

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

April 29, 2020

Ms. Heidi Stirrup
Acting Director
Office of Refugee Resettlement
Mary E. Switzer Building
330 C Street, S.W., Room 5123
Washington, D.C. 20201

Dear Ms. Stirrup:

We are seeking information on your plan to protect children in custody of the Office of Refugee Resettlement (ORR) as the coronavirus crisis continues to worsen and take thousands of lives across our country. Due to the high risks associated with coronavirus, we urge ORR to expedite the placement of children in its custody with sponsors to minimize the spread of this contagion and prioritize the lives and health of migrant minors. We also urge you to reject any proposals to target potential sponsors for immigrant enforcement, which will only make it harder to reunite unaccompanied minors with family and remove them from shelters.

The pandemic has escalated exponentially over the last several weeks, with over 1 million confirmed cases and over 50,000 deaths caused by the virus in the U.S. to date.¹ As the crisis deepens, at least one federal judge, Judge Dolly Gee, has described ORR detention settings as “hotbeds for contagion” where there is a “near-certainty of the rapid spread of coronavirus” even if ORR takes aggressive preventative measures.”²

Currently, ORR has approximately 3,600 children in its custody. As of mid-April, ORR had reportedly tested only 87 children for the virus, and 37 children in ORR custody in Chicago had tested positive.³ At least 39 ORR personnel affiliated with shelter programs have reported

¹ *Coronavirus in the U.S.: Latest Map and Case Count*, New York Times (Apr. 29, 2020) (online at www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html).

² *Flores v. Barr*, No. CV 85-4544-DMG (C.D. Cal. Mar. 28, 2020) (order on restraining order and preliminary injunction) (online at <https://drive.google.com/file/d/1bfEm--uveikm26u7vGSbGNjlyhNppvh5/view>).

³ *New Rulings Amid Coronavirus Could Force Trump to Release Immigrant Children and Parents*, Los Angeles Times (Mar. 31, 2020) (online at www.latimes.com/politics/story/2020-03-31/trump-ruling-release-migrant-children-parents-coronavirus); *27 Migrant Children in US Government Custody Test Positive for Coronavirus*, CNN (Apr. 14, 2020) (online at www.cnn.com/2020/04/14/politics/migrant-children-coronavirus/index.html); *More Than Three Dozen Migrant Children in Chicago Shelters Infected with Coronavirus*, The Hill (Apr. 14, 2020) (online at <https://thehill.com/homenews/news/492718-more-than-three-dozen-migrant-children-in-chicago-shelters-infected-with>).

testing positive.⁴

On March 27, 2020, ORR announced that, “out of an abundance of caution,” the agency stopped placing children in the states of California, New York, and Washington.⁵ This is grossly insufficient to slow the spread of the coronavirus among migrant children in your care, particularly in light of reporting that at least one ORR shelter has diluted soap in the bathrooms and gathered large groups of children crowded in rooms for legal screenings.⁶ These conditions unnecessarily expose these children to a particularly dangerous and potentially deadly virus.

ORR should release as many children as possible to sponsors, not only to prevent a worsening of this outbreak, but to minimize the psychological and emotional damage that this outbreak may cause. As Judge Gee found:

For migrant children in detention who are already more likely to have mental health concerns or may be separated from their family members, the trauma of undergoing solitary quarantine for the virus or simply not receiving adequate information about the potential for infection is likely to exacerbate existing mental health concerns.⁷

ORR is not equipped to meet the challenges of caring for the mental health of children under these circumstances. A recent report from the Department of Health and Human Services Office of Inspector General found that the mental health resources available to those in ORR shelters is far below adequate.⁸ The need for these services will only increase as the pandemic worsens.

Unfortunately, there are reports that your office may be considering ill-advised changes that would make it harder to release children and reunify them with potential sponsors. Those potential changes include barring undocumented family members from sponsoring unaccompanied minors and fingerprinting all adults in sponsor households. HHS already

⁴ *At Least 19 Children at a Chicago Shelter for Immigrant Detainees Have Tested Positive for COVID-19*, ProPublica (Apr. 13, 2020) (online at www.propublica.org/article/at-least-19-children-at-a-chicago-shelter-for-immigrant-detainees-have-tested-positive-for-covid-19).

⁵ *Judge Orders Release of Detained Migrant Children to Halt Coronavirus Spread*, KQED (Mar. 31, 2020) (online at www.kqed.org/news/11809708/judge-orders-release-of-detained-migrant-children-to-halt-coronavirus-spread).

⁶ Katie Peeler, *Thousands of Immigrant Kids are Detained, Far from Their Parents. They Need Protection from COVID-19, Too*, WBUR (Mar. 20, 2020) (online at www.wbur.org/cognoscenti/2020/03/20/migrant-kids-coronavirus-covid-19-katherine-peeler).

⁷ *Flores v. Barr*, No. CV 85-4544-DMG (C.D. Cal. Mar. 28, 2020) (order on restraining order and preliminary injunction) (online at <https://drive.google.com/file/d/1bfEm--uveikm26u7vGSbGNjlyhNppvh5/view>).

⁸ Department of Health and Human Services, Office of Inspector General, *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody* (Sept. 2019) (Report OEI-09-18-00431) (online at <https://oig.hhs.gov/oei/reports/oei-09-18-00431.pdf>); Katie Peeler, *Thousands of Immigrant Kids are Detained, Far from Their Parents. They Need Protection from COVID-19, Too*, WBUR (Mar. 20, 2020) (online at www.wbur.org/cognoscenti/2020/03/20/migrant-kids-coronavirus-covid-19-katherine-peeler).

abandoned this fingerprint policy once before because it was ineffective and inefficient.⁹ These changes could be disastrous during the coronavirus pandemic, forcing some minors to stay in shelters where they could be exposed to the virus.

We urge ORR to act humanely and immediately to release the children in its custody and expeditiously place them with suitable guardians in order to protect them, as well as our communities, from the increased risk their continued detention poses.

In addition, we request that ORR provide information and documents sufficient to show the following:

1. How ORR is testing children and staff for COVID-19, including:
 - a. what testing protocol ORR is using;
 - b. when the testing began; and
 - c. how many staff and migrants in ORR custody have been tested in each facility, including how many tested positive for the virus, how many tested negative, and how many had test results that were inconclusive;
2. How ORR will house or quarantine presumptive or confirmed cases of coronavirus;
3. What medical care, including psychological services, ORR will provide to children with presumptive or confirmed cases of coronavirus;
4. How ORR will collect data and keep records on children and staff with presumptive or confirmed cases of coronavirus;
5. What steps ORR is taking to reduce the number of children in its custody and expedite placement of children with sponsors;
6. How ORR will ensure that children in custody will continue to receive meaningful access to their advocates and families even if the child is subject to quarantine procedures;
7. Whether and how ORR is coordinating with state and local governments on coronavirus matters in areas where ORR facilities are located; and
8. What other steps ORR is taking to prevent the spread of coronavirus in its facilities.

Please provide the requested written information by May 6, 2020, as well as a briefing to Subcommittee staff by May 8, 2020.

⁹ *Stephen Miller's Hard-Line Policies on Refugee Families Make a Comeback at HHS*, Politico (Apr. 16, 2020) (online www.politico.com/news/2020/04/16/stephen-miller-hhs-family-separation-189784).

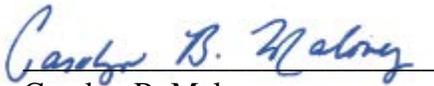
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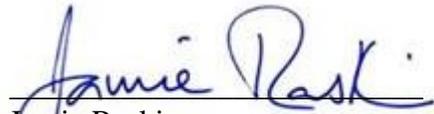
The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

If you have any questions regarding this request, please contact Committee staff at (202)-225-5051.

Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Jamie Raskin
Chairman
Subcommittee on Civil Rights and
Civil Liberties

Enclosure

cc: The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.