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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 29, 2023

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

Dear Secretary Becerra:

We are deeply concerned that the Department of Health and Human Services (HHS) reportedly received warnings that unaccompanied children were being released from HHS custody into situations that presented a risk of labor exploitation and trafficking.¹ Rather than heeding these warnings, HHS allegedly engaged in retaliation against staff who reported concerns and created an environment that the HHS Office of Inspector General (OIG) described as “whistleblower chilling.”²

As Chairs of the Senate Committee on the Judiciary and Subcommittee on Immigration, Citizenship, and Border Safety, respectively, it is our responsibility to conduct oversight on implementation of the *William Wilberforce Trafficking Victims Protection Reauthorization Act* (TVPRA) and ensure that HHS is meeting its legal obligations under that Act with respect to the care and protection of unaccompanied children. We appreciate the information the Committee received from the Department of Labor (DOL) and HHS in response to letters Chair Durbin led earlier this year³ and the February 2023 reports in the *New York Times* regarding labor exploitation of unaccompanied noncitizen children.⁴ Furthermore, we recognize the release of an audit report by HHS’s Office of Refugee Resettlement (ORR) regarding sponsor vetting and placement processes in June 2023, along with the announcement of a new Program Accountability team to assess and address risks.⁵

¹ Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, *New York Times* (Apr. 17, 2023) <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

² *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children*, U.S. Department of Health and Human Services (Sep. 27, 2022) <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

³ Letter to Secretaries Becerra and Walsh Requesting Information On Protecting Children From Exploitation (Mar. 3, 2023), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-leads-colleagues-in-letter-to-hhs-dol-requesting-information-on-protecting-children-from-exploitation>.

⁴ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, *New York Times* (Feb. 25, 2023) <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>; Julia Ainsley and Laura Strickler, *Feds Expand Probe into Migrant Child Labor in Slaughterhouses*, *NBC News* (Mar. 1, 2023), <https://www.nbcnews.com/politics/feds-expand-probe-migrant-child-labor-slaughterhouses-rcna72930>. See also *Departments of Labor and Health and Human Services Announce New Efforts to Combat Exploitative Child Labor* (Feb. 27, 2023), <https://www.hhs.gov/about/news/2023/02/27/departments-labor-and-health-and-human-services-announce-newefforts-combat-exploitative-child-labor.html>; *Memorandum of Agreement Between the United States Department of Labor Wage and Hour Division and the United States Department of Health and Human Services Administration for Children and Families Regarding Inter-Agency Data Sharing* (Mar. 23, 2023) https://www.acf.hhs.gov/sites/default/files/documents/main/23-MOA-096-between-DOL-WHD-and-HHS-ACF-Regarding-Inter-Agency-Data-Sharing-Agreement_0.pdf.

We also appreciate the challenges your agency has faced at the border with the influx of unaccompanied minors crossing the border in recent years, as well as ORR's ongoing efforts to provide care and timely release for children in their custody. The Committee is tasked with ensuring that HHS is meeting its legal obligations to protect the safety and well-being of our most vulnerable recent arrivals. Oversight of the placement and care of unaccompanied children is particularly necessary today, as some states are loosening child labor laws⁶ and others are refusing to ensure that unaccompanied children have any mechanisms to report exploitation, abuse, or trafficking.⁷ To aid this essential oversight, please provide the following by July 20, 2023.

1. From January 2018 to present, documents and communications between both HHS and DOL and HHS and the Department of Homeland Security (DHS) referring or relating to concerns about the impact of HHS policies and practices on the safety of unaccompanied children prior to children's release to sponsors, including concerns of child labor violations, labor exploitation, and trafficking.
2. All documents and communications referring or relating to memoranda sent by any HHS staff, grantees, or contractors regarding unaccompanied child release practices and conditions at unaccompanied child facilities, including a January 2023 memorandum cited by the *New York Times* that stated "We are pulling humanity out of 'Health and Human Services'"⁸ and a memorandum cited by CNN, dated approximately July 23, 2021, sent by 10 HHS ORR field staff supervisors regarding these topics.⁹
3. From January 2021 until her resignation in approximately March 2023, all documents and communications referring or relating to Jallyn Suallog's expressions of concern with HHS policies and practices regarding the release of unaccompanied children to sponsors.¹⁰
4. From March 2021 to present, all documents and communications referring or relating to Linda Brandmiller's expressions of concern with HHS policies and practices regarding the release of unaccompanied children to ORR supervisors and shelter managers, including but not limited to the release of Antonio Diaz Menendez.¹¹
5. From January 2018 to present, documents and communications referring or relating to any home studies identifying individual prospective sponsors who "clearly [present] a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence" as defined in the TVPRA.¹² Please also provide documents and communications that identified trends of such exploitation or trafficking by sponsors aggregated by region or community.

⁵ *In Newly Released Audit Report, HHS Announces New Accountability Team, Additional Efforts to Protect the Safety and Well-being of Unaccompanied Children* (Jun. 2, 2023) <https://www.hhs.gov/about/news/2023/06/02/in-newly-released-audit-report-hhs-announces-new-accountability-team-additional-efforts-protect-safety-well-being-unaccompanied-children.html>.

⁶ Stephen Elliot, *With Workers Scarce, Some States Seek to Loosen Child Labor Laws*, PEW (Apr. 17, 2023), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2023/04/17/with-workers-scarce-some-states-seek-to-loosen-child-labor-laws>.

⁷ Camilo Montoya-Galvez, *Texas shelters housing migrant children to operate without state oversight*, CBS News (Aug. 6, 2021), <https://www.cbsnews.com/news/texas-shelters-housing-migrant-children-to-operate-without-state-oversight/>.

⁸ Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, New York Times (Apr. 17, 2023) <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

⁹ Priscilla Alvarez, *Key officials raised alarm about care of migrant children in government custody*, CNN (Dec. 10, 2021) <https://www.cnn.com/2021/12/10/politics/us-mexico-border-migrant-children/index.html>.

¹⁰ Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, New York Times (Apr. 17, 2023) <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

¹¹ *Id.*

¹² Pub. Law 110-457 (Dec. 23, 2008) *William Wilberforce Trafficking Victims Protection Reauthorization Act*, <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf>.

6. From January 2021 to present, documents and communications referring or relating to reports of abuse or exploitation in states that refuse to license ORR facilities.
7. From January 2018 to present, documents and communications referring or relating to HHS goals, benchmarks, or similar metrics involving children's length of time in HHS custody, including in guidance, instructions, or other documentation issued to employees, federal detailees, contractors, grantees, sub-contractors, or sub-grantees.
8. From January 2018 to present, documents and communications referring or relating to complaints of trafficking, exploitation, or abuse of unaccompanied children; responses to these complaints; reporting mechanisms for these complaints; and instructions to share concerns.
9. From January 2018 to present, documents and communications referring or relating to how employees, federal detailees, contractors, sub-contractors, grantees, and sub-grantees can or may communicate suggestions or concerns regarding ORR operations and the safety of unaccompanied children, including the instructions provided to or by any workers, supervisors, managers, or other officials at Fort Bliss. Please also include amendments to the template cooperative agreement since August 2022 that "include language that more specifically explains that the whistleblower policy and training should cover and provide more specific information on HHS OIG reporting and protections" as indicated in HHS's Administration for Children and Families' response to the September 2022 OIG report.¹³

Thank you for your urgent attention to these inquiries. We look forward to working with you to ensure child safety and uphold whistleblower attentions.

Sincerely,



Richard J. Durbin
Chair, Senate Committee
on the Judiciary



Alex Padilla
Chair, Subcommittee on
Immigration, Citizenship, and
Border Safety

cc: The Honorable Lindsey O. Graham
Ranking Member, Senate Committee on the Judiciary

cc: The Honorable John Cornyn
Ranking Member, Subcommittee on Immigration, Citizenship, and Border Safety

¹³ *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* U.S. Department of Health and Human Services (Sep. 27, 2022) <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.