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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

*KELAN L. DAVID, Chief Counsel and Staff Director
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November 23, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, DC 20528

The Honorable Sylvia M. Burwell
Secretary
Department of Health and Human Services
Washington, DC 20201

Dear Secretary Johnson and Secretary Burwell:

Recently, a whistleblower contacted the Committee alleging that the Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS) are releasing Unaccompanied Alien Children (UAC) to criminal sponsors.

According to the whistleblower, data compiled on a subset of UAC sponsors demonstrated that at least 3,400 sponsors of 29,000 listed in a UAC database have later been determined to have criminal convictions including re-entry after deportation, DUI, burglary, distribution of narcotics, domestic violence, homicide, child molestation, and sexual assault. Several of these criminal sponsors are even associated with, or actively engaged in, the practice of sex trafficking and human smuggling.

After UACs are processed at the border by DHS, the HHS Office of Refugee Resettlement (ORR) is supposed to coordinate with Immigration and Customs Enforcement (ICE) to conduct investigations and background checks on any potential UAC sponsor. However, according to a whistleblower familiar with the process, often these background checks are not thoroughly performed and sponsors are not properly vetted or even fingerprinted. Internal ORR protocols require the screening of sponsors for exploitation, abuse, trafficking, or

other safety concerns, yet allegedly, proper screening is not taking place and children are paying the price.¹

For example, in July of 2015, federal agents arrested human smugglers in Ohio for trafficking at least a half dozen Guatemalan boys to work on an egg farm. Reports claim that these UACs were placed with the traffickers who posed as sponsors, were confined to dilapidated trailers with no beds, worked 12 hours a day, and were threatened with death if they sought help.² Apparently, ORR has struggled to ensure that UACs are not placed with criminals since 2013, when it issued an alert warning of three 'fraudulent sponsors' with addresses in Colorado, Iowa, and Minnesota seeking to claim unrelated unaccompanied minors."³ It seems little corrective action has been taken, and many are still released into criminal hands.

Although the whistleblower claims to have relayed these concerns to supervisors in August of 2015, apparently these individuals have no immediate plans to remove UACs from their criminal sponsors, but are "discussing options." ORR regulations prohibit UACs from being released to a sponsor if there is substantial evidence that the child would be at risk of harm.⁴ Yet, due to a breakdown with screening and background checks of sponsors, many of the most vulnerable are being victimized.

For more thorough understanding of this situation, please answer the following questions and provide the following requested information by December 7, 2015.

1. Of the sponsors currently listed in the UAC portal (database), how many have criminal records?
2. What policies or procedures are in place to properly investigate and vet sponsors before releasing UACs into their care? What background checks does ORR conduct on sponsors? What personnel are tasked with conducting the background checks? Please explain.
3. Are background checks conducted and fingerprints taken on all potential UAC sponsors? Please explain.
4. If a sponsor is found to have a criminal record, is that sponsor automatically disqualified from accepting UACs? Please explain.
 - a. Which types of criminal convictions automatically disqualify a person from becoming a sponsor?

¹ DHS Office of Refugee Resettlement; *Children Entering the United States Unaccompanied: Section 2*, <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.6>.

² Hennessy-Fiske, Molly, *Is Ohio case of migrant youth trafficking evidence of a 'systemic problem'?* <http://www.latimes.com/nation/la-na-ohio-immigrant-sponsor-20151115-story.html>. November 15, 2015.

³ *Id.*

⁴ DHS Office of Refugee Resettlement; *Children Entering the United States Unaccompanied: Section 2*, <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.6>.

5. If a sponsor's criminal record is discovered after the sponsor has already accepted UACs, what processes or procedures do the agencies have to ensure the UACs are not left in the criminal sponsor's care? Please explain.
6. How many home studies has ORR conducted for all UACs before and after placing them with a sponsor? Has ORR conducted home studies on any UACs within the 3,400 placed with criminal sponsors presenting a risk of abuse, maltreatment, exploitation or trafficking to the child? If not, why not? Please explain.
7. How many UAC sponsors have been convicted of child molestation? How many UAC sponsors have been convicted of homicide? How many UAC sponsors have been convicted of crimes of violence including sexual assault and domestic violence?
8. Do background checks of UAC sponsors include running the sponsor's name through the National Crime Information Center? If not, why not? Please provide a list of all databases and background checks that are queried for all UAC sponsors.
9. Please provide any information on the "alert" issued by ORR in 2013 warning of three "fraudulent sponsors" with addresses in Colorado, Iowa, and Minnesota seeking to claim unrelated unaccompanied minors.
 - a. What information is included in an ORR alert?
 - b. Has ORR issued similar alerts in 2014 and/or 2015? Please explain.
 - c. How does ORR determine if a sponsor is "fraudulent?"

Thank you for your attention to this important matter. Should you have any questions, please contact Katherine Nikas of Chairman Grassley's staff at (202) 224-5225 or Stephen Tausend of Chairman Cornyn's staff at (202) 224-2934.



Charles E. Grassley
Chairman
Senate Committee on the Judiciary

Sincerely,



John Cornyn
Chairman
Subcommittee on the Constitution

cc: The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary