

Congress of the United States
Washington, DC 20510

October 19, 2018

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

Dear Secretary Azar,

We write to express our deep concern about Department of Health and Human Services (HHS) expanded operations of the temporary facility for unaccompanied alien children (UAC) at Customs and Border Protection (CBP) Tornillo, Texas, Land Port of Entry (LPOE). We request information about operations at the Tornillo facility and the administration's April 2018 Memorandum of Agreement (MOA) requiring Office of Refugee Resettlement (ORR) share information about UACs with Immigration and Customs Enforcement (ICE), including new policies that may deter potential sponsors and prolong detention of minors in ORR care.

Although HHS has reportedly reunited 2,070 of the total 2,608 children that were originally taken into ORR custody as a result of the Trump Administration's reprehensible zero-tolerance policy, tens of thousands of children are still in ORR custody. These children and their families are often fleeing violence in their home countries and have likely experienced significant trauma. We believe that ORR should be working as quickly as possible to reunify every child separated as a result of the zero-tolerance policy and keep the number of UACs in custody to a minimum. HHS's lack of transparency to Congress is unacceptable.

According to HHS officials, the Tornillo facility is designated as an "emergency influx shelter" in order to address the increased number of UACs in ORR care. In the past, emergency influx shelters have only been used in cases of extraordinary emergencies, where the numbers of UACs arriving at the southwest border had increased significantly beyond levels observed today. In 2014, when HHS established several emergency influx shelters across military bases, U.S. Border Patrol reported 10,620 UAC arrivals at the southwest border for June 2014. Yet Border Patrol reported 4,396 UAC arrivals for August 2018 and preliminary reports indicate 4,360 UAC arrivals for September 2018. Therefore, absent evidence of a dramatic increase in UAC arrivals in the recent months, it is imperative we understand what specific factors are driving the expansion of temporary UAC facilities such as Tornillo.

We have visited the facility in Tornillo to see firsthand the conditions under which children continue to be detained, and to provide oversight to ensure that children are quickly reunited with their family or placed with appropriate sponsors. Most recently, members of our staff conducted a follow-up visit to the Tornillo facility on October 1, 2018 to continue our oversight efforts. Recognizing that this is a non-licensed, influx care facility, we must ensure that services provided

are parallel to the minimum child care and treatment standards set out by the Flores Settlement Agreement (FSA) and adhere to the ORR Guide to Children Entering the United States Unaccompanied (ORR Policy Guide). To better inform us about operations at the Tornillo facility and the impact on minors in ORR care, we request that you provide our offices responses to the following questions within 30 days:

UACs held at Tornillo LPOE, Tornillo, Texas

1. How long will the Tornillo facility remain open?
2. Is the Tornillo facility a “secure” or “non-secure” facility?
3. What is the average length of stay at Tornillo? Does that figure include the total number of days children have been in ORR care since their apprehension?
4. What is the daily discharge rate for UACs at Tornillo?
5. How many runaways, if any, have occurred at Tornillo?
6. Has ORR issued any corrective actions to the care provider at Tornillo?
7. What is the daily per-bed cost to operate Tornillo?
8. What is the daily per-bed cost at permanent ORR facilities?
9. If children turn 18 while in ORR custody, what is the process and procedure for ORR to transfer to ICE custody?
 - a. If a child is pending a background check for placement, what is the process for ORR to transfer to ICE?
10. During the October 1, 2018, visit, staff reported that 59 percent of the children at Tornillo, roughly 954 children, are awaiting the results of FBI's sponsor background checks. Please confirm this figure or provide an update.
11. What is the process for determining which children get to meet with an attorney?
 - a. In order for a child to have access to legal services do they need to make a request to ORR staff to do so?
 - b. Have all children who have requested access to legal services received them?
12. Do all of the children held at Tornillo go to El Paso for their master calendar hearings?
 - a. If not, please provide the other hearing locations.
 - b. Of the children currently and previously held at Tornillo, how many children have gone to hearings without attorneys?

13. Do the children have access to Know Your Right presentations while at Tornillo?
 - a. How many children have received Know Your Rights information or a legal screening prior to coming to Tornillo?
14. What kind of educational services do children receive at Tornillo?
 - a. How many hours a day do children receive educational instruction and recreational services?
 - b. Please provide a copy of the children's activity schedule at Tornillo.

Memorandum of Agreement requiring ORR share information with immigration agencies

1. System wide, how many potential sponsors and respective household members total are awaiting FBI background checks?
2. How long are FBI background investigations of sponsors taking from start to finish on average?
3. How long are ORR sponsors waiting before the FBI begins its background investigation?
4. What is the cost of each background investigation? Who covers the cost?
5. Have fewer sponsors come forward to take custody of children in ORR since the new fingerprinting MOA was issued?
 - a. Please provide a monthly breakdown of the number of sponsors that took custody of children from ORR custody 12 months before the MOA was issued, to current date and identify these sponsors by sponsor category as defined in Section 2.2.1 of the ORR Policy Guide.

We look forward to a response to our questions.

Sincerely,



Tom Udall
United States Senator



Beto O'Rourke
United States Representative



Martin Heinrich
United States Senator