

ONE HUNDRED SIXTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3641  
July 11, 2019

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

Dear Secretary Azar:

We are writing to you to gather additional information about a report this week by NBC News that unaccompanied children who had been in a U.S. Customs and Border Protection (CBP) holding facility in Yuma, Arizona, recounted unsanitary and crowded conditions, as well as troubling allegations of sexual and physical abuse at the hands of CBP officers.<sup>1</sup>

The allegations were detailed in nearly 30 Significant Incident Reports (SIRs) prepared by providers that are funded through the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) after the children were transferred to ORR from CBP custody. The reports describe poor treatment of unaccompanied children by CBP agents, including at least one allegation of sexual assault and retaliation for protests.<sup>2</sup> According to the report, the children who provided these accounts to ORR care providers had been held at CBP holding facilities longer than the 72 hours permitted by law.<sup>3</sup>

The troubling conditions described at the Yuma, Arizona, CBP holding facility cannot be viewed in isolation from other numerous recent reports that have cited poor conditions for migrants and unaccompanied children at other CBP holding facilities. For instance, in May 2019, the Department of Homeland Security (DHS) Office of Inspector General (OIG) issued a

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<sup>1</sup> *Migrant kids in overcrowded Arizona border station allege sex assault, retaliation from U.S. agents*, NBC News (July 9, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

management alert about dangerous overcrowding at holding facilities in the El Paso area, including limited access to showers, toilets, and clean clothes.<sup>4</sup>

Additionally, last week, the Acting Inspector General of DHS encouraged DHS Acting Secretary Kevin McAleenan to “take immediate steps to alleviate dangerous overcrowding and prolonged detention of children and adults” in Rio Grande Valley CBP holding facilities.<sup>5</sup> Alarmingly, DHS OIG found that hundreds of unaccompanied children at these facilities had not been transferred to custody of ORR within 72 hours as required by the Trafficking Victims Protection Reauthorization Act of 2008 and the *Flores* Settlement.<sup>6</sup> This delay forced children to remain in these dangerous conditions instead of with ORR-funded care providers who are responsible for their care and well-being until they are placed with a suitable sponsor.

Under ORR’s policy guide, ORR-funded care providers are required to report incidents affecting a child’s health, well-being, and safety to ORR.<sup>7</sup> These incidents are referred to as “significant incidents” and can range in severity from an argument between two children to physical altercations or sexual assaults.<sup>8</sup> These incidents can occur inside or outside of ORR care—including while a child is in DHS custody—and are reported by care providers through SIRs.<sup>9</sup> Significant incidents include allegations of physical abuse, sexual abuse, verbal abuse, child neglect, and other abuse that occurred in DHS custody.<sup>10</sup> In cases of allegations of sexual abuse or sexual harassment—including those that occurred within DHS custody—ORR providers must alert Child Protective Services, the state licensing agency, and law enforcement (including local law enforcement, the Federal Bureau of Investigation, and HHS’s Office of Inspector General, where appropriate) immediately upon learning of the allegation.<sup>11</sup>

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<sup>4</sup> U.S. Department of Homeland Security, Office of Inspector General, *Management Alert – DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center* (May 30, 2019) (OIG-19-46).

<sup>5</sup> U.S. Department of Homeland Security, Office of Inspector General, *Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley* (July 2, 2019) (OIG-19-51).

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

<sup>7</sup> U.S. Department of Health and Human Services, Office of the Administration for Children and Families, Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied* at Section 5.8 (July 2019) ([www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied](http://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied)).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at Section 5.8.4.

<sup>10</sup> *Id.* at Section 5.8.2 and Section 5.8.4.

<sup>11</sup> *Id.* at Section 4.10.2.

All SIRs that involve physical or sexual abuse that occurred in DHS custody must also be reported to DHS.<sup>12</sup> Under ORR's policy guide, care providers must remain informed of and track any investigations that result from reports of sexual abuse and harassment, and they must cooperate with all investigating authorities.<sup>13</sup>

HHS is given care and custody of unaccompanied children because it has child welfare expertise and it can provide a safe and appropriate environment for children. Proper reporting of significant incidents that occur both inside and outside of ORR care play a crucial role in protecting unaccompanied children.

In order to assess allegations of abuse of unaccompanied children that occurred in DHS custody prior to the children being transferred to ORR, as well as the actions HHS took to respond to those allegations, we are seeking information from you. Pursuant to Rules X and XI of the U.S. House of Representatives, please provide the following information no later than July 25, 2019:

1. In the last 12 months, how many SIRs has ORR received alleging physical abuse, sexual abuse, verbal abuse, child neglect, and/or other abuse of unaccompanied children that occurred in DHS custody prior to the child being transferred to ORR custody? Of those incidents, how many alleged the abuse or neglect was by DHS personnel (including DHS contractors)? Please provide a list of any incident alleging abuse or neglect by DHS personnel as well as a description of the alleged incident.
2. Were all of the incidents involving alleged abuse or neglect in DHS custody reported to Child Protective Services, state licensing agencies, and law enforcement as required by ORR's policies?
3. After an allegation of physical or sexual abuse of an unaccompanied child that occurred in DHS custody is investigated by the proper authorities, what additional actions does ORR take to address the allegations? For instance, does ORR discuss with DHS what additional protective steps could be considered to protect children at DHS facilities?
4. In light of these and other reports concerning conditions at CBP holding facilities, what steps has ORR taken to proactively offer assistance or advice to DHS to ensure that children in the government's custody are given all appropriate care?

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<sup>12</sup> *Id.* at Section 5.8.5.

<sup>13</sup> *Id.* at Section 4.10.3.

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We appreciate your attention to this matter and your cooperation with this request. If you have any questions, please contact Kevin Barstow or Kevin McAloon with the Committee staff at (202) 225-2927.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank Pallone, Jr.", with a stylized flourish at the end.

Frank Pallone, Jr.  
Chairman

A handwritten signature in blue ink, appearing to read "Diana DeGette", with a stylized flourish at the end.

Diana DeGette  
Chair  
Subcommittee on Oversight  
and Investigations