

# United States Senate

WASHINGTON, DC 20510

July 3, 2019

Mr. Jonathan Hayes  
Director  
Office of Refugee Resettlement  
Department of Health and Human Services  
330 C Street S.W.  
Washington, D.C. 20201

Dear Director Hayes,

Recent reports, from various media sources and oversight bodies including the Department of Health and Human Services (HHS) Office of the Inspector General, detail a deeply unsettling reality for innocent children in your custody and the affected families that long to be reunited<sup>1</sup>. As you know, the Office of Refugee Resettlement (ORR) was just allocated nearly \$3 billion more to address humanitarian needs, so there should be no more excuses for providing a standard of care that is outlined in the 1997 *Flores Settlement Agreement (Flores)*. The established practices outlined in *Flores* require children be released to sponsors or transferred to non-secure, licensed facilities as “expeditiously as possible.” These policies have clearly not been followed recently, as too many children have been held in unlicensed facilities longer than necessary. As a result, ORR and the U.S. Government are in direct violation of *Flores*. ORR must reevaluate and reform its policies concerning children in its care or it will continue to fail its obligations under *Flores*, to the children they are responsible for, and to the American values they have sworn to uphold.

It is unacceptable that ORR has contracted with organizations that do not provide properly vetted staff and that are evidently not adequately equipped to care for children. For example, the ORR facility responsible for holding unaccompanied alien children (UAC) in Homestead, Florida (*Homestead*) is managed by a for-profit contractor which is not state licensed, and therefore cannot access the state's child abuse and neglect (CAN) background check system<sup>2</sup>. Last month, the seventh allegation of child sexual abuse at *Homestead* was revealed by a public records request<sup>3</sup>. The exemptions to staffing requirements provided to these organizations through waivers approved by HHS require careful reconsideration, especially after Congressional inquiry revealed thousands of reports of migrant children suffering sexual abuse while in ORR custody

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<sup>1</sup> “*Family Separation Blasted By Both Parties At Oversight Hearing*” by Camila DeChalus. Published by Roll Call on February 7, 2019. <https://www.rollcall.com/news/congress/family-separation-blasted-parties-oversight-hearing>

<sup>2</sup> “*Migrant children in U.S. are being held in unlicensed shelters, lawyers say*” by Graham Kates. Published by CBS News on January 23, 2019. <https://www.cbsnews.com/news/migrant-children-in-u-s-are-being-held-in-unlicensed-shelters-lawyers-say/>

<sup>3</sup> “*7th Child Sex Abuse Allegation At Homestead Migrant Shelter*” by Carey Codd. Published by CBS Miami on June 20, 2019. <https://miami.cbslocal.com/2019/06/20/child-sex-abuse-allegation-homestead-migrant-shelter/>

over the past four years, including almost two hundred contractor staff-on-minor allegations of sexual assault<sup>4</sup>. Furthermore, the overall average length of stay for children held with these staff has increased, from about 34 days in 2016 to around 60 days in FY 2018<sup>5</sup>. We cannot compromise on the safety and wellbeing of children facing extended lengths of stay in government custody, and already we've seen far too many examples of abuse. ORR needs to immediately implement policies that ensure facilities comply with state vetting and training requirements for staff, no matter how quickly the facility needs to be operationalized.

The capacity problems at ORR facilities are further exacerbated by this Administration's continued mismanagement. In order to improve the efficiency of ORR's sponsor placement system and get children out of government custody faster, ORR should prioritize policies that fully facilitate the placement of children with sponsors and reject policies that do not. As an example, the Memorandum of Agreement (MOA) signed by HHS and DHS in April 2018 that allows for the sharing of sponsor information between ORR, Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE) is complicating and delaying already-challenging UAC sponsor placement efforts. According to a lawsuit filed by the Southern Poverty Law Center, "[the information sharing MOA] is a part of the same strategy as the infamous family separation policy, and that the government knew it would result in fewer sponsors coming forward and children remaining in custody for longer periods of time<sup>6</sup>." Not only must ORR rescind the MOA, it must fully reevaluate its policies to root out other policies which may be frustrating the expeditious placement of UACs with vetted sponsors and ensure compliance with *Flores*.

Well-documented capacity problems are cited as justification by ORR to establish and expand "temporary" Influx Care Facilities with waived safety requirements for facilities and staff, such as the *Homestead* center near Miami holding thousands of unaccompanied children in little more than tents<sup>7</sup>. According to Peter Schey, the President and Executive Director of the Center for Human Rights and Constitutional Law Foundation, "The conditions at Homestead are very similar to conditions in a prison camp...Children detained there suffer tremendous psychological harm.<sup>8</sup>" With the announcement of another new mass facility set to hold as many as 1,600 migrant children in Carrizo Spring<sup>9</sup> and considering the dire situation for all children across the

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<sup>4</sup> *Sexual Abuse Allegations Reported to ORR and DOJ for FY15-FY18* made public by the Office of Rep. Ted Deutch on February 26, 2019. [https://teddeutch.house.gov/uploadedfiles/naduac1214\\_sexual\\_assaults\\_fy2015-18.pdf](https://teddeutch.house.gov/uploadedfiles/naduac1214_sexual_assaults_fy2015-18.pdf)

<sup>5</sup> *Fact and Data* made public by the Office of Refugee Resettlement on Feb. 13, 2019. <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

<sup>6</sup> "Trump Administration Using Children 'As Bait' To Catch Undocumented Immigrants, Lawsuit Says" by Chantal Da Silva. Published by Newsweek on January 24, 2019. <https://www.newsweek.com/trump-administration-using-migrant-children-bait-catch-undocumented-1303638>

<sup>7</sup> "Migrant Children Are Spending Months 'Crammed' in a Temporary Florida Shelter" by Miriam Jordan. Published by the New York Times on June 26, 2019. <https://www.nytimes.com/2019/06/26/us/homestead-migrant-children-shelter.html>

<sup>8</sup> "It Feels Like We Are Prisoners': Migrant Children Describe Trauma At Florida Detention Center" by Angelina Chapin. Published by Huffington Post on May 31, 2019.

<sup>9</sup> "US Opens New Mass Facility In Texas For Migrant Children" by Garance Burke. Published by the Associated Press on June 7, 2019. <https://apnews.com/259d11069cbd4a34be9b4e7a187352da>

ORR Unaccompanied Children Program, I urge you to ensure these “temporary” shelters remain temporary and are beholden to stringent compliance requirements for state-licensing as they become operationalized. ORR must not establish or expand Influx Care Facilities that are not state-licensed or *Flores*-compliant without stringent compliance oversight.

We must not compromise on the wellbeing of children the government is responsible for. ORR should be prioritizing reunification of every child as soon as possible, but instead it has been responsible for policies that are forcing longer stays in government custody for children. You now have the funding you said you needed, and your office must ensure that the custody and processing of UACs is meeting the minimum standards required by domestic and international law.

Thank you,



Kirsten Gillibrand  
United States Senator



Kamala D. Harris  
United States Senator



Amy Klobuchar  
United States Senator