

Congress of the United States
Washington, DC 20515

October 5, 2018

The Honorable Alex M. Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

We write to express our serious concern with the transfer of more than 1,600 children to the Office of Refugee Resettlement's (ORR) tent city in West Texas.¹ We are astounded that ORR would transfer these children to a facility that lacks basic infrastructure for children, including school and access to legal services. We also reiterate our concerns that U.S. Immigration and Customs Enforcement (ICE) has inappropriately used unaccompanied immigrant children to lure family members who come forward to care for these children and subsequently detain them. These actions hamper the ability of ORR to release children into the care of sponsors and thereby prolong the detention of children.²

On September 30, 2018, the New York Times published a disturbing article describing how children across the country are being awoken in the middle of the night to be put on buses for cross-country journeys to a tent city in Tornillo, Texas.³ In this tent facility, groups of 20 children are separated by gender and sleep in bunk beds. School instruction is not provided. Rather, children receive workbooks that they are under no obligation to complete. Further, access to legal services is limited. We have heard reports that children transferred to Tornillo are not provided access to know-your-rights presentations unless they specifically request to meet with a legal service provider. In addition, the facility only recently ramped up legal services staffing; from one lawyer in June 2018 to 10 new attorneys and legal assistants as of September 26, 2018. These conditions stand in stark contrast to the private foster homes or shelters where these children had formal schooling and routine visits from legal service providers who were assigned to represent them in court. Unlike the shelters operated by ORR, this tent city is unregulated, except for guidelines created by the Department of Health and Human Services.

¹ Caitlin Dickerson, *Migrant Children Moved Under Cover of Darkness to a Texas Tent City*, N.Y. TIMES (Sep. 30, 2018) available at: <https://www.nytimes.com/2018/09/30/us/migrant-children-tent-city-texas.html>.

² See Letter from 75 Members of Congress to DHS Secretary Nielsen re: the separation of families at the border and in the interior (Feb. 8, 2018) available at: <https://democrats-homeland.house.gov/sites/democrats.homeland.house.gov/files/documents/DemsLetterDHSFamilies.pdf>.

³ Caitlin Dickerson, *Migrant Children Moved Under Cover of Darkness to a Texas Tent City*, N.Y. TIMES (Sep. 30, 2018) available at: <https://www.nytimes.com/2018/09/30/us/migrant-children-tent-city-texas.html>.

In addition, we are concerned that the Administration's policy of sharing sponsor fingerprint data with immigration authorities has exacerbated difficulties ORR faces in placing children with sponsors.⁴ Since DHS and HHS issued a joint memo articulating this policy in June 2018, ICE has arrested 41 potential sponsors, 70 percent of whom had no prior criminal record.⁵ These arrests have a chilling effect on family members, including parents, who are ready and able to care for these children. As a result of this DHS-HHS policy, children are spending prolonged periods in detention separated from their families.

We are deeply alarmed about the way these children are being treated. As the American Academy of Pediatrics has noted, even short periods of detention are harmful for children, leading to increased stress, developmental delay, and psychological trauma.⁶ Continued detention in facilities that lack the basic necessities for children, including education, is outrageous. We strongly urge you to rescind the DHS-HHS information sharing policy and ensure that children are released from detention without unnecessary delay, as required by the *Flores* Settlement.

In light of this troubling report, we request that you provide written responses to the following within 30 days:

1. Please provide the criteria for placing children at Tornillo.
2. Please provide more information on the children detained at Tornillo, including:
 - a. A breakdown by age and gender;
 - b. The minimum, median, average, and maximum length of stay in ORR shelters for these children prior to their transfer to Tornillo;
 - c. A breakdown of the categorization of children detained at Tornillo (i.e. Category 1-4); and
 - d. The number of children who have been re-designated to Category 3 and 4 while detained at Tornillo.
3. What is the process and procedure for transferring children who turn 18 while detained at Tornillo into ICE custody, and for what percentage of children does ORR prepare a post-

⁴ See, e.g. "ICE and CBP Coercive Enforcement Actions Against Sponsors of Unaccompanied Children Conducted in Violation of Family Unity, Protection, and Due Process Rights." Complaint filed with DHS CRCL and OIG (Dec. 6, 2017) available at: <https://www.womensrefugeecommission.org/images/zdocs/Sponsor-Enforcement-OIG-CRCL-Complaint-Cover-Letter-FINAL-PUBLIC.pdf>; Tess Owen, *ICE is arresting immigrant kids' sponsors because they are also undocumented*, VICE NEWS (Sep. 20, 2018) available at: https://news.vice.com/en_us/article/wjynq/ice-is-arresting-immigrant-kids-sponsors-because-they-are-also-undocumented; John Burnett, *ICE Has Arrested More Than 400 In Operation Targeting Parents Who Pay Smugglers*, NPR (Aug. 18, 2017) available at: <https://www.npr.org/2017/08/18/544523231/arrests-of-undocumented-parents-sparks-debate-between-federal-officials-and-immi>.

⁵ Tess Owen, *ICE is arresting immigrant kids' sponsors because they are also undocumented*, VICE NEWS (Sep. 20, 2018) available at: https://news.vice.com/en_us/article/wjynq/ice-is-arresting-immigrant-kids-sponsors-because-they-are-also-undocumented.

⁶ Julie M. Linton, Marsha Griffin, & Alan J. Shapiro, *Detention of Immigrant Children*, AMERICAN ACADEMY OF PEDIATRICS (Mar. 2017) available at: <http://pediatrics.aappublications.org/content/early/2017/03/09/peds.2017-0483>.

18 plan?

4. For how many children detained at Tornillo has ORR identified eligible sponsors?
 - a. How long have children waited to be released to a sponsor? Please provide a breakdown of the minimum, average, median, and maximum wait time.
 - b. Please provide a breakdown of the length of time for which these children have been separated from their parent or legal guardian.
5. How many children who have been transferred to Tornillo were separated from their parent or legal guardian at the border?
 - a. Please provide a breakdown for the reasons why these child have not been reunited with their parent or legal guardian.
6. Please provide more information on legal services provided at Tornillo, including:
 - a. A list of the full menu of legal services available to children at Tornillo;
 - b. The process for determining which children get to meet with an attorney given the recent increase in legal services staff;
 - c. The number of children who have met with attorneys so far;
 - d. The number of children who were detained and released without receiving an opportunity to meet with a lawyer;
 - e. Details on any precautions taken to ensure continuity of legal services, including notification to previous counsel that their clients would be transferred;
 - f. The number of children who have gone to immigration court hearings without attorneys; and
 - g. An explanation as to why ORR is not affirmatively providing know-your-rights presentations and legal screenings upon transfer to Tornillo.
7. What specialized training do Tornillo staff have to work with unaccompanied children, children with trauma histories (including, but not limited to trafficking), and children separated from families and trusted adults?
8. What is the cost of care for children detained at emergency facilities, including the tent city at Tornillo, compared to regular ORR shelters?
9. We understand that Tornillo is authorized through the end of the calendar year and that ORR is expanding other influx sites. Will ORR commit to expanding non-emergency shelter and short-term foster care capacity if it anticipates the number of children in its custody will remain high?

We thank you in advance for your timely response to this matter.

Sincerely,


LUCILLE ROYBAL-ALLARD
Member of Congress


PRAMILA JAYAPAL
Member of Congress


ZOE LOFGREN
Member of Congress


NANETTE DIAZ BARRAGÁN
Member of Congress


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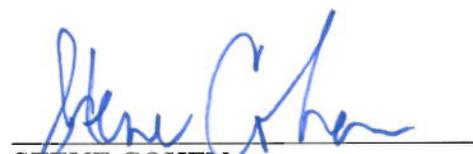

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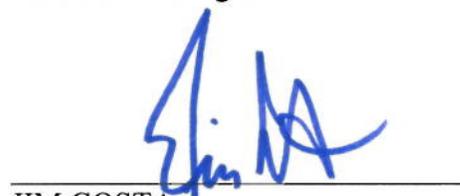

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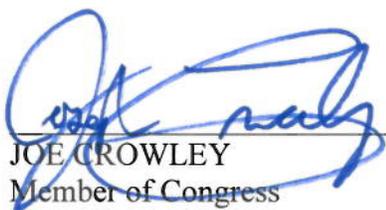

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DANNY K. DAVIS
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ROSA L. DELAURO
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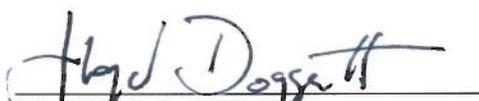
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MARK DESAULNIER
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TED DEUTCH
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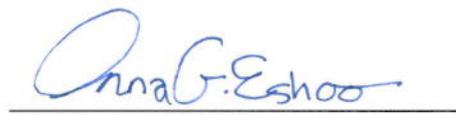
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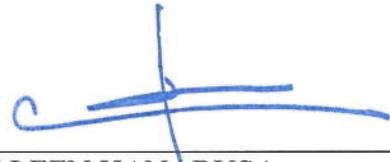
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Eleanor Holmes Norton

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Beto O'Rourke

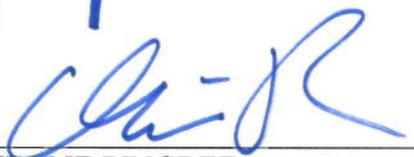
BETO O'ROURKE
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DONALD M. PAYNE, JR.
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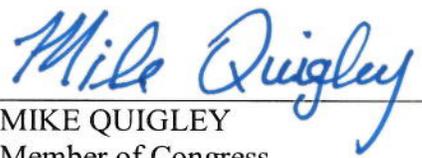
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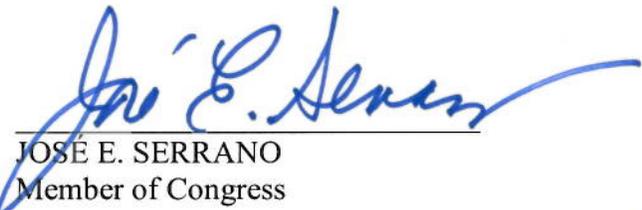
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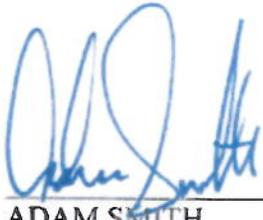
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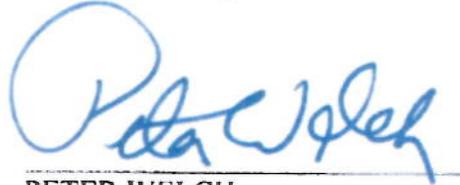
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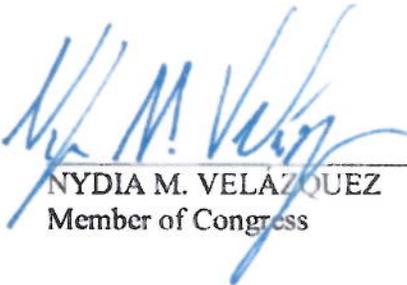
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