



**MEMORANDUM**

**September 13, 2019**

**To: Subcommittee on Oversight and Investigations Members and Staff**

**Fr: Committee on Energy and Commerce Staff**

**Re: Hearing on “Protecting Unaccompanied Children: The Ongoing Impacts of the Trump Administration’s Cruel Policies”**

On **Thursday, September 19, at 10 a.m. in the John D. Dingell Room, 2123 Rayburn House Office Building**, the Subcommittee on Oversight and Investigations will hold a hearing entitled, “Protecting Unaccompanied Children: The Ongoing Impacts of the Trump Administration’s Cruel Policies.” The hearing will examine the Trump Administration’s care for unaccompanied children in government custody and the impact of Administration policies on the health and well-being of the children.

**I. BACKGROUND AND ROLES OF FEDERAL AGENCIES**

Several Federal agencies are involved in the care of unaccompanied children. Unaccompanied children are usually those who present themselves at the border without a parent or guardian, which could include children who became separated from a parent or guardian.<sup>1</sup> An unaccompanied child is often first placed in the custody of U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE) upon arrival in the United States. Federal law requires that children be transferred to the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) within 72 hours, barring extraordinary circumstances.<sup>2</sup>

Upon receiving custody of an unaccompanied child, ORR places the child with residential care providers, who are to provide housing and care in the least restrictive environment possible given the child’s safety, emotional, and physical needs.<sup>3</sup> These care providers are also responsible for finding and assessing the suitability of a potential sponsor,

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<sup>1</sup> 6 U.S.C. § 279. An unaccompanied child is defined by law as a child who has no lawful immigration status in the United States; has not attained 18 years of age; and with respect to whom there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody. *See* 6 U.S.C. § 279(g)(2). *See also* Government Accountability Office, *Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border* (Oct. 2018) (GAO-19-163).

<sup>2</sup> 8 U.S.C. § 1232(b)(3).

<sup>3</sup> 8 U.S.C. § 1232(c)(2)(A).

typically either a parent or some other relative already living in the United States, to care for the child once they leave ORR's custody. The Trump Administration issued a rule on August 23, 2019, that addresses the apprehension, processing, care, and custody of unaccompanied children, including while in ORR custody.<sup>4</sup>

## II. PRIOR COMMITTEE ACTION

In January 2019, the Committee wrote a letter to HHS Secretary Alex Azar, requesting documents and communications regarding family separations, among other things.<sup>5</sup> To date, HHS's response to that letter remains incomplete. In February 2019, the Committee held a hearing on the Trump Administration's family separation policy. At that hearing, expert witnesses testified about research that has established the negative effects of family separation and detention on children, including psychological trauma. The Committee also heard testimony from an HHS representative that career staff at HHS raised concerns with HHS leadership about increasing family separations leading up to the "Zero Tolerance" policy.<sup>6</sup>

## III. RECENT ISSUES AFFECTING UNACCOMPANIED CHILDREN

This past summer, concerns were raised about CBP's and ORR's handling of increased numbers of unaccompanied children. For example, news articles noted that children held in CBP facilities, such as one in Clint, Texas, sometimes faced overcrowding and unsanitary conditions.<sup>7</sup> Questions arose as to why such conditions existed, whether CBP and ORR were sufficiently coordinating to address capacity and health concerns, and whether ORR had adequate capacity to receive children from overcrowded CBP facilities. On June 30, 2019, ORR opened a temporary emergency influx shelter in Carrizo Springs, Texas, reportedly at a cost of \$750 - \$800 per child per day,<sup>8</sup> and then announced its closure less than one month later.<sup>9</sup> These developments continue to raise questions about how key agencies will continue to coordinate and plan for

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<sup>4</sup> 8 C.F.R §§ 212, 236; 45 C.F.R § 410.

<sup>5</sup> Letter from Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce, and Rep. Diana DeGette, Chair, Subcommittee on Oversight and Investigations, to Alex M. Azar, Secretary, U.S. Department of Health and Human Services (Jan. 18, 2019).

<sup>6</sup> House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, *Examining the Failures of the Trump Administration's Inhumane Family Separation Policy*, 116th Cong. (Feb. 7, 2019).

<sup>7</sup> *'There Is a Stench': Soiled Clothes and No Baths for Migrant Children at a Texas Center*, The New York Times (June 21, 2019).

<sup>8</sup> U.S. Department of Health and Human Services, *Fact Sheet: Unaccompanied Alien Child Shelter at Carrizo Springs, Texas* (Jul. 22, 2019) (press release); *Exclusive: HHS Is Shutting Down the Model Facility For Migrant Kids It Showed Off to Journalists*, VICE News (Jul. 23, 2019).

<sup>9</sup> U.S. Department of Health and Human Services, *Carrizo Springs Temporary Influx Facility Update* (Jul. 25, 2019) (press release).

periodic influxes of unaccompanied children, and how to ensure adequate care is provided to them.

In September 2019, the HHS Office of Inspector General (OIG) released a report finding that many unaccompanied children experienced intense trauma from events occurring before their arrival in the United States, and that some faced additional trauma from the unexpected separation from a parent and a hectic reunification process.<sup>10</sup> OIG reported that “separated children exhibited more fear, feelings of abandonment, and post-traumatic stress than did children who were not separated,” and reported separated children crying inconsolably, isolating themselves and refusing to eat, and fearing for their parents’ well-being.<sup>11</sup> The report also highlighted the challenges faced by mental health professionals responsible for addressing the mental health needs of separated children in ORR custody.<sup>12</sup>

Also in September 2019, OIG issued a separate report that found that some ORR facilities did not conduct all required background checks on staff.<sup>13</sup> OIG also found that many facilities hired case managers who did not meet ORR’s education requirements, and struggled to maintain required staffing ratios for mental health clinicians.<sup>14</sup> These reports continue to raise important questions surrounding the care of unaccompanied children, and whether ORR has sufficiently addressed deficiencies.

#### **IV. WITNESSES**

The following witnesses have been invited to testify:

**Jonathan Hayes**

Director  
Office of Refugee Resettlement  
Administration for Children and Families  
U.S. Department of Health and Human Services

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<sup>10</sup> Office of Inspector General, U.S. Department of Health and Human Services, *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody* (Sept. 2019) (OEI-09-18-00431).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Office of Inspector General, U.S. Department of Health and Human Services, *Unaccompanied Alien Children Care Provider Facilities Generally Conducted Required Background Checks but Faced Challenges in Hiring, Screening, and Retaining Employees* (Sept. 2019) (A-12-19-20001).

<sup>14</sup> *Id.*

**Commander Jonathan White**

United States Public Health Service Commissioned Corps  
U.S. Department of Health and Human Services

**Ann Maxwell**

Assistant Inspector General for Evaluation and Inspections  
Office of Evaluation and Inspections  
Office of Inspector General  
U.S. Department of Health and Human Services

**John R. Modlin**

Acting Deputy Chief of Law Enforcement Operational Programs  
Law Enforcement Operations Directorate  
U.S. Border Patrol  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security