

# United States Senate

WASHINGTON, DC 20510

July 25, 2018

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

Dear Secretary Azar:

We write today to express our ongoing concern about children separated from their families as a result of the Trump Administration's abhorrent "zero-tolerance" policy, and to strongly urge you to clearly communicate to Congress your FY 2018 and FY 2019 funding needs for the Office of Refugee Resettlement (ORR)'s Unaccompanied Alien Children (UAC) Program to care for these children – and reunify them with their families.

Under your leadership the Department of Health and Human Services (HHS) has developed a troubling pattern of chaotic, ideologically-driven, and opaque policymaking. Given reports that HHS is now redirecting hundreds of millions of dollars toward care for children needlessly separated from their parents, it is critical that the Senate have full information about the Department's effort to identify funding in response to the emergency the Trump Administration's policies have created. Additionally, we ask that the required transfer notifications submitted to the Appropriations Committee include both the amount from and the impact on all accounts contributing to the transfer.

In April, Attorney General Sessions announced a new "zero-tolerance" policy, under which all violations of 8 U.S.C. § 1325(a) are criminally prosecuted. This policy decision 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. While we strongly oppose this appalling policy, ensuring that the children in ORR custody are well-cared for is the top priority for us. Many of these children have already been exposed to severe danger or trauma in their home countries, and this needless separation can result in additional trauma with lifelong health impacts. As such, it is imperative that ORR has the resources it needs to provide adequate care for these children that is developmentally, culturally, and linguistically appropriate for their needs.

On July 18, 2018, *Politico* reported that HHS is preparing to shift more than \$200 million from other HHS accounts to care for the children in ORR custody and reunify separated families.<sup>1</sup>

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<sup>1</sup> <https://www.politico.com/story/2018/07/18/trump-migrants-health-programs-692955>

Additionally, on July 10, 2018 the media outlet *Slate* reported that ORR is making plans in the event that there is another surge in immigrant minors over the next three months.<sup>2</sup> One plan, as reported, involves transferring program funds from the Ryan White HIV/AIDS Program and reprogramming ORR refugee resettlement funds to address shortfalls in existing funding. While it is imperative that ORR receive the resources it needs to care for the children in its custody, we are also concerned about the impact of pulling funds away from other vulnerable populations, such as the individuals with HIV/AIDS served by the Ryan White program.

As you know, in the Fiscal Year 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 percent<sup>3</sup> – more than is generally allowed for other accounts. 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. For that reason, as well as to better understand the resources ORR will need for FY 2018 and FY 2019 and the impact of these decisions on programs at HHS that serve other vulnerable populations, we request that you respond to the following questions:

- Does HHS anticipate that ORR will need additional funds to care for children in ORR custody and reunify separated families before the end of FY 2018? If so, when does the Administration plan to request supplemental appropriations?
- Does HHS anticipate needing more funding for FY 2019 than initially requested? If so, when does the Administration plan to amend its FY 2019 funding request?
- Please confirm that HHS has fulfilled the requirement to notify Congress before reprogramming or transferring funds into the UAC program from other accounts and programs.
- Does HHS plan to reprogram or transfer any funds to care for children in ORR custody and reunify separated families?
  - If so, please identify which accounts and/or programs HHS will transfer funds from and indicate how much funding will be transferred from each account.
  - If so, please indicate the impact that these transfers will have on the program from which the funds will be transferred, and describe the impact on those programs.
- Is the *Politico* report that HHS is planning to transfer \$200 million from other HHS accounts to care for children in ORR custody and reunify separated families accurate?
  - If so, when does HHS plan to notify the Senate and House Appropriations Committees of these transfers, as required by law?
  - If so, please identify which accounts and/or programs HHS will transfer funds from and indicate how much funding will be transferred from each account.

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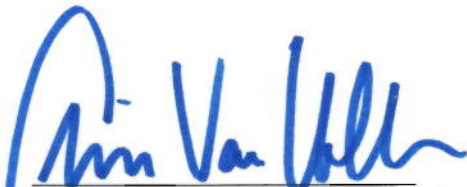
<sup>2</sup> <https://slate.com/news-and-politics/2018/07/trumps-office-of-refugee-resettlement-is-budgeting-for-a-surge-in-child-separations.html>

<sup>3</sup> See H.R.1625 Consolidated Appropriations Act, 2018 (P.L. 115-141, Division H, Title II, §205)

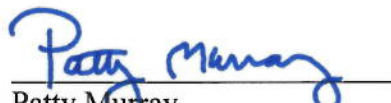
- As the *Slate* article alludes to, has HHS modeled various scenarios under which ORR may need additional funds for FY 2018 and/or FY 2019? Please provide a briefing on any of these various scenarios and cost estimates to the Senate and House Appropriations Committees.
- Will HHS provide the Committees with a list of all the costs incurred to ensure compliance with the court's orders in *Ms. L v. ICE* and all other litigation?
- The President's June 20 Executive Order instructed the Department of Defense (DoD) to provide "facilities available for the housing and care of alien families."<sup>4</sup> Additionally, the DoD issued a memo outlining a plan to house up to 20,000 unaccompanied migrant children on military bases.<sup>5</sup> How will the use of DoD facilities to house these children and their families impact the amount of funding ORR needs to properly care for them in FY 2018 and FY 2019?

Thank you in advance for your attention to this matter. We request your response no later than August 10, 2018.


Sincerely,

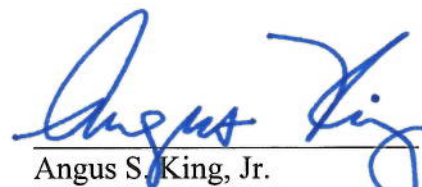
  
Chris Van Hollen  
United States Senate

  
Robert P. Casey, Jr.  
United States Senate

  
Patty Murray  
United States Senate

  
Kirsten Gillibrand  
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Tom Udall  
United States Senate

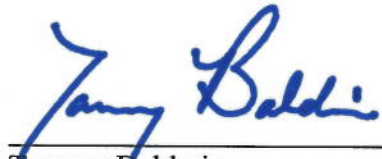
  
Angus S. King, Jr.  
United States Senate

<sup>4</sup> <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

<sup>5</sup> [https://www.washingtonpost.com/news/checkpoint/wp/2018/06/21/pentagon-asked-to-make-room-for-20000-migrant-children-on-military-bases/?utm\\_term=.4dc1f3339613](https://www.washingtonpost.com/news/checkpoint/wp/2018/06/21/pentagon-asked-to-make-room-for-20000-migrant-children-on-military-bases/?utm_term=.4dc1f3339613)



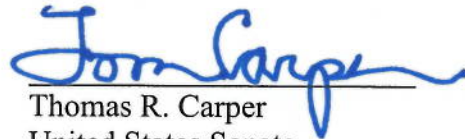
Richard Blumenthal  
United States Senate



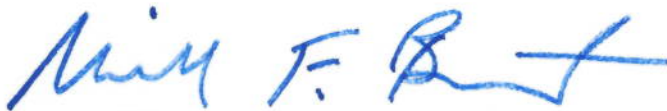
Tammy Baldwin  
United States Senate



Mazie K. Hirono  
United States Senate



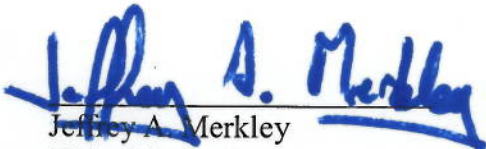
Thomas R. Carper  
United States Senate



Michael F. Bennet  
United States Senate



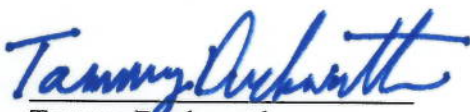
Bill Nelson  
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Jeffrey A. Merkley  
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Ron Wyden  
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Tammy Duckworth  
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Jeanne Shaheen  
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Martin Heinrich  
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Cory A. Booker  
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