

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
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December 6, 2018

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

Dear Secretary Azar,

With each week, my concerns regarding the ongoing family separation crisis continue to mount. I am deeply disturbed by recent reports that are raising new questions about the efforts of the U.S. Department of Health and Human Services (HHS) to adequately track and care for children in its custody, including children who were reportedly separated after the official end of the Administration's "zero tolerance" policy. To date, I remain unsatisfied with the responses HHS has provided to my previous letters on this issue,¹ and I ask that you address the questions included in this letter as well as any others still outstanding.

A recent Government Accountability Office (GAO) report I requested found that the Administration did not plan for the increase in the number of children separated from their parents due to the "zero tolerance" policy and did not have a consistent way to identify children and parents separated at the border in their data systems. Instead, reunification procedures were frequently changing and chaotic, with some HHS Office of Refugee Resettlement (ORR) facilities unaware that a child in its care had been separated.²

Unfortunately, recent reports suggest that the Administration may still be struggling to effectively track separated children under HHS care, and raise questions about the controls in

¹ See Letter from Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce, to Secretary Azar (June 14, 2018); Letter from Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce, to Secretary Azar (June 26, 2018).

² U.S. Government Accountability Office, *Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border* (Oct. 2018) (GAO-19-163).

place at the emergency influx facility or so-called “tent city” for children in Tornillo, TX and that facility’s future status.

Although the “zero tolerance” policy has been rescinded, according to a recent article in *ProPublica*, the Administration has still failed to adequately track children it separates when it determines that the child’s safety is at risk.³ Clearly, it is essential to ensure that a child who arrives at the border will be safely cared for and not placed at risk. However, *ProPublica* reports that some of these children recently arrived at shelters “without any records indicating they had been separated from their parents at the border and why.”⁴

The HHS Office of Inspector General (OIG) also recently issued an Early Alert after it identified significant vulnerabilities at the influx care facility in Tornillo, Texas, operated by BCFS Health and Human Services.⁵ OIG found that the facility was not conducting the required Federal Bureau of Investigation (FBI) fingerprint background checks on its shelter staff, and has a “dangerously low number of clinicians serving children” that OIG determined “could significantly compromise the safety and wellbeing” of the children in its care.⁶

OIG also noted that the Tornillo facility’s long-term status is unclear, stating “[w]e are concerned that upward trends in average length of stay could indicate that the Tornillo facility is or will be functioning more like a shelter care facility, thereby moving away from its initial design as an emergency short-term-care facility.”⁷ ORR’s increasing reliance on the Tornillo facility makes the OIG’s findings even more troublesome.

I am therefore requesting that you provide the following information, as well as a staff briefing on these matters, by December 20, 2018:

1. How many separated children are currently in ORR’s care who were separated because of a determination that the child’s safety was at risk? Please provide a breakdown of the number of such separations by month, as well as the category of risk for each such separation, including whether any were due to a parent’s illegal re-entry into the United States.
2. When a child who was separated due to a safety risk is placed in the care of an ORR facility, what is the process for notifying the ORR facility and the child’s parents and

³ *Families Are Still Being Separated at the Border, Months After “Zero Tolerance” Was Reversed*, *ProPublica* (Nov. 27, 2018).

⁴ *Id.*

⁵ U.S. Department of Health and Human Services, Office of Inspector General, *The Tornillo Influx Care Facility: Concerns About Staff Background Checks and Number of Clinicians on Staff* (Nov. 2018) (A-12-19-20000).

⁶ *Id.*

⁷ *Id.*

attorney of the reason for that deemed risk? What information does HHS provide the ORR facility and the child's parents and attorney, and when?

3. Has HHS received custody of any children who were separated from their parents since the end of the "zero tolerance" policy for any reason other than a determination that the child's safety was at risk? If so, please provide the number of such children, the reason for the separation, and the child's status.
4. How has HHS improved its processes for tracking separated children and notifying relevant parties (including the ORR facility and the child's parents and attorney) of that separation status? How has HHS addressed GAO's findings and recommendations related to those issues?
5. How long does HHS anticipate the Tornillo facility to remain open and serving as an emergency influx shelter for children? How much does HHS anticipate it will cost?
6. What is HHS doing to ensure that the Tornillo facility is complying with all relevant requirements, including conducting FBI fingerprint background checks on all staff and providing the required number of clinical staff?
7. Please describe HHS's process for deciding which children to transfer to the Tornillo facility and when.
 - a. What factors does HHS consider, including whether a child has a potential sponsor already identified, and where that sponsor is located?
 - b. Does HHS consider whether the child has an attorney of record, and if so, why?
 - c. How much notice is given to the ORR shelter currently caring for the child before the child is transferred to the Tornillo facility?

Thank you for your prompt attention to this matter. If you have any questions, please contact Kevin McAloon or Jacquelyn Bolen of the Democratic Committee staff at 202-225-3641.

Sincerely,


Frank Pallone, Jr.
Ranking Member