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## United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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September 11, 2023

Ms. Robin Dunn Marcos  
Director  
Office of Refugee Resettlement  
Department of Health and Human Services  
330 C Street SW  
Washington, D.C. 20201

Dear Ms. Marcos:

I write to you with serious questions regarding the level of care being given to unaccompanied children in the custody of the Office of Refugee Resettlement (ORR). ORR received over 250,000 referrals from the Department of Homeland Security (DHS) in fiscal years 2021 and 2022.<sup>1</sup> However, ORR was not prepared for this influx of unaccompanied children, which harmed the well-being of children.

In order to respond to the unprecedented increase in the number of unaccompanied children in its custody, ORR opened temporary Influx Care Facilities (ICFs) and created a new designation of facilities called Emergency Intake Sites (EISs) to supplement its existing provider network. The ICFs and EISs are not state-licensed, and were intended to provide initial, short-term services to children. ORR is responsible for ensuring the same level of safety to unaccompanied children in a temporary facility as it does in a permanent shelter. Unfortunately, the widespread evidence of mismanagement of these facilities, poor living conditions, including COVID-19 mismanagement, and a lack of required background checks for adults interacting with children proves that this was not the case.<sup>2</sup>

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<sup>1</sup> *Fact Sheets and Data*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data> (last updated July 28, 2023).

<sup>2</sup> *See, e.g.*, Christi A. Grimm, Inspector Gen., *The Office of Refugee Resettlement Needs To Improve Its Practices for Background Checks During Influxes*, DEP'T OF HEALTH & HUM. SERVS. OFF. OF INSPECTOR GEN. (May 2023), <https://oig.hhs.gov/oas/reports/region6/62107003.pdf>; Christi A. Grimm, Inspector Gen., *Office of Refugee Resettlement's Influx Care Facility and Emergency Intake Sites Did Not Adequately Safeguard Unaccompanied Children From COVID-19*, DEP'T OF HEALTH & HUM. SERVS. OFF. OF INSPECTOR GEN. (June 2022), <https://oig.hhs.gov/oas/reports/region6/62107002.pdf>; Neha Desai et al., Nat'l Ctr. for Youth L., *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, NAT'L CTR. FOR YOUTH L. (June 2022), <https://youthlaw.org/sites/default/files/attachments/2022-06/EIS%20Briefing%20FINAL.pdf>.

The Department of Health and Human Services Office of Inspector General (HHS OIG) reported in May 2023 that “ORR’s ICF and EISs did not conduct or document all required background checks or did not conduct the checks in a timely manner.”<sup>3</sup> In addition, “Seven of the sampled employee background checks included offenses that may have made the employee unsuitable to work with children in a child care setting.”<sup>4</sup> Background checks for employees who interact directly with children are essential to protect vulnerable children. It is unconscionable that unaccompanied children were in the care of potentially predatory staff.

A separate audit by the HHS OIG in June 2022 found that ORR’s ICFs and EISs “did not adequately safeguard unaccompanied children from COVID-19.”<sup>5</sup> The audit stated that facilities lacked procedures for COVID-19 testing of children and employees, lacked measures to protect against the spread of COVID-19, and lacked procedures to report required testing and results to ORR and state and local health entities.<sup>6</sup> All of this occurred while testing and mitigation methods were widely available. The HHS OIG also found variations in the reporting of COVID-19 cases. During a public health emergency, reporting to required public health entities is essential to mitigate the spread of disease. Noncompliance by ORR and its facility staff may be a sign of its broader shortcomings in reporting other communicable diseases to health authorities. Furthermore, ORR’s inability to provide basic levels of care raises questions about its ability to properly care for unaccompanied children with more serious illnesses.

This history of ORR reporting failures in a public health emergency makes reports from local health officials about infrequent and delayed reporting of latent tuberculosis infections (LTBI) in children especially concerning.<sup>7</sup> A recent court-ordered report stated that more than 2,450 LTBI notifications for unaccompanied children released to sponsors were made to 44 states over the last year.<sup>8</sup> Because many of the children are in ORR custody for a short period of time, very few receive the proper LTBI treatment before they are released to sponsors. In order to get the child needed treatment, and to notify local health authorities of the cases, ORR uses a post-unification LTBI reporting system to help states identify minors with LTBI who have been placed with a sponsor living in their state.<sup>9</sup> This process uses the Centers for Disease Control and Prevention’s (CDC) Epi-X system, a web-based network that allows for the secure transfer of LTBI data between ORR and state tuberculosis control programs.<sup>10</sup> However, the Virginia Department of Health has stated

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<sup>3</sup> Christi A. Grimm, Inspector Gen., *The Office of Refugee Resettlement Needs To Improve Its Practices for Background Checks During Influxes*, DEP’T OF HEALTH & HUM. SERVS. OFF. OF INSPECTOR GEN. (May 2023), <https://oig.hhs.gov/oas/reports/region6/62107003.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> Christi A. Grimm, Inspector Gen., *Office of Refugee Resettlement’s Influx Care Facility and Emergency Intake Sites Did Not Adequately Safeguard Unaccompanied Children From COVID-19*, DEP’T OF HEALTH & HUM. SERVS. OFF. OF INSPECTOR GEN. (June 2022), <https://oig.hhs.gov/oas/reports/region6/62107002.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> Stephen Dinan, *Illegal immigrant kids with tuberculosis infections released into 44 states*, THE WASH. TIMES (July 18, 2023), <https://www.washingtontimes.com/news/2023/jul/18/health-department-released-thousands-of-illegal-im/>.

<sup>8</sup> *Flores v. Meese*, 2:85-cv-04544, (C.D. Cal. July 3, 2023), ORR Juvenile Coordinator Annual Report 11, ECF No. 1344-3.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

that delays in reporting creates challenges with finding the sponsors of the children with LTBI since, “By the time outreach takes place, the child has sometimes moved to another area or state.”<sup>11</sup> If the children cannot be located, latent cases cannot be properly treated. The CDC clearly states that LTBI needs to be treated and that the “[t]reatment of latent TB infection is essential to controlling TB in the United States because it substantially reduces the risk that latent TB infection will progress to TB disease.”<sup>12</sup> Accurate and timely reporting is imperative to prevent outbreaks of preventable yet serious illness.

Moreover, there has been a notable increase in deaths among unaccompanied children in ORR custody this year. Tragically, four unaccompanied children have passed away since March 2023. This number of deaths in such a short time period raises questions about the health status of the children referred from DHS and the thoroughness of the ORR initial medical exam to identify and treat serious underlying health conditions. In the wake of these deaths, ORR has not announced any changes to its policies governing the care of unaccompanied children, nor has the agency provided any explanations for the spike in deaths. It is impossible to ignore this recent increase and it is imperative that changes are made to ensure tragedies like these don’t happen in the future.

Given ORR’s unique role in caring for this vulnerable group of children, it is incumbent upon you to ensure that your agency is responsive to congressional oversight requests. ORR is tasked with ensuring the safety and well-being of unaccompanied children from referral to placement with a sponsor. Accordingly, I request that you answer the following questions, **on a question-by-question basis, by September 25, 2023**.

1. Has ORR made any changes to the Unaccompanied Children Program Policy Guide in the wake of the deaths of four unaccompanied children this year? If so, please provide the changes and the dates the changes were implemented and any communication to grantees.
2. Does ORR plan to make any changes to its initial medical examination policies in order to ensure that pre-existing medical conditions are discovered as early as possible when the child comes into ORR custody?
3. In the last two years, have children referred to ORR from DHS been in worse health than during previous years? If yes, please explain the severity of health conditions and the level of detail DHS provides on the health status of the child upon referral.
4. Is ORR considering making any changes to its policies governing the care of unaccompanied children who come into ORR custody with pre-existing serious medical conditions?

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<sup>11</sup> Dinan, *supra* note 7.

<sup>12</sup> *Deciding When to Treat Latent TB Infection*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/tb/topic/treatment/decideltbi.htm#:~:text=For%20this%20reason%2C%20people%20with,will%20progress%20to%20TB%20disease> (last updated Mar. 13, 2013).

5. How many children have died in ORR custody since the agency took over responsibility for the care of unaccompanied children in 2003? Please list the dates these deaths occurred and the cause of death.
6. Did ORR ever have to temporarily alter its standards of care during periods with record high influxes of unaccompanied children in its custody since January 2021? If so, who approved these changes? Please provide the implementation dates of any changes, the decision-making process, and any communication to grantees.
7. Were any of the four unaccompanied children who have died since March 2023 ever placed in an ICF or EIS?
8. Has ORR made any changes to its re-unification procedures that would result in unaccompanied children with pre-existing medical conditions being prevented or delayed from being released to a sponsor?
9. How many unaccompanied children currently in ORR custody have been hospitalized for over a month?
10. Has ORR had to repurpose any funding in order to pay for the hospitalization of unaccompanied children with pre-existing serious medical conditions?
11. What procedures does ORR have in place to report unaccompanied children with communicable diseases, such as tuberculosis, gonorrhea, and chlamydia, to state and local health departments upon their release?
12. What procedures does ORR have in place to ensure that unaccompanied children who are released with LTBI receive the required medical treatment once placed with a sponsor?

Thank you for your prompt attention to this matter.

Sincerely,



Bill Cassidy, M.D.

Ranking Member

Senate Committee on Health,

Education, Labor, and Pensions