

**Congress of the United States**  
**Washington, DC 20515**

July 3, 2019

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

The Honorable Kevin McAleenan  
Acting Secretary  
U.S. Department of Homeland Security  
245 Murray Lane SW  
Washington, D.C. 20528

Dear Secretary Azar and Acting Secretary McAleenan:

We write concerning the Memorandum of Agreement (MOA) between your Departments that requires information collected for the benefit of children in the custody of Health and Human Services (HHS) to be shared with the Department of Homeland Security (DHS) to deport a child's family and loved ones.<sup>1</sup> This policy has led to cruel outcomes for children and sponsors and is unnecessary to secure the homeland. We urge you to rescind it immediately.

Historically, your Departments have *not* used information obtained from detained children—or families who seek to care for them—to target individuals for deportation. The May 2018 MOA between the Office of Refugee Resettlement (ORR), U.S. Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE), breaks with history by mandating a continuous sharing of information on unaccompanied children in government custody. With no limits on how this information can be used, the process for ensuring the safe placement of children could be weaponized as a tool for immigration enforcement.

The effect of this MOA is clear. ICE used information from ORR to arrest approximately 170 prospective sponsors.<sup>2</sup> These arrests have had a chilling effect and deterred other individuals from

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<sup>1</sup> See Memorandum of Agreement Among the Off. of Refugee Resettlement of the U.S. Dep't of Health & Hum. Services and U.S. Immigr. and Customs Enf't, U.S. Customs and Border Prot. of the U.S. Dep't of Homeland Sec. Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters (hereinafter "Memorandum of Agreement"), available at: <https://www.texasmonthly.com/wp-content/uploads/2018/06/Read-the-Memo-of-Agreement.pdf>.

<sup>2</sup> Daniella Silva, *ICE Arrested 170 Immigrants Seeking to Sponsor Migrant Children*, NBC News (Dec. 11, 2018), available at: <https://www.nbcnews.com/news/latino/ice-arrested-170-immigrants-seeking-sponsor-migrant-children-n946621>.

coming forward to sponsor children.<sup>3</sup> One survey found that three in four professionals working with unaccompanied children “were aware of potential sponsors deciding not to come forward or withdrawing” due to the MOA.<sup>4</sup>

In addition to a smaller pool of sponsors, the MOA has undermined ORR’s efforts to address the capacity shortage in its shelter network for unaccompanied children. The Trump Administration’s harmful policies toward migrant children have caused some states and non-profit shelters to repeatedly reject HHS’ efforts to expand shelter capacity.<sup>5</sup>

With unprecedented numbers of children in government custody, these circumstances have led to children being held in CBP facilities well beyond the allowable 72 hours and in appalling conditions. ORR is also increasingly reliant on so-called “influx” or “emergency” facilities that lack the protections of state-licensed shelters.<sup>6</sup> Moreover, these temporary shelters cost at least three times more than licensed shelters, resulting in ORR funding being depleted faster.<sup>7</sup>

The Fiscal Year (FY) 2019 DHS Appropriations Act generally prohibits DHS from information sharing under the MOA.<sup>8</sup> This language is also included in the FY 2019 Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act.<sup>9</sup> However, this congressional prohibition alone is insufficient assurance for potential sponsors that taking in a family member will not later be used against them. DHS’ insertion into ORR’s sponsorship process does nothing to assist in the placement of children to safe homes and only hinders ORR’s ability to respond to the surging numbers of unaccompanied children at the border.

For these reasons, we urge you to rescind the information sharing MOA immediately. Thank you in advance for your timely consideration of this matter.

Sincerely,



BENNIE G. THOMPSON  
Chairman  
House Committee on Homeland Security



FRANK PALLONE, JR.  
Chairman  
House Committee on Energy & Commerce

<sup>3</sup> National Immigrant Justice Center and Women’s Refugee Commission, Children as Bait: Impacts of the ORR-DHS Information-Sharing Agreement (Mar. 26, 2019), available at: <https://wrc.ms/bait>.

<sup>4</sup> Id.

<sup>5</sup> Renuka Rayasam, “Beleaguered refugee office girds for another wave of migrant children,” Politico, 25 June 2019.

<sup>6</sup> ORR is reportedly considering Fort Sill Army Base in Oklahoma as potential future influx site and had also considered the Malmstrom Air Force Base in Montana.

<sup>7</sup> Renuka Rayasam, “Beleaguered refugee office girds for another wave of migrant children,” Politico, 25 June 2019.

<sup>8</sup> Section 224 of Division A of the Consolidated Appropriations Act, 2019, Public Law 116-6.

<sup>9</sup> Sections 402-403 of Title IV of the Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019, Public Law 116-26.



JERROLD NADLER  
Chairman  
House Committee on the Judiciary



NITA M. LOWEY  
Chairwoman  
House Committee on Appropriations



LUCILLE ROYBAL-ALLARD  
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Subcommittee on Homeland Security  
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