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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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February 20, 2025

Mellissa Harper
Acting Director (Detailee)
Office of Refugee Resettlement
Administration for Children & Families
Mary E. Switzer Building
330 C St SW, Room 5123
Washington, DC 20201

Dear Acting Director Harper:

I write to you today regarding reports of information sharing between the Office of Refugee Resettlement (ORR) and Immigration and Customs Enforcement (ICE).¹ I am concerned that information sharing between ORR and ICE will compromise the care of children and deter timely family reunification and sponsorship of unaccompanied children. I am further concerned that you are overseeing this information exchange as Acting Director of ORR while on temporary detail from ICE, retaining your position as ICE Enforcement Removal Operations Field Office Director.

As you know, ORR is responsible for the shelter and care of unaccompanied migrant children who have fled violence, corruption, and abuse in their home countries to seek refuge in the United States. These children represent the most vulnerable populations our government is entrusted to assist, and are at extreme risk of exploitation and abuse. ORR has long served as a lifeline for unaccompanied children, separate and apart from immigration enforcement agencies. ORR is within the Department of Health and Human Services (HHS) which is in the jurisdiction of the Senate Committee on Finance, of which I am the Ranking Member.

I and the rest of the country were horrified by the first Trump administration's treatment of children in ORR custody. ORR's essential function of protecting children was coopted to carry out an agenda of cruelty. ORR became a clearinghouse for children separated from their families under Trump's zero tolerance policy, and routinely transported kids—many of whom were infants and toddlers—thousands of miles away from their parents to hundreds of shelters across the country. The Trump administration failed to return these children to their family members or find suitable sponsors in a timely manner. When ORR facilities became crowded due in part to

¹ Ximena Bustillo, ICE Officers Granted Access to Unaccompanied Minors Database, NPR, Feb. 14, 2025, <https://www.npr.org/2025/02/14/g-s1-48979/ice-unaccompanied-minors-database>.

unnecessary family separation, children were then held in detention by the Department of Homeland Security (DHS) over the 72-hour legal limit, in dangerously overcrowded, filthy, and freezing conditions. In fact, several children died in federal facilities and others experienced severe psychological trauma. ORR also changed its policies in coordination with DHS to exploit children's sensitive data for immigration enforcement, which further traumatized these children and prevented timely family reunification. I saw these cruel policies in action when I visited the border in July 2019 to conduct oversight.

For these reasons and more, I led a bipartisan investigation into ORR's treatment of children in its care and authored a report detailing ORR's federally funded misconduct and abuses.² Family separation and the abuse of children by the first Trump administration remains a dark chapter in American history. Without robust congressional oversight, vulnerable children and their families are in danger of experiencing these same horrors anew.

Based on recent reports, I have serious concerns that ICE has access to sensitive information held by ORR and may be using this information for immigration enforcement purposes, in violation of law. Absent any details about ICE's access to this information, I am unable to determine if ORR has violated any laws on the books. I am further concerned that ORR's essential function is yet again being dismantled in the dark, jeopardizing the safety and wellbeing of thousands of children.

Under the first Trump administration, ICE and DHS executed an information sharing Memorandum of Agreement (MOA) with ORR.³ As the agency entrusted with the care and custody of vulnerable migrant children, ORR collects holistic information about each child in its care in order to serve their best interests, not for the purposes of immigration enforcement. Under this 2018 MOA, ORR was directed to compile and share information about the children in its custody, their sponsors, and members of the sponsor's household, transforming into a surveillance agency for DHS. DHS received information about sponsors, which served as pretext for ICE to detain and deport sponsors and members of sponsors' households. ICE also arrested dozens of immigrants who came forward as sponsors, and pledged to go after more, deterring potential sponsors, including those lawfully present, from coming forward to help the at-risk children in ORR's care.

These efforts were at odds with ORR's long standing policy, which is still in effect, that "ORR shall not disqualify potential sponsors based solely on their immigration status or for law enforcement purposes."⁴ As a result of this MOA, children languished in ORR facilities, or in tent cities when ORR facilities were at capacity, when they could have otherwise been released to safe and loving homes with relatives.⁵

² U.S. Senate Finance Committee, *Exposing the Risks of Deliberate Ignorance: Years of Mismanagement and Lack of Oversight by the Office of Refugee Resettlement, Leading to Abuses and Substandard Care of Unaccompanied Alien Children*, Oct. 28, 2021, https://www.grassley.senate.gov/imo/media/doc/finance_committee_report_-_orr_unaccompanied_children_program.pdf.

³ Memorandum of Agreement Among the Office of Refugee Resettlement of the U.S. Department of Health and Human Services and U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection of the U.S. Department of Homeland Security Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters, Apr. 13, 2018, available at https://www.aclu.org/wp-content/uploads/document/ICE-CBP-ORR_Memorandum_of_Agreement.pdf (on file with the Committee).

⁴ ORR Policy Guide Section 2.6, <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.

⁵ Madhuri Grewal, How Trump Weaponized the Government's Refugee Resettlement Agency, ACLU, Nov. 28, 2018, <https://www.aclu.org/news/immigrants-rights/how-trump-weaponized-governments-refugee>.

Under the 2018 MOA, ICE and the Department of Justice used sensitive and confidential information collected by ORR for health, welfare, and other care purposes— such as therapy notes documenting a child’s traumatic exposure to gang affiliation—against them and their family members during asylum proceedings and in court filings against asylum.⁶ In March 2020, I called out this manipulative practice of sharing confidential clinical notes, as it violated broadly accepted mental health ethical privacy and disclosure standards, and discouraged children from confiding in their therapists, impeding the delivery of treatment for children who have experienced trauma. The misuse of this MOA led Congress to immediately enact language, which President Trump signed into law, to limit the ability of DHS to utilize information obtained via the MOA for immigration enforcement actions against certain sponsors and household members.⁷ In 2021, HHS and DHS jointly terminated the 2018 MOA, recognizing that it “undermined the interest of children and had a chilling effect on potential sponsors (usually parents or a close relative) from stepping up to sponsor an unaccompanied child placed in the care of HHS.”⁸

The consequences of information sharing were devastating to children, and I have concerns that the Trump administration is now going further by allowing ICE to have *direct* access to the sensitive ORR Unaccompanied Children Portal (UC Portal), which holds extensive and historical information on children, sponsors, and advocates. ORR uses the UC Portal to track the health, welfare, and safety of children in its custody and upon placement with sponsor families. According to HHS, the UC Portal holds personally identifiable information (PII) for between 100,000 and 999,999 individuals, including approximately 2,000 data elements for children.⁹

The UC Portal is the system of record for ORR which enables the agency to track children and coordinate with care providers to meet the health and welfare needs of children in its care. Information stored in the UC portal includes, for each child, full name, date of birth (DoB), photographs of the child, biometric identifiers, and detailed notes and care progress reports, which may contain especially sensitive information about the unique needs and history of each child.¹⁰ The UC Portal also contains detailed information and documentation of children’s sponsors, including tax returns, full names, DoB, email addresses, phone numbers, mailing addresses, driver’s licenses and passport numbers, financial account information, employment status, employer information, legal documents, citizenship status, marital status, country of birth,

⁶ Letter from Senator Wyden and Senator Warren to Acting Director Albence, U.S. Immigration and Customs Enforcement, regarding disclosure of sensitive mental health records by ORR to ICE for the purposes of immigration enforcement, Mar. 2, 2020, <https://www.wyden.senate.gov/imo/media/doc/030220%20Wyden%20Warren%20Letter%20to%20ICE%20RE%20ORR%20ICE%20Therapy%20Note%20sharing.pdf>.

⁷ H. Rept. 116-9 - MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE DEPARTMENT OF HOMELAND SECURITY FOR FISCAL YEAR 2019, AND FOR OTHER PURPOSES, H.Rept.116-9, 116th Cong. (2025), <https://www.congress.gov/congressional-report/116th-congress/house-report/9/1>.

⁸ HHS, DHS, HHS and DHS Joint Statement on Termination of 2018 Agreement, Mar. 12, 2021, <https://www.dhs.gov/archive/news/2021/03/12/hhs-and-dhs-joint-statement-termination-2018-agreement#:~:text=Today%2C%20the%20U.S.%20Department%20of,stepping%20up%20to%20sponsor%20an> (on file with the Committee).

⁹ U.S. Dept. of Health and Human Services, Privacy Impact Assessment, May 22, 2024, <https://www.hhs.gov/sites/default/files/acf-unaccompanied-children-portal-r.pdf>.

¹⁰ *Id.*

gender, country of residency, and, in some cases, social security numbers.¹¹ In many cases, the UC Portal contains PII for other members of a sponsor's household, as well.¹²

ORR and DHS each require certain information from the other in order to implement their respective responsibilities under law. ORR has long provided DHS with access to limited information about children for the purpose of notifying DHS about the placement of unaccompanied children at an ORR facility and for specific purposes to ensure the safety and wellbeing of children while in ORR custody.

While ORR may share limited information with ICE and DHS, ORR policy and the Unaccompanied Children Foundational Rule, in accordance with House Report 116-450, prohibit ORR from disclosing mental health information, non-essential case file information, or biographic information outside of limited exceptions.¹³ ORR policy also requires ORR to notice children's attorneys and child advocates before the disclosure of such information under any circumstances.¹⁴ Further, ORR is prohibited from sharing immigration status information relating to potential sponsors with any law enforcement or immigration enforcement related entity at any time.¹⁵ Data sharing between ORR and ICE for the sole purpose of immigration enforcement imperils the privacy and security of vulnerable children and their families and sponsors. As under the first Trump administration's MOA, such information sharing could expose children to scrutiny for information shared in confidence with medical professionals, compromise sensitive PII, and could chill family reunification efforts.

I write to urge you to cease any inappropriate and potentially unlawful information sharing and to provide assurances that you will consider first and foremost the welfare of children entrusted to ORR's care, as required by the Unaccompanied Children Program Foundational Rule.¹⁶ I am also writing to request a full accounting of the mechanism and extent of DHS access to information within the UC Portal by Friday, February 28th.

Sincerely,

¹¹ This information is only collected for sponsors in family reunification cases who entered the system prior to 2018.

¹² U.S. Dept. of Health and Human Services, Privacy Impact Assessment, May 22, 2024, <https://www.hhs.gov/sites/default/files/acf-unaccompanied-children-portal-r.pdf>.

¹³ Unaccompanied Children Foundational Rule, 89 FR 34384; ORR Policy Guide Section 5.10.2, <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-5#5.10.2>. (on file with the Committee).

¹⁴ ORR Policy Guide Section 5.10.2, <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-5#5.10.2>. (on file with the Committee).

¹⁵ "ORR shall not disqualify potential sponsors based solely on their immigration status and shall not collect information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes. ORR shall not share any immigration status information relating to potential sponsors with any law enforcement or immigration enforcement related entity at any time." 45 CFR 410.1201(b).

¹⁶ 89 FR 34384.

Ron Wyden

Ron Wyden
United States Senator
Ranking Member, Committee
on Finance