custody Hits 15,500*, CBS NEWS (Mar. 21, 2021), <https://www.cbsnews.com/news/immigration-migrant-children-in-border-patrol-custody-hits-15500/>.

⁵ Nomaan Merchant and Paul J. Weber, “State: Water may be unsafe at Texas site for migrant teens” *ABC News* (March 19, 2021), <https://abcnews.go.com/US/wireStory/state-water-unsafe-texas-site-migrant-teens-76569422>.

⁶ UNITED STATES DEP’T OF HEALTH AND HUM. RES., REPORT ON SEXUAL ABUSE AND SEXUAL HARASSMENT INVOLVING UNACCOMPANIED ALIEN CHILDREN: 2015/2016 (Jan. 17, 2020), <https://www.hhs.gov/programs/social-services/unaccompanied-children/uac-sexual-abuse-report-2015-2016/index.html>; Garance Burke & Martha Mendoza, “A Moral Disaster”: AP Reveals Scope of Migrant Kids Program, *AP NEWS* (Dec. 20, 2018), <https://apnews.com/article/a857e04de9bc4871995b65784ed7ccd8>.

⁷ Caitlin Owens, Stef W. Knight, and Harry Stevens, “Thousands of migrant youth allegedly suffered sexual abuse in U.S. Custody” *Axios* (February 26, 2019), <https://www.axios.com/immigration-unaccompanied-minors-sexual-assault-3222e230-29e1-430f-a361-d959c88c5d8c.html>.

⁸ Aura Bogado, Patrick Michels, Vanessa Swales & Edgar Walters, *Separated Migrant Children are Headed Toward Shelters That Have a History of Abuse and Neglect*, *THE TEXAS TRIBUNE* (June 20, 2018), <https://www.texastribune.org/2018/06/20/separated-migrant-children-are-headed-toward-shelters-history-abuse-an/>.

⁹ Aura Bogado, Patrick Michels, Vanessa Swales & Edgar Walters, *Separated Migrant Children are Headed Toward Shelters That Have a History of Abuse and Neglect*, *THE TEXAS TRIBUNE* (June 20, 2018), <https://www.texastribune.org/2018/06/20/separated-migrant-children-are-headed-toward-shelters-history-abuse-an/>.

¹⁰ Russell Falcon, *Gov. Greg Abbott: State Agencies Received Tips About Child Migrants Being Sexually Abused, Neglected at San Antonio Facility*, *KXAN NEWS* (Apr. 7, 2021), <https://www.kxan.com/news/texas-politics/texas-gov-greg-abbott-to-address-surge-of-unaccompanied-minors-at-u-s-border-on-wednesday/>.

¹¹ U.S. Department of Health and Human Services, Office of Inspector General, *The Office of Refugee Resettlement’s Incident Reporting System Is Not Effectively Capturing Data To Assist Its Efforts To Ensure the Safety of Minors in HHS Custody*, OIE-09-18-00430, June 2020. <https://oig.hhs.gov/oci/reports/oci-09-18-00430.asp>.

Part of HHS's solution to ensure the well-being of UAC has been to recruit additional volunteers to serve in ORR UAC facilities. On March 25, 2021, the Office of Personnel Management (OPM) issued a memorandum calling for volunteers from across the federal government to assist HHS in its mission of caring for UAC in federal custody.¹² Based on details contained in the memorandum and the related posting on USA Jobs, it is clear that many of these new volunteers will have direct interaction with migrant children housed in these EIS facilities.¹³ However, it is unclear how much time has been reserved for educating and training volunteers prior to sending them out into the field.¹⁴ Neither the OPM memorandum nor the associated USA Jobs posting mention an education and training component, and the jobs announcement states that volunteers may be "asked to deploy within 48 hours of receiving all approvals."¹⁵ Volunteers must be trained to recognize evidence of inappropriate behavior and to immediately report allegations to the proper DHS, HHS, and Department of Justice authorities. Additionally, ORR must ensure that adequate resources are in place to support volunteers in these challenging roles. Although we acknowledge that it is a single incident, it is imperative that HHS review the conditions surrounding the recent death of Mary Brodie-Henderson. Ms. Henderson, an IT specialist for HHS's chief information officer, was working at the EIS in Houston, TX when she collapsed.¹⁶

Volunteers should also understand that when it comes to ensuring the safety of children, they will be serving on the front lines. As part of their training, they should be reminded that Congress and the American people are depending on them to remain vigilant and report any safety concerns to proper authorities and/or oversight bodies. The HHS Inspector General has already issued reports regarding the ongoing issues within UAC facilities and is well-equipped to advise and respond to whistleblowers who need to report safety concerns.¹⁷ Our Senate offices also stand ready to assist whistleblowers who choose to approach us as we continue our investigation into the ORR's UAC program.

Regardless of how children come to be in the custody of the federal government, Congress and the American people are united in our abhorrence of all instances of child abuse and endangerment. Our concern for ensuring the safety and welfare of children is and must remain passionately bipartisan. In that spirit, and in order to ensure the ORR UAC program is doing everything possible to promote and protect the health and wellbeing of children in its care, we ask that you answer the following no later than May 20, 2021.

1. Please describe the procedures for staff and volunteers at EIS to report allegations of abuse or safety concerns. Do procedures or guidelines at EIS differ from the procedures and guidelines in place at other ORR placements? If so, please explain how.
2. Please describe the methods HHS uses to track and investigate allegations of abuse at EIS. Please provide all related documentation.

¹² "Memorandum from Kathleen M. McGettigan, Acting Director, United States Office of Personnel Management to Head of Executive Department and Agencies (Mar. 25, 2021), <https://www.chcoc.gov/content/detail-opportunity-information-departmentagency-leadership>.

¹³ *Field Program Specialist*, USA JOBS (Mar. 25, 2021), <https://www.usajobs.gov/GetJob/ViewDetails/596318100>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Dan Diamond, *HHS employee dies while helping at shelter for unaccompanied migrant children in Houston*, Washington Post (April 18, 2021), <https://www.washingtonpost.com/health/2021/04/18/hhs-official-dies-shelter-migrant-children/>.

3. Please list all allegations of abuse of children at an EIS and provide any associated documentation, such as the significant incident reports (SIRs) filed by facility staff.
4. Please describe all efforts to investigate allegations of abuse at the EIS in San Antonio, Texas. Please include all findings.
5. How many volunteers does HHS currently need to assist with the processing, placement, and housing of children in federal custody? Please provide a breakdown of current needs by location and area of work specialization (e.g., medical, education, investigations, general caregiving, etc.)
6. Are the backgrounds and specializations of volunteers, such as medical professionals and investigators, being taken into consideration when determining their deployments?
7. As the need for personnel at the southern border fluctuates with crossings throughout the year, how many volunteers does HHS anticipate seeking in the future to assist with the care and processing of UAC? Please provide all documentation relating to plans and estimates.
8. How many volunteer applications has HHS received from across the federal government thus far? How many of those volunteers have been accepted, and, of that group, how many have already been deployed to the southern border? Please provide a breakdown of the locations where these volunteers have been sent and the responsibilities they have been assigned.
9. The memorandum issued by OPM mentions that deployments may last up to 120 days. What steps has HHS taken to ensure that facilities have sufficient personnel on site throughout the year? Are deployments being staggered?
10. What employee screenings are completed before volunteers are allowed to work directly with children? Are these screenings completed prior to deployment?
11. Working with children can be emotionally exhausting. Further, the USA Jobs listing for HHS volunteers indicates that extensive overtime may be required. What protections has HHS put in place to monitor and support the mental and physical health of its volunteers?
12. Please provide a detailed description of the training that HHS is currently providing to volunteers prior to and during their deployment, including a description of how volunteers are instructed to respond if they have safety-related concerns. Please provide copies of all training materials.
13. Where and when do volunteers receive training? How is that training being designed and coordinated? What types of training are being provided?
14. Who is responsible for training volunteers? What experience and certifications do those instructors have?

15. What steps has HHS taken to ensure that the individuals responsible for training new volunteers are knowledgeable about the historic and current problems at UAC facilities, including the heightened risk of abuse and any ongoing safety concerns at the specific facilities where volunteers are being placed?

Thank you for your attention to this important matter. Should you have questions, please contact Daniel Boatright or Daniel Parker of Ranking Member Grassley's staff at 202-224-5225 or Marisa Morin of Chairman Wyden's staff at 202-224-5244.

Sincerely,



Chuck Grassley
U.S. Senator



Ron Wyden
U. S. Senator