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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

KEITH B. ASHDOWN, STAFF DIRECTOR
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July 13, 2015

The Honorable Sylvia Mathews Burwell
Secretary
Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201

Dear Secretary Burwell:

On July 1, 2015, a federal grand jury indicted four defendants for allegedly trafficking Guatemalan nationals and placing them in abusive, forced labor near Marion, Ohio.¹ Several of these victims were minors, some as young as fourteen years old. The indictment indicates that the Department of Health and Human Services' Office of Refugee Resettlement (ORR) released several of these victims into the hands of traffickers, under false pretenses. I write to raise questions regarding the adequacy of ORR's safeguards against this tragic abuse.

According to the indictment, the defendants and unnamed conspirators have allegedly lured Guatemalan nationals to the United States to work in forced labor for several years. In early 2014, these traffickers focused their attention on younger victims, on the theory that they would be easier to control and would work harder than older victims.² The indictment further charges that these traffickers recruited victims to the United States with cold efficiency. They often promised the victims' families that their children would be able to attend school in the United States. Once in the country, however, the victims would be required to work punishing twelve-hour shifts, six or seven days a week, on industrial chicken farms. They were housed in squalid trailers and subjected to psychological abuse. The traffickers would tell the victims that, unless they surrendered their paychecks, the traffickers would injure or kill the victims' family members.³

The indictment indicates that, on five occasions, the traffickers' minor victims were detained and transferred to the custody of the ORR.⁴ ORR is responsible for ensuring that unaccompanied minors who are not legally in the United States, like the victims in this case, are released to the custody of a qualified adult sponsor capable of "provid[ing] for the physical and

¹ See Superseding Indictment, *United States v. Castillo-Serrano*, Case No. 3:15-00024, Docket No. 28, (N.D. Ohio July 1, 2015), <https://s3.amazonaws.com/s3.documentcloud.org/documents/2157377/human-trafficking-indictment.pdf>.

² *Id.* at ¶ 34.

³ See, e.g., *id.* at ¶¶ 66, 74, 95.

⁴ *Id.* at ¶¶ 62, 68, 71, 76, 90.

mental well-being of children.”⁵ On each occasion, one of the defendants’ associates submitted a falsified Family Reunification Application to ORR, claiming that he was either a relative or family friend of the victim and that the victim would be able to attend school and would be protected from abuse in his custody. On each of these five occasions, according to the indictment, ORR released the victims into the hands of these traffickers.⁶

If true, it appears that the ORR child placement process has gravely failed. A single case of trafficking is harmful enough. But if ORR does not have adequate safeguards in place, there is cause for concern that this has happened in other cases and could happen again. To assist the Subcommittee in understanding how this could have happened and what is being done to prevent this from happening again, please provide the following information by July 28, 2015:

1. A copy of the Family Reunification Applications submitted for the release of the victims identified in the Superseding Indictment, *United States v. Castillo-Serrano*, Case No. 3:15-00024, Dkt. No. 28 (N.D. Ohio July 1, 2015), as well as any corresponding documents submitted in support of the applications and any follow-up documents created by ORR.
2. What did ORR do to verify the information provided by the qualified adult sponsors for Victims 3, 4, 5, 6, and 9 identified in *United States v. Castillo-Serrano*? What did ORR do to ensure the safety and well-being of those victims?
3. What type of contact does ORR have with prospective sponsors prior to transferring custody of an unaccompanied alien child to the individual?
4. On July 7, 2015, Mark Greenberg, Acting Assistant Secretary of the Administration for Children and Families testified to the Senate Homeland Security and Governmental Affairs Committee that ORR generally relies on documentation submitted by the potential sponsor and “outside confirmation of a potential sponsor’s identity.” Describe these documents and what constitutes “outside confirmation of a potential sponsor’s identity.” What does ORR do if these sources of information are unavailable?
5. Does ORR allow an individual to act as a sponsor if that individual has a criminal history? If so, please describe the level of criminal history that is disqualifying.
6. The Family Reunification Application requires a prospective sponsor to state whether he or any person in his household has ever been investigated for the physical abuse, sexual

⁵ 8 U.S.C. § 1232(c)(3)(A). According to ORR guidance, “ORR evaluates potential sponsors’ ability to provide for the child’s physical and mental well-being, as the law requires ORR to protect children from smugglers, traffickers, or others who might seek to victimize or otherwise engage the child in criminal, harmful or exploitative activity. The process for the safe and timely release of an unaccompanied child from ORR custody involves many steps, including: the identification of sponsors; the submission by a sponsor of the application for release and supporting documentation; the evaluation of the suitability of the sponsor, including verification of the sponsor’s identity and relationship to the child, background checks, and in some cases home studies; and planning for post-release.” Office of Refugee Resettlement, *Children Entering the United States Unaccompanied: Section 2, Safe and Timely Release from ORR Care* (Jan. 30, 2015), <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-2>.

⁶ Superseding Indictment, *supra* n. 1, ¶¶ 62, 68, 71, 76, 90.

abuse, neglect, or abandonment of a minor. Describe how ORR verifies this information, including which databases on which ORR runs checks.

7. Assistant Secretary Greenberg stated that, for the great majority of children who are released to sponsors, HHS does not provide ongoing post-release services. What is the justification for that policy?

Thank you for your attention to this matter.

Sincerely,



Rob Portman

Chairman

Permanent Subcommittee on Investigations