

United States Senate

WASHINGTON, DC 20510

October 30, 2018

The Honorable Richard Shelby
Chairman
Senate Appropriations Committee
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member
Senate Appropriations Committee
Washington, D.C. 20510

The Honorable Roy Blunt
Chairman
Senate Appropriations Subcommittee on
Labor, Health and Human Services,
Education, and Related Agencies
Washington, D.C. 20510

The Honorable Patty Murray
Ranking Member
Senate Appropriations Subcommittee on
Labor, Health and Human Services,
Education, and Related Agencies
Washington, D.C. 20510

Dear Chairman Shelby, Ranking Member Leahy, Chairman Blunt, and Ranking Member Murray,

We write today to request that you hold a Labor, Health and Human Services Appropriations Subcommittee hearing on the Unaccompanied Alien Children (UAC) program and the funding needs of the Office of Refugee Resettlement (ORR) to care for these children and reunify them with their families.

Since April when the Attorney General Sessions announced the family separation policy, under which all violations of 8 U.S.C. § 1325(a) are criminally prosecuted, the funding needs of ORR have shifted dramatically. This policy has caused the needless separation of thousands of children from their parents. Children who entered the country with their parents or legal custodians have been transferred to the custody of ORR.

We strongly opposed this abhorrent policy, however, we believe it's imperative to ensure that the children in ORR custody are well-cared for. As you know, in the Fiscal Year (FY) 2018 Omnibus, Congress provided HHS with transfer authority that allows the agency to transfer into the ORR account amounts that increase its funding by up to 10 percent¹ – more than is generally allowed for other accounts. The FY 2019 Defense, Labor-HHS-Education Act provides HHS with transfer authority for ORR for up to 15 percent.² For the past several fiscal years, Congress provided this additional transfer flexibility in recognition of the inherent difficulty in predicting the exact number of children that would be entering ORR custody. However, Congress maintains a critical oversight role of the details and potential impact of these transfers.

¹ See H.R. 1625 Consolidated Appropriations Act, 2018 (P.L. 115-141, Division H, Title II, §205)

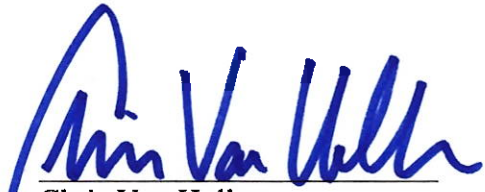
² See H.R. 6157 Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 (Division B, Title II)

In light of this, we were disappointed that Secretary Azar did not respond to a letter we sent to him on July 25 inquiring about the funding necessary to care for children in ORR custody and reunify separated families; the modeling of any scenarios under which ORR may need additional funds for FY2018 and/or FY2019; HHS's plans for reprogramming and/or transferring funds to ORR for this purpose; and the impact that any reprogramming and/or transfers will have on the programs from which funding is being transferred.


We are aware that the Senate and House Appropriations Committees have received transfer notifications from the Administration to increase funding at ORR. Additionally, the Administration has taken actions and implemented policy changes that are likely contributing to children staying in the care of ORR longer, increasing program costs. For example, ORR policy now requires ORR Director Scott Lloyd or his deputy director to personally review and approve all requests for release of any UAC that had been housed in secure or staff-secure facilities at any point during their time in ORR custody.³ HHS and Immigration and Customs Enforcement (ICE) also signed a memorandum of agreement to share information from the background checks of potential UAC sponsors that has resulted in ICE arresting the potential sponsors who come forward. According to ICE, they have arrested 41 individuals since the memorandum was implemented in June, 70 percent of which were arrested because they lacked legal status.⁴

Given these factors, we believe there is value in holding a hearing to give HHS the opportunity to provide the Subcommittee with more information on this issue. Thank you in advance for your attention to this request. We look forward to hearing from you.

Sincerely,



Chris Van Hollen
United States Senator



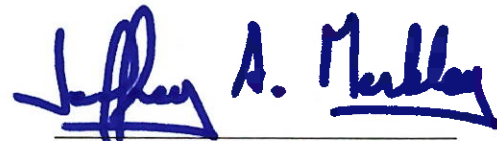
Christopher S. Murphy
United States Senator



Tom Udall
United States Senator



Brian Schatz
United States Senator



Jeffrey A. Merkley
United States Senator

³ <https://www.yahoo.com/news/red-tape-traps-teenagers-seeking-refuge-us-181646194.html>

⁴ <https://www.cnn.com/2018/09/20/politics/ice-arrested-immigrants-sponsor-children/index.html>