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

COMMITTEE ON ENERGY AND COMMERCE

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October 8, 2019

Mr. Jonathan Hayes
Director
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services
330 Independence Avenue SW
Washington, DC 20201

Dear Mr. Hayes:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Thursday, September 19, 2019, at the hearing entitled "Protecting Unaccompanied Children: The Ongoing Impacts of the Trump Administration's Cruel Policies." We appreciate the time and effort you gave as a witness before the Subcommittee on Oversight and Investigations.

Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from members of the Committee. In preparing your answers to these questions, please address your responses to the member who has submitted the questions using the Word document provided with this letter.

To facilitate the publication of the hearing record, please submit your responses to these questions by no later than the close of business on Wednesday, October 23, 2019. As previously noted, this transmittal letter and your responses, as well as the responses from the other witnesses appearing at the hearing, will all be included in the hearing record. Your responses should be transmitted by email in the Word document provided with this letter to Jourdan Lewis with the Committee staff (jourdan.lewis@mail.house.gov). A paper copy of your responses is not required. Using the Word document provided for submitting your responses will also help maintain the proper format for incorporating your answers into the hearing record.

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Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Ms. Lewis at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.
Chairman

Attachment

cc: Hon. Greg Walden, Ranking Member, Committee on Energy and Commerce
Hon. Diana DeGette, Chair, Subcommittee on Oversight and Investigations
Hon. Brett Guthrie, Ranking Member, Subcommittee on Oversight and Investigations

**Committee on Energy and Commerce
Subcommittee on Oversight and Investigations**

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

September 19, 2019

**Mr. Jonathan Hayes, Director, Office of Refugee Resettlement, Administration for
Children and Families, U.S. Department of Health and Human Services**

The Honorable Ann Kuster (D-NH)

1. What criteria is employed in determining which out-of-network facilities are used?
2. Are out-of-network facilities held to the same requirements outlined in ORR policies, as in-network placements?
 - a. If so, how is that monitored?
3. Have all youth currently placed in out-of-network facilities been determined to be a danger to themselves or others by a licensed psychologist or psychiatrist?
4. What is ORR’s policy around informing Vera-funded legal service providers, including those who have not formally entered an appearance for a child, prior to a child being transferred to an out-of-network facility?
5. How is ORR accommodating a youth’s need to access the court in which their case has been docketed?
6. How is ORR ensuring that youth at out-of-network facilities have access to counsel, and minimizing the need to transfer counsel?
7. How do you currently track the administration of psychotropic medications to children in custody?
8. On what legal authority does ORR or its contracted providers, authorize the use of psychotropic medications without parental or patient consent?
9. Is there any independent review or oversight of non-consensual administration of psychotropic medication to children in ORR’s custody?
10. What is ORR’s process for informing Vera when a new contract facility for unaccompanied children is opened to ensure legal services are immediately made available?

The Honorable Joseph P. Kennedy III (D-MA)

1. Is HHS still using unreliable, invasive dental exams as an age verification method to move children out of ORR care and into adult detention facilities?
 - a. Are you comfortable with the fact that there are most likely children in adult facilities because the OIG's own report recognizes that the science used in those reports cannot pinpoint a child's age, and instead can only provide broad age ranges?
2. Are children still being separated from their parents and if so, how many children currently in your custody have been separated from their parents?
 - a. If a child is separated from their parent, what legal recourse does that parent and child have to immediately challenge that decision?
3. Earlier this month, it was reported that ORR was not funding legal services for detained immigrant children in at least 3 facilities. Are there currently any licensed detention facilities that do not maintain a contract with a legal aid organization to meet your legal obligations to detained children?

The Honorable Brett Guthrie (R-KY)

1. Under the TVPRA, except in exceptional circumstances, unaccompanied children must be transferred to ORR within 72 hours of determining a child is an unaccompanied child. CBP and ORR appear to have a difference of opinion regarding when the clock starts on the 72-hour limit. What is ORR's view is on when that 72-hour clock starts?
 - a. Does Congress need to more clearly define how much time each agency has for their respective role in the process? If so, what is ORR's suggestion on what those allotted times should be for each agency?
2. Is there a need to examine, and possibly amend, the TVPRA with respect to the definition of a UAC so that in addition to parents and legal guardians, children are not separated by DHS from other family members, such as a grandparent or adult sibling?
 - a. As child welfare experts, does ORR have any concerns or possible unintended consequences of amending that definition?
 - b. Is there a need to further specify when a child can or cannot be separated for cause? For example, specifying what past criminal convictions pose a danger to the child and/or what communicable diseases would warrant a temporary separation?
3. Understanding that migration patterns are unpredictable, what steps is ORR taking to evaluate its capacity modeling to ensure ORR has sufficient capacity and there isn't a backlog at CBP facilities when referrals inevitably go up again?

- a. What would an ideal capacity model be given ORR's experience with the ebb and flow of referrals they receive?
4. On average, how long does it take for a new ORR grantee facility to come online from the time HHS posts a funding opportunity announcement, to the time a facility is approved to accept and provide direct care for unaccompanied children?
 - a. How does that compare to the temporary influx facilities that ORR has used in the past?
5. When did ORR first start trying to bring Carrizo Springs online, how long did that process take, and what is the status of Carrizo Springs?
 - a. Unlike traditional influx facilities, HHS holds a three-year lease on the Carrizo Springs facility. What will holding this lease mean going forward? For instance, will HHS be able to activate Carrizo Springs when you reach influx levels quicker than ORR was able to stand-up previous influx facilities?
 - b. How does ORR see Carrizo Springs helping with the inevitable ebb and flow of the referrals that it receives?
6. One of the OIG reports released in September states that ORR facilities reported challenges in accessing external mental health specialists. One of the reasons cited is specialists hesitated to continue treatment of children, or initiate new treatment, because prior reimbursements had been delayed. How are providers reimbursed through the ORR program?
 - a. Is ORR looking at ways to improve this process?
7. One of the recent HHS OIG reports focused on required background checks, and challenges in hiring, screening, and retaining employees. Specifically, HHS OIG found that ORR granted six facilities waivers from conducting child protective services checks, for employees with direct access to children. Why were these waivers were granted?
 - a. Do the waivers still exist? If not, when were they terminated?
 - b. Under what circumstances would ORR grant additional waivers in the future?
 - c. Has ORR or its grantees had any challenges with the states and/or the FBI with regards to completing the required background checks?
 - i. If so, what are the challenges and which states are there issues with?
8. One of the HHS OIG reports released in September focused on employee ratio issues, both for case managers and mental health clinicians. A chart in the report shows many facilities

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being out of ratio for these personnel. Given this was based on a sample of ORR facilities, how common is it across all of ORR's network for the staff to child ratios to exceed 1:12 for mental health clinicians and 1:8 for case managers respectively?

- a. What happens when a facility is out of ratio? Is there risk of losing their license? Can they still care for children?